VOLUME ONE

Appendix to the Journal of the Assembly

LEGISLATURE OF THE STATE OF CALIFORNIA
1967 REGULAR SESSION

REPORTS

January 2, 1967–September 8, 1967

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VOLUME ONE

Joint Committee on Unemployment Compensation Disability Insurance
Final Report

Joint Legislative Retirement Committee
Volume 1, Number 2—Interim Studies

Industrial Relations, Interim Committee on
Volume 2, Number 10—Various Subjects
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Transportation and Commerce, Interim Committee on
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Volume 4, Number 20—Problems of Property Tax Administration in California
Volume 4, Number 21—Selected Problems in Taxation

Conservation and Wildlife, Interim Committee on
Volume 5, Number 10—Various Subjects

Elections and Reapportionment, Interim Committee on
Volume 7, Number 10—Election Administration, Campaign Practices and Voting Rights

Governmental Efficiency and Economy, Interim Committee on
Volume 8, Number 10—Interim Studies

Education, Interim Committee on
Volume 10, Number 21—The Great Experiment
Volume 10, Number 22—School Budgeting, District Organization and Earthquake Safety
Volume 10, Number 23—The Restoration of Teaching
Volume 10, Number 24—Building Excellence in the Classroom
Volume 10, Number 25—The Tangled Web
Volume 10, Number 26—A Master Plan for the Education of Handicapped Youth

VOLUME TWO

Government Organization
Volume 12, Number 12—Organization of the Executive Branch

Finance and Insurance, Interim Committee on
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Volume 15, Number 29—Part II Various Subjects

Public Utilities and Corporations, Interim Committee on
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Social Welfare, Interim Committee on
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Ways and Means, Interim Committee on
Volume 21, Number 15A—Proposed California World's Fair at Corona in 1969
Volume 21, Number 17—Leasing of Del Mar Track
Volume 21, Number 18—Drug Prices
Volume 21, Number 19—Services for Handicapped Children
Volume 21 Number 20—Costs of Medical Education
Volume 21, Number 21—Report of Subcommittee on Indian Problems

Criminal Procedure, Interim Committee on
Volume 22, Number 9—Narcotics Control
Volume 22, Number 10—Delinquency Control
Volume 22 Number 12—Search and Seizure Preemption Watts, Firearm Control

Judiciary, Interim Committee on
Volume 23, Number 8—Final Report of the Subcommittee on Free Press-Fair Trial

Military and Veterans Affairs, Interim Committee on
Volume 24 Number 4—California's Civil Defense and Natural Disaster Program
Volume 24, Number 5—California Veterans Benefits

Water, Interim Committee on
Volume 26, Number 15—Recreation Costs at Water Projects
Volume 26, Number 17—State and Local Responsibilities for Water Resources

Constitutional Amendments, Assembly Interim Committee on
Volume 27 Number 4—Constitutional Revision in California
Volume 27 Number 5—The Initiative and the Effective Dates of Statutes

SUPPLEMENT TO ASSEMBLY JOURNAL APPENDIX

Social Welfare, Interim Committee on
Volume 19, Number 15—Protective Services for Children

Natural Resources, Interim Committee on
Volume 25 Number 5—**Conflict in the Redwoods**
Volume 25, Number 6—Highway Beautification

Water, Interim Committee on
Volume 26, Number 16—New Horizons in California Water Development

Joint Legislative Retirement Committee
Management Survey of the State Teachers' Retirement System

JOINT INTERIM COMMITTEE REPORT
1965–67

FINAL REPORT OF THE

JOINT COMMITTEE ON UNEMPLOYMENT COMPENSATION DISABILITY INSURANCE

MEMBERS OF THE COMMITTEE

ASSEMBLYMAN GEORGE N ZENOVICH, *Chairman*
SENATOR RICHARD J DOLWIG, *Vice Chairman*
SENATOR GEORGE MILLER, JR
ASSEMBLYMAN HOWARD J THELIN

JOHN K HISLOP, *Consultant*

Published by the

JOINT COMMITTEE ON UNEMPLOYMENT COMPENSATION
DISABILITY INSURANCE

Assembly Concurrent Resolution No. 45
(1965)

LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
JOINT COMMITTEE ON UNEMPLOYMENT
COMPENSATION DISABILITY INSURANCE

January 4, 1967

TO THE MEMBERS OF THE LEGISLATURE
State of California
1967 Regular Session

Gentlemen

Your committee, created pursuant to Assembly Concurrent Resolution No 45, Chapter 194 of the 1965 statutes, relative to the creation of the Joint Interim Legislative Unemployment Disability Compensation Committee, herewith submits its report covering meetings held from August 19, 1966, to January 10, 1967

The committee is planning to make its conclusions, findings and recommendations in regard to legislation at the beginning of the 1967 session of the Legislature

Respectfully submitted,

ASSEMBLYMAN GEORGE N ZENOVICH, *Chairman*
ASSEMBLYMAN HOWARD J THELIN
SENATOR GEORGE MILLER, JR
SENATOR RICHARD J DOLWIG

TABLE OF CONTENTS

	Page
Letter of Transmittal	3
Preface	7
Recommendations	8
Introduction	9
Analysis of 1956–1965 State Plan Experience	11
Temporary Disability Programs in Other States	21
Financing Issues	29
Maximum Weekly Benefit	32
The Benefit Formula	34
Workers and Claimants	42
Survey Results of Movement From Insured Voluntary Plan to State Plan or Self-Insured Coverage	46
1964 Claimants Nature of Disabilities	51
Claims and Work Experience of Exhaustees	54
Administration	55

TABLES

Table 1—State Plan; Basic Benefit Payments for Regular Liability Claims, Benefits and Net Taxable Wages and Indices of Each 1956–1965	58
Table 2—State Plan, Basic Benefit Payments to Unemployed Disabled Claims, Benefits and Total Net Taxable Wages and Indices of Each, 1956–1965	60
Table 3—State Plan, Hospital Benefit Payments for Regular Liability Claims, Benefits and Net Taxable Wages and Indices of Each, 1956–1965	62
Table 4—State Plan, Hospital Benefit Payments to Unemployed Disabled Claims, Benefits and Total Net Taxable Wages and Indices of Each, 1956–1965	64
Table 5—Ratios and Indices of Ratios of Average Number of Eligibles Not in Covered Employment to Average Unemployment, 1956–1965	66
Table 6—State Plan, Ratio of Thirteen Times Weekly Benefit Amount to Minimum High Quarter Wages Required to Qualify for Each Weekly Benefit Amount	67
Table 7—State Plan, Number of Basic Claims by Compensated Duration for Regular Liability and Unemployed Disabled, 1964	68
Table 8—State Plan, 1964 Claimants Receiving Basic Benefits Number of Claimants and Percentage of Claimants by Ratio of High Quarter to Base Period Earnings, by Sex Within Employment Status and by Sex Regardless of Employment Status	69
Table 9—State Plan, Range of Base Period Earnings Required for Weekly Benefit of $54 and Range of One Percent of Taxable Base Period Earnings, by Ratio of High Quarter to Base Period Earnings	70
Table 10—State Plan, Range of Base Period Earnings Required for Maximum Weekly Benefit of $80 and Range of One Percent of Taxable Base Period Earnings, by Ratio of High Quarter to Base Period Earnings	71
Table 11—State Plan, Claimants Receiving Basic Benefits in 1964 Number of Claimants by Base Period Wages, Distributed by High Quarter Wages as a Percent of Total Wages by Sex Within Employment Status	72
Table 12—1964 State Plan Employment During Last Quarter of Employment of Workers With Annual Earnings of $300 but Less than $4,000	74
Table 13—1964 State Plan Employment During Last Quarter of Employment of Workers Earning $4,000 and More	75
Table 14—State Plan, 1964 Claimants Receiving Basic Benefits Number of Male and Female Claimants by Employment Status at Onset of Disability, Distributed by Base Period Wages	76
Table 15—State Plan, 1964 Claimants Receiving Basic Benefits Number of Claimants and Percent of Total Claimants by Employment Status, Base Period Earnings Within Sex	77
Table 16—State Plan, 1964 Claimants Receiving Basic Benefits Number of Claimants by Base Period Earnings Within Employment Status and Sex, Distributed by Number of Quarters Worked in Base Period	78

TABLE OF CONTENTS—Continued

Page

Table 17—State Plan, 1964 Claimants Receiving Basic Benefits Claimants Having Base Period Earnings of Less Than $4,000 and $4,000 and Over, Days Compensated Number of Claimants, and Average Duration, by Age, Within Employment Status and Sex ---- 80

Table 18—State Plan, 1964 Claimants Receiving Basic Benefits Average Durations of Basic Benefits and Percentage Ratios of Female to Male Durations by Base Period Earnings of Less Than $4,000 and $4,000 and Over, Males and Females Within Employment Status ---- 81

Table 19—State Plan, 1964 Claimants Receiving Basic Benefits Number of Claimants Basic Days Compensated and Average Duration by Number of Quarters Worked in Base Period, Base Period Earnings Under $4,000 and $4,000 and Over Within Sex and Employment Status ---- 82

Table 20—Number of Workers in State Plan Employment During Last Quarter of Employment in 1964 Having Total Wages of $300 or More, Number of Claimants Receiving Basic Benefits, Ratio of Claimants to Workers, Distributed by Ratio of High Quarter Wages to Total Wages ---- 84

Table 21—1964 State Plan Employment During Last Quarter of Employment of Workers With Annual Wages of $300 but Less Than $4,000, Number of Claimants Receiving Basic Benefits With Base Period Wages of Less Than $4,000, by Sex Within Age Distributed by High Quarter Wages as Percent of Total Wages Regular Liability Claimants as Percent of Workers, and Regular Liability and Unemployed Disabled Combined as Percent of Workers 86

Table 22—1964 State Plan Employment During Last Quarter of Employment of Workers With Annual Wages of $4,000 and Over, Number of Claimants Receiving Basic Benefits With Base Period Wages of $4,000 and Over, by Sex Within Age, Distributed by High Quarter Wages as Percent of Total Wages Regular Liability Claimants as Percent of Workers, and Regular Liability and Unemployed Disabled Combined as Percent of Workers ---- 88

Table 23—State Plan, 1964 Claimants Receiving Basic Benefits Number of Claimants by Percent of High Quarter to Base Period Earnings Amount of Base Benefits Paid and Average Amount Per Claimant, by Earnings and Sex Within Employment Status ---- 90

Table 24—State Plan, 1964 Claimants Receiving Basic Benefits Number of Claimants by Percent of High Quarter to Base Period Wages, Number of Basic Benefit Days Compensated and Average Number of Basic Benefit Days per Claimant, by Sex and Base Period Wages Within Employment Status ---- 92

Table 25—Average California Civilian Labor Force and Unemployment Rate 1956–1965 ---- 95

Exhibit 1—Covering Letter and Questionnaire for Survey of Wage and Salary Continuation Policies and Practices ---- 96

STATE DEPARTMENT OF EMPLOYMENT REPORTS

Report 364 No 22 2, Tables 1–14 Characteristics of Workers With Earnings in State Plan Employment, 1964 ---- 98

Report 1000 No 11, Tables 1–3 Average Compensated Durations of Claims Paid to the Employed and Unemployed State Plan Claimants, by Annual Earnings and by Occupation, 1964 ---- 106

Report 1000 No 12, Tables 1–8 Experience of State Plan Claimants Who Exhausted Basic Benefits During January–March 1965 ---- 112

Report 1200 No 10 Table 1 Disabilities of State Plan Claimants, by Employment Status, 1965 ---- 117

Report 1200 No 11, Tables 1–3 Disabilities of State Plan Claimants Who Exhausted Basic Benefits, 1964 ---- 119

Report 1200 No 12, Tables 1–18 Average Compensated Duration of Basic Disability Benefits of State Plan Claimants by Sex and Age Within Employment Status and Base Period Earnings, 1964 ---- 121

Report 1012 No 10 The California Disability Insurance Program ---- 131

PREFACE

This report of the Joint Legislative Interim Committee on Unemployment Compensation Disability Insurance has been prepared pursuant to Assembly Concurrent Resolution No 45, California Legislature, 1965 General Session

The major emphasis in the report is on five principal areas They are (1) A detailed analysis of State Plan experience in the 10-year period, 1956–1965 (2) A discussion of the temporary disability programs in the States of New York, New Jersey and Rhode Island, with particular emphasis on the relationship between the methods of financing these programs and the feasibility of private insurance (3) A discussion of the present taxable wage base and the contribution rate in the California program and recommendations setting forth the terms and conditions under which they should be modified (4) A discussion of the present benefit formula, a summary review of an alternate system similar to that in effect in New York, New Jersey and Rhode Island and a proposal to revise the present benefit formula in California (5) A detailed analysis of characteristics of claimants receiving basic benefits in 1964, with special reference to the filing rate according to the ratio of high-quarter wages to total base period wages

The data on 1964 claimants receiving basic benefits are based on an approximately 20-percent sample by the State Department of Employment of State Plan claimants The analysis of this sample of claimants was done at the Computer Center, University of California, Berkeley

All the other data contained in the report on the California program are based upon tabulations prepared by the State Department of Employment, Reports of the Actuaries on the California Unemployment Compensation Disability Fund and upon the Unemployment Insurance Code

The tables contained in this report are divided into two sections Those tables prepared by the joint committee appear first, are numbered consecutively, and preceding each table is a brief summary of the table

The tables prepared by the State Department of Employment are grouped numerically by table number within report number

RECOMMENDATIONS

Benefit Formula

1. The weekly benefit amount should be related to total base period wages
2. The weekly benefit amount should be determined in accordance with a benefit schedule replacing 64 8 percent of 1/52 of total base period wages of $6,500, with a graduated scale of lesser percent replacement for claimants having base period wages above and below $6,500

Maximum Weekly Benefit Amount

A policy statement should be included in the Unemployment Insurance Code that at least 75 percent of the claimants receiving basic benefits should receive those benefits at a weekly rate not restricted by the limitation on the maximum weekly benefit amount and that such earnings "steps" as may be necessary should be added to the benefit schedule to achieve this objective

Taxable Wage Base

The taxable wage base should be the base period wages required to qualify for the maximum weekly benefit amount, if the weekly benefit amount is related to total base period wages (If the high-quarter benefit formula is retained, the taxable wage base should be equal to four times the base period high-quarter wages required to qualify for the maximum weekly benefit amount)

Contribution Rate

The Director of the Department of Employment should be given statutory authority to set by administrative action the contribution rate to be in effect for a calendar year, to the end that the Disability Fund reserve balance shall be as nearly equal as may be to the balance to be required by statute The contribution rate increases or decreases from 1 percent should be in increments of 0 1 percent

Disability Fund Reserve Balance

A provision should be included in the Unemployment Insurance Code that the year-end Disability Fund reserve balance shall be equal, as nearly as may be, to 15 percent of expenditures for that year

Independent Medical Examinations

The Advisory Council to the Department of Employment should explore the functions and uses of the independent medical examination, with particular regard to its use in those cases where, based upon the independent medical examination, there is an appeal from the denial or termination of benefits

Public Information

A continuing and expanded public information program to educate workers about their rights under the disability insurance program should be pursued, with particular emphasis directed toward workers whose employment is intermittent or seasonal

INTRODUCTION

The Unemployment Compensation Disability program in California was established by the Legislature in 1946 The program pays weekly benefits for a limited period of time to eligible individuals who are unable to perform their usual and customary work because of a nonoccupational disability

During the 20 years the disability insurance program has been in existence, numerous modifications in it have been made, including provision for payment of an additional benefit to eligible claimants for a limited number of days when hospitalized However, this and other modifications have not fundamentally altered its basic structure The elements of this basic structure are (1) The program is financed by employee contributions, (2) all employees subject to the statute are covered automatically under the State Plan, and affirmative action is required to provide such coverage under either an insured voluntary plan or under a self-insured plan, (3) the weekly benefit amount payable is related to prior earnings, (4) the additional benefit payable when a claimant is hospitalized is a flat amount per day for a limited number of days

California is one of four states having a program paying temporary disability benefits to eligible claimants because of disability and unemployment due to nonoccupational accident or sickness The experience under this program, with particular emphasis on the last 10 years, and the structure of temporary disability programs in the three other states having similar programs, constitute the subject matter of this report.

ANALYSIS OF 1956–1965 STATE PLAN EXPERIENCE

One of the first undertakings was an analysis of the major factors affecting State Plan experience over the past 10 years

The analysis focuses on the components of cost and income The major cost components are the number of claims which are compensated, the average weekly benefit amount per compensated claim and the average duration per claim The principal income component is the size of the taxable wage base

The analysis also examines the relationship between the number of workers who would have been eligible for benefits had they become disabled and the number who actually received benefits. The 10-year period, 1956–1965, was chosen for several reasons first, the time period was long enough to bring to light any basic trends occurring in the program; second, 1956 marked the last year, up to 1965, that total Disability Fund receipts exceeded total disbursements, except for 1961 when $70 million was transferred from the Unemployment Fund to the Disability Fund Also, this period witnessed a substantial overall increase in the maximum weekly benefit and a liberalized additional benefit when hospitalized

The Critical 10 Years

At the beginning of 1956 the Disability Fund balance stood at $141 6 million, more than 2 5 times the total disbursements for that year This amount was far in excess of that needed for an adequate reserve During 1956 the reserve continued to grow, though by only $2 6 million for the year—the smallest increase for any year except 1954 In this regard, then, 1956 was a year in which (1) Disability Fund income and outgo were virtually in balance and (2) the Disability Fund reserve was far more than adequate to meet any contingencies against which a reserve should be kept. These two points taken together are particularly important because they encouraged a course of action to reduce the Disability Fund balance The resultant policy decisions had several effects

Outgo and Income

The course of action to reduce the State Fund balance was as follows Maximum weekly benefits were increased by the Legislature from $40 to $50, effective January 1, 1958, and to $65, effective January 1, 1960 It combined this latter increase with a reduction in the size of the "steps" in the weekly benefit schedule to $25, thus also giving higher benefits to claimants drawing at less than the maximum weekly rate The remaining significant liberalization was an increase in the additional benefit when hospitalized from $10 to $12 a day and an increase in the maximum duration from 12 to 20 days for each period of disability

These liberalizations were costly, resulting in a more rapid rise in disbursements than in net taxable wages, even though the taxable wage base had been raised from $3,000 to $3,600, effective in 1958.

In the 1961 session the Legislature took two actions designed to increase the income to the State Fund The first action was to transfer

$70 million from the Unemployment Fund to the Disability Fund. Its second action was to put into the Unemployment Insurance Code a four-step schedule of taxable wage base increases as follows.

Taxable wage base	*Effective date*
$4,100	January 1, 1962
4,600	January 1, 1963
5,100	January 1, 1964
5,600	January 1, 1965

The Legislature combined its actions increasing State Fund revenue with an increase in the then weekly maximum benefit of $65 to $70, effective January 1, 1962, and enacted an escalator provision setting the maximum weekly benefit for subsequent calendar years at two-thirds of the average weekly wage in the second quarter of the preceding year, but not less than $70 This escalator provision resulted in the following weekly maximum benefits 1963, $75; 1964, $77; and 1965, $80

These 1961 legislative actions did not bring about a balance between income and disbursements in the State Fund, which continued its decline, with the exception of 1961 when the $70 million transfer was made

In 1965 the Legislature raised the taxable wage base to $7,400, effective August 1, 1965, which had almost the same effect as a taxable wage base of that amount for the entire year It also increased the contribution rate from 1 percent of taxable wages to 1 1 percent for the period August 1 through December 31, 1965 Beginning in 1966 the contribution rate reverted to 1 percent On the benefit side the Legislature froze the maximum weekly benefit at the $80 amount and added a provision limiting the total amount of basic benefits payable for any one period of disability to 26 times the weekly benefit amount or one-half the claimant's base period wages, whichever was the lesser The effect of these changes was a modest excess of income over disbursements for the 1965 calendar year

Emergency Actions

This prolonged period in which disbursements exceeded revenues required giving the Department of Employment authority to borrow to tide the Disability Fund over those periods when there was not enough cash on hand to pay benefits and, ultimately, resulted in the suspension, for a time, of payment of the additional benefit when hospitalized These payments later were made retroactively after the Legislature in the 1965 session passed legislation to refinance the program and to provide, effective September 1, 1965, for the monthly, rather than the quarterly, remittance of contributions by those employers who withhold more than $50 in worker contributions for a prior month

Insured Voluntary Plans

The financial crisis of the State Fund focused attention on means to improve its experience This, in turn, focused attention on the terms and conditions under which private insurers would be allowed to continue to insure groups of employees under this program The result of the adverse selection regulation, which became effective in January 1963, was to virtually eliminate carrier-insured voluntary plans In

1965 such plans covered 1 1 percent of the total covered employees, with an additional 6 percent of the employees covered by self-insured voluntary plans The latter are not subject to the adverse selection regulation.

Although the carriers opposed the 1961 adverse selection statutory provision and the regulation based on it, the evidence strongly indicates that their portion of the total coverage would have continued to shrink, though not so abruptly, even if the adverse selection regulation had not been implemented in 1963. Although voluntary plans covered more than 50 percent of all employees in the early 50's, this coverage had shrunk to 21 percent of the total by the end of 1962. The substantial excess of disbursements over revenues which characterized State Plan operations, beginning in 1957, brought about this decline As indicated, the implementation of the adverse selection regulation on January 1, 1963, reduced the voluntary plan proportion from 21 percent to 7 percent, most of it self-insured

This brief summary of the major changes in the disability program affecting the revenue and expenditure patterns, and of the shift to almost exclusive State Plan coverage, provides the background against which the factors influencing both income and outgo are appraised

COMPONENTS OF COST

Introduction

Basic benefits to regular liability claimants constitute the great bulk of all benefit payments, although there are three other categories of benefits which deserve review as well They are (1) hospital benefits to regular liability claimants, (2) basic benefits to the unemployed disabled, and (3) hospital benefits to the unemployed disabled. Because of the small amount of benefits involved, changes in any, or all, of these three categories have much less impact upon the Disability Fund than do regular liability basic benefits However, the changes do throw some interesting light on shifts in the components of cost, and permit some comparisons of regular liability experience with unemployed disabled experience

REGULAR LIABILITY—BASIC BENEFITS

Eligibility

In the 20 years the disability program has been in existence, there has been no change in the basic monetary eligibility requirement of $300 in earnings during the base period, yet it is common knowledge that average weekly wages have risen dramatically On this basis, it is argued that the eligibility requirement is completely inadequate today, relative to 20 years ago, and should be changed

To examine this argument the effect of a static eligibility requirement during a time of rising average wages must be examined This can be measured in a simple and direct fashion This effect during the 1956–65 decade is set forth in column (5) of Table 1 In 1956 the average number of eligibles was 86 6 percent of average covered employment, by 1965 this ratio had risen to 91 5 percent The index for this change is shown in column (6), the 1956 index of 100 had risen to 106 in 1965—an increase of 6 percent in the 10-year period

Thus, the nominal monetary requirement permits a high percentage of covered workers to meet the monetary eligibility requirement, should

they become disabled This appears to be a reasonable public policy On the basis of the evidence for the past 10 years, a 6 percent change provides few grounds for the contention that the static monetary eligibility requirement has resulted in a significant increase in the proportion of average number of eligibles to average covered employment

Claims

Although the ratio of average eligibles to average covered employment has not increased significantly in the 10-year period, the index of claims as a percent of average number of eligibles rose during this period from 100 to 123 This is shown in column (10) of Table 1 It is not possible to pinpoint the reasons for this upward trend, but several factors could have contributed to it Over the years there has been a slow movement toward integrating basic benefits with wage and salary continuation programs This particular factor is discussed in more detail in another section of this report For this portion of the analysis, it is sufficient to note that when an individual is paid his regular wages or salary for the time he is disabled, he is not entitled to basic benefits The trend has been toward making wage or salary payments in an amount equal to the difference between the full wage or salary and the weekly basic benefit under disability insurance

A second factor that may be significant is the greater utilization attendant with program maturity. An example of this can be drawn from agricultural labor which was covered under the disability program on a mandatory basis, effective October 1, 1961 The cost rate for agricultural labor (the ratio of benefits to contributions) consistently has been below the cost rates for the program as a whole. These cost rates for agricultural labor were 0 62 in 1964 and 0 55 in 1965 For the program as a whole, the cost rates of regular benefits in relation to State Plan wages were 0 95 and 0 79 This and other evidence strongly indicate that a long period of time elapses before there is a general awareness of the program on the part of a substantial proportion of the members of the group

One of the imponderables in trying to estimate the impact of a change in the benefit structure of a program is the extent to which the change will affect the utilization rate, the proclivity to file Turning to column (10) of Table 1, it is instructive to note the 9-point rise in the index from 1957 to 1958 and the 10-point rise between 1959 and 1960 Maximum weekly benefits were increased by $10, effective January 1, 1958, and were increased by $15, effective January 1, 1960 It is possible, of course, that the relationship between the two biggest benefit increases and the two largest jumps in the index is coincidence, but this does not seem probable

Weekly Benefit Amount

As noted in column (12), Table 1, the index of the average weekly benefit amount rose by 65 points during the period The maximum weekly benefit amount increased by 100 percent during this same period, from $40 per week in 1956 to $80 in 1965 To put it another way, the increase in the maximum weekly benefit amount was about 1½ times as great as the increase in the average weekly benefit

Average Weekly Duration Per Claim

Columns (13) and (14) show the extent to which average weekly duration dropped during the 10-year period, from 8 6 to 7 4 weeks, and the index from 100 to 86

It will be recalled in the discussion of the 23-point increase in the index of the filing rate, claims as a percent of average number of eligibles in covered employment, column (10), Table 1, mention was made of the trend toward greater integration of wage and salary continuation plans with basic benefits under disability insurance This fact probably contributes to the decline in average weekly duration per claim. This is so because the *median* duration per claim is lower than the *average* duration per claim, therefore, the inclusion of additional claims by reason of integration of wage and salary continuation programs with basic benefits will reduce the average duration even though at any given time the average duration figure includes claims where wage and salary continuation is primary to disability basic benefits

Factors Directly Determining Net Benefit Payments

The number of claims times the average weekly benefit paid per claim, and this product multiplied by the average weekly duration per claim, give the cost of net benefit payments Column (15), Table 1 is the product of the index of each of these three factors, pointed off to four decimal places bceause the indexes are in hundreds Where differences occur between columns (15) and (17), they are accounted for by rounding.

Net Taxable Wages

Both the dollar figures, column (18), and the index, column (19), of net taxable wages represent for all practical purposes the revenue side of the disability program One of the reasons for selecting 1956 as the base year was that income and outgo for that year were very nearly in balance, with income exceeding outgo by only $2 6 million Therefore, a comparison of columns (17) and (19) gives a reasonably accurate account of the magnitude of the imbalance between income and outgo during this 10-year period Two qualifications to this statement should be noted The first is the transfer of $70 million from the Unemployment Fund to the Disability Fund in 1961 The second qualification is that the contribution rate was raised from 1 percent to 1 1 percent of taxable wages for the period August 1, 1965, to the end of the year Neither of these factors is reflected in the index Ignoring the one-time transfer of $70 million in 1961, outgo has exceeded income by significant margins in eight of the nine years subsequent to 1956 The big increase in the taxable wage base, effective in August 1965, coupled with the 10 percent increase in the contribution rate for the last five months of the year, resulted in an excess of income over outgo for that year

BASIC BENEFITS FOR THE UNEMPLOYED DISABLED

The unemployed disabled are those individuals who were either unemployed at onset of disability or who were working in noncovered employment at that time The unemployed disabled claimants constitute about 11 percent of all claimants

Average Number of Eligibles

The index of average number of eligibles not in covered employment as a percent of average total covered employment rose from 100 in 1956 to 164 in 1965, column (6), Table 2 These figures can be misleading, however, unless it is realized that during this 10-year period average unemployment also rose substantially; from 188,000 in 1956 to 429,000 in 1965. Table 5 shows average number of eligibles not in covered employment as a percent of average unemployment and the indexes for these percentages. The ratio of eligibles to unemployed has remained virtually stationary during this 10-year period The static monetary eligibility requirement of $300 earnings in the base period has had no impact upon the portion of the unemployed who would be eligible for benefits were they to become disabled

Claims

Of those who would have met the monetary eligibility test, about the same percent claimed benefits in 1965 as did in 1956. This is shown in column (10), Table 2 For regular liability claimants this index rose by 23 points. One factor applicable to regular liability claimants, but not present with regard to the unemployed disabled, is the impact of newly articulated arrangements between disability insurance basic benefits and wage and salary continuation programs The significance of this factor is not determinable, but its absence in connection with unemployed disabled claimants suggests it accounts at least in part for the high degree of stability in the utilization rate for the unemployed disabled

Average Weekly Benefit Amount

The average weekly benefit amount index rose by 61 points, compared with 65 points for regular liability claimants The average benefit for the unemployed disabled is slightly less than it is for regular liability claimants This means that high-quarter earnings of the unemployed disabled are lower than those of regular liability claimants

Average Weeks Duration per Claim

The index of average duration per claim has been extremely stable Here again, the impact of integration of wage and salary continuation with basic benefits would not apply to the unemployed disabled, and this may account for the fact that regular liability average duration declined but did not for the unemployed disabled There is a significant difference in the average number of weeks of disability· in 1965, 11 4 for the unemployed disabled and 7 4 for regular liability claimants. The comparable figures for 1956 are 11 4 weeks and 8 6 weeks

The Net Benefit Payments and the Total Net Taxable Wages Indexes

For unemployed disabled claimants, as for regular liability claimants, the number of claims times the average weekly benefit paid per claim, and this product multiplied by the average weekly duration per claim, give the cost of net benefit payments Column (15), Table 2, shows the product of these calculations, using the indexes for the above three factors The index of net benefit payments, column (17), Table 2, is more properly compared with the index of total net taxable wages,

rather than only State Plan taxable wages, because the unemployed disabled include not only those who were covered by the State Plan, but also those who were covered by insured voluntary plans and by self-insured plans

HOSPITAL BENEFIT PAYMENTS FOR REGULAR LIABILITY

Claims as a Percent of Average Number of Eligibles

The index of claims as a percent of the average number of eligibles rose by 31 points for the 10-year period The increase in this index profitably can be compared with the 23-point rise in the index for basic benefits.

The increase in the hospitalization utilization rate is more significant than indicated by the difference between the basic benefits index rise of 23 points and the 31-point rise of the hospital claims index A portion of the basic benefits index rise was accounted for by the integration of basic benefits with wage and salary continuation This explanation does not apply in the case of hospital benefits because such benefits are payable irrespective of receipt of regular wages or salary

It may be that changing medical technology and medical practice have resulted in higher hospitalization commitment rates, though for shorter periods of time Another contributing cause may be less patient resistance to hospitalization because of the greatly increased number of individuals with prepaid hospital care plans which meet all, or a substantial proportion, of their hospitalization costs A third factor should be noted For disabilities commencing on or after January 1, 1960, persons hospitalized pursuant to a court order or health officer's certificate became eligible for hospital benefits, the effect of which was to extend the hospital benefit to mental case commitments This statutory liberalization cannot be dismissed as of no consequence, in 1959 the hospital claims index in relation to eligibles (column 10 Table 3) was 119, and the following year, 1960, jumped to 129, a 10-point increase in one year, and virtually a third of the total increase in the index for the 10-year period

Average Duration

The legislative liberalization of this benefit, increasing the additional benefit when hospitalized from $10 to $12 a day and the maximum duration from 12 to 20 days, the latter being a 66⅔ percent increase, has had more effect upon compensable duration than is apparent from the data

For 1955, '56 and '57, the three years immediately prior to the liberalization, the average duration per claim was 7 1 days The average duration for 1958, '59 and '60 was 7 9 days Slightly more than 25 per of the claimants exhausted their hospital benefits when the maximum duration was 12 days After the liberalization, the exhaust rate averaged 12 7 percent for the three-year period beginning in 1958

These data support the conclusion that improvements in medical technology and treatment undoubtedly have served to shorten hospital stays for certain kinds of disabilities Then, too, if it is true there is an increasing tendency to hospitalize where the need for hospitalization is marginal, this would tend to reduce average duration.

The Net Benefit Payments and the Net Taxable Wages Indexes

Hospital benefits are a relatively small proportion of total benefits, about one-sixth for regular liability claimants The hospital net benefit payments index was 412 in 1965, and through 1964 was consistently higher than the index of net taxable wages

The hospital benefits index of 412 in 1965 was slightly lower than the basic benefits index of 420 for that year

HOSPITAL BENEFIT PAYMENTS FOR THE UNEMPLOYED DISABLED

Claims as a Percent of Average Number of Eligibles

The index of claims for hospital benefits, column (10), Table 4, rose by 17 points in the 10-year period, only a little more than one-half as much as the comparable index for regular liability claimants

On the surface, a reasonable explanation for this phenomenon would appear to be that the unemployed disabled are less likely to have the protection of prepaid hospital care plans, or if they do, the benefits are not likely to be as generous, so, they are more reluctant to undergo hospitalization unless it is absolutely necessary The point seems plausible enough until hospital claims frequencies are compared for the employed and the unemployed In 1964 regular liability claimants receiving hospital benefits ranged from a low of 5 2 percent in 1956 to a high of 7 2 percent of the average number of eligibles in covered employment For the unemployed disabled such claims were 7 6 percent of average number of eligibles not in covered employment in 1957 and reached a high of 9 8 percent in 1964 The data for each year are shown in column (9), Tables 3 and 4

Although the data do not explain why the utilization rate for hospital benefits is higher for the unemployed disabled than for regular liability claimants, the figures suggest that there may be some significant differences in the proportions of claimants in each of these two categories who have the kinds of disabilities likely to require hospitalization See Department of Employment Report 1200, No 10, Table 1

Average Days Duration per Claim

The index of average number of days duration per claim rose by almost three times as much for the unemployed disabled (28 points) as it did for regular liability claimants (10 points) The substantial jump in the unemployed disabled index occurred between 1958 and 1959, column (14), Table 4 This 17-point jump undoubtedly was the result of the amendment, effective January 1958, increasing the maximum duration from 12 to 20 days The fact that this liberalizing amendment had a much greater effect upon the average duration for the unemployed disabled than upon regular liability duration strongly indicates a significantly higher exhaust rate for additional benefits among the unemployed disabled prior to the amendment In fact, this was the case The exhaust rate for the unemployed disabled prior to the liberalization, effective January 1, 1958, averaged over 40 percent for the three years preceding the liberalization For 1958, '59 and '60, the exhaust rate averaged 26 1 percent Comparable figures for the employed were approximately 25 percent and 12 7 percent

The Net Benefit Payments and the Total Net Taxable Wages Indexes

The hospital net benefit payments indexes for the unemployed disabled and for regular liability claimants stood at 417 and 412 respectively as of 1965 However, the index of total net taxable wages stood at only 241 in 1965 The comparable index for regular liability was 426

Regular Liability and Unemployed Disabled Claimants

Although indexes of the various relevant factors pertaining to these two groups of claimants are useful tools, in that they indicate magnitudes of change in the factors, the indexes do not reveal anything about absolute values These absolute values are important because one side of the cost/income equation is fixed, the income side The contribution rate is 1 percent of net taxable wages, and it makes no difference whether the claim for benefits is filed by an unemployed disabled claimant or by a claimant who is in regular liability status at the time of filing

Eligibility

In 1965, on the average, 821 out of every 1,000 unemployed persons would have been eligible for benefits if disabled These ratios for the 10-year period are given in Table 5 For regular liability claimants the comparable figure for 1965 is 915 If all the other factors were equal, which they are not, the unemployed disabled would be a lower cost category than the regular liability category

Percent of Eligible Who File

The eligibles among the employed and among the unemployed constitute the two universes from which all claims must come The question is Of those who are eligible to file claims for benefits, what proportions do? In 1965, for every 1,000 employed eligibles 96 filed a claim for basic benefits Among the unemployed eligibles, 155 filed a claim for basic benefits The filing *rate*, then, was 61 percent higher for the unemployed than for the employed

Average Weekly Benefit Amount and Average Duration

In 1965 claimants employed at onset of liability had an average weekly benefit of $53 90, for the unemployed the figure was $51 13

The average duration per claim is 54 percent higher for the unemployed than for the employed claimant

Summary

From this brief review it can be seen that the unemployed, considered as a category, are considerably more expensive as a category of claimants than are claimants who are employed at onset of disability The statement also is true if the analysis is made in terms of the hospital benefit

Employment status is a one-dimensional category, there are other dimensions which will be examined in other sections of this report, among them, sex of claimant, age and, perhaps most important of all, the ratio of the high quarter to the base period earnings of the claimant In this connection it is worth noting a point here that will

be developed fully later. One thousand dollars of base period earnings will yield $10 in revenue, regardless of the pattern in which those wages are earned, but, the *rate* at which a claimant is entitled to draw his benefits is determined by the portion of that $1,000 earned in the highest quarter of his base period

TEMPORARY DISABILITY PROGRAMS IN OTHER STATES

Discussions were held with officials from the States of New York, New Jersey, and Rhode Island, the three states in addition to California that have nonoccupational temporary disability programs These programs also were discussed with employer, labor, and insurance interests Precise comparisons of the four programs can be made, but in many cases they would not be particularly meaningful or helpful in making judgments as to whether one system is "better" than another

Background

The first temporary disability program was established in Rhode Island in 1942 California and New Jersey established their programs in 1946 and 1948, respectively. New York followed in 1949 In the 17 years subsequent to the enactment of the New York program, no other state has seen fit to establish a temporary disability program

Rhode Island, the first state, operates through a monopolistic state fund; neither private carriers nor self-insurance is permitted New Jersey and California permit both private insurance and self-insurance, as well as insurance with an agency of the state Both states require private insurers and self-insurers to meet certain statutory and regulatory standards as a condition of private insurance or self-insurance In these regards New York is similar to California and New Jersey, but, because of the design of the New York system, it is much more adaptable to both private insurance and self-insurance than are the California and New Jersey systems

The New York System

The New York system is based on a philosophy which is substantially different from that of the systems in any of the other three states A good statement of the concepts and convictions underlying the development and, finally in 1949, the establishment of a temporary disability benefit program in New York is contained in Legislative Document (1949) No 67, Report of the New York State Joint Legislative Committee on Industrial and Labor Conditions A portion of the conclusion contained in this document reads as follows

> "Before introduction in the Legislature, the bill was submitted to representatives of all groups which were vitally affected by this type of legislation Conferences were held with leaders of labor, management, insurance companies, and trade and business organizations From among them a drafting committee was appointed consisting of technicians, actuaries and experts in the field who met with representatives of the Legislature and state administration to work out a sound and acceptable plan The culmination of their labors resulted in a measure founded upon sound insurance principles, allowing wide latitude for management and labor to work out their own welfare plans, and which, at the same time, provided substantial protection for the workers of New York State against the economic hardships of wage-loss resulting from nonoccupational accident and sickness Ex-

perts in the field of social insurance legislation were impressed with the merits of this type of measure Regimentation of management and labor into uniform welfare standards regardless of local and particular industrial needs and problems was not attempted A huge tax-collecting bureaucracy was avoided It recognizes the ability of labor and management to adjust their own problems in most cases and provides standards for that adjustment It provides a simple, practical method of supervision with the least interjection on the part of the state In the final analysis it shows the way social legislation can be made to work within the structure of a free enterprise economy It is believed that the legislatures of other states which are considering similar legislation will closely study and seriously consider New York's plan before adoption of any system of disability benefits "

In general, the New York system is oriented more toward the philosophy of group accident and health insurance than are the systems of the other three states This is particularly true in the financing arrangements which are on a premium-for-risk basis

Under the New York system employers may comply with the law by providing either cash benefits as required by statute, or "plan" benefits at least as favorable as statutory payments

Statutory coverage provides indemnity benefits only, beginning on the eighth day of disability for a maximum of 26 weeks during a period of 52 consecutive calendar weeks or during any one period of disability

"Plan" benefits vary widely as to the amount of weekly cash benefits, the length of the waiting period, and the number of disability weeks for which benefits are payable The weekly cash benefit, i e, the benefit rate, duration, and waiting period, under a "plan" cannot be less than the actuarial equivalent of 60 percent of the benefits required by statute; and the other benefits offered under the "plan" have to bring the total available benefits up to at least the actuarial equivalent of the statutory benefits

The maximum employee contribution under the New York system is one-half of 1 percent on the first $60 of weekly wages where statutory benefits are being provided However, under the flexible provisions of the New York law, an employer may make greater deductions under a "plan" where enriched benefits are being provided, if this is done by agreement with the employees affected and the contribution is reasonably related to the value of the benefits being provided

The statute does not state that there shall be an employer contribution; but the statute places upon the employer the responsibility, under penalty, for providing disability insurance benefits meeting the statutory and regulatory standards If the employee contribution is insufficient to provide such benefits, the employer must supplement the employee contribution in an amount sufficient to provide the coverage for his employees

As previously mentioned, the New York statutory system provides only cash benefits to eligible disabled employees for a maximum of 26 weeks in a 52 consecutive weeks period. The weekly benefit rate

is 50 percent of the claimant's average weekly wage for the eight weeks preceding disability, with a minimum weekly benefit of $20 or, if the employee's average weekly wage is less than $20, his average weekly wage The current maximum is $55. However, under an approved "plan" the New York system also permits a program of disability benefits actuarially equivalent to the statutory benefits Such "plans" must be approved by the state agency responsible and must meet the requirements in the actuarial equivalency standards; for example, as in the substitution of other benefits for a portion of the weekly cash benefit These other benefits can be hospital, surgical or medical care, or major medical benefits It also is permissible for an existing wage and salary continuation plan to be incorporated in a "plan," if cash benefits and other benefits, in the aggregate, are "at least as favorable as" statutory benefits

This arrangement gives vigorous expression to the philosophy expressed in the material quoted above "Regimentation of management and labor into uniform welfare standards regardless of local and particular industrial needs and problems was not attempted."

Although it is hazardous to speculate as to why major emphasis was placed upon this approach in the New York system, it is worth noting that New York has a long history of substantial industrialization and reasonably sophisticated collective bargaining arrangements In the conversations held with the various interests, the point was stressed repeatedly that a conscious attempt was made not to disturb existing arrangements if they were equivalent to the statutory and regulatory requirements In effect, then, the enactment of a temporary disability program in New York simply required employers not having any, or inadequate, employee benefit programs to provide at least the statutory minimum or its equivalent

Eligibility

Under the New York system the eligibility requirement is four consecutive weeks of employment with a covered employer for claimants employed at onset of disability or unemployed for not more than four weeks Coverage is with claimant's last employer

Individuals whose disabilities begin after four weeks of unemployment and who meet the eligibility test for unemployment compensation also are eligible for disability insurance Those who cannot qualify under the unemployment compensation eligibility test can qualify for disability benefits only if they have minimum weekly earnings of $13 in each of 20 weeks within the 30 weeks preceding the last day worked in covered employment

The Rhode Island eligibility test is earnings of at least $20 in each of 20 weeks or $1,200 in the base period, a 52-week period ending 2 weeks prior to the week in which the benefit year begins New Jersey requires 17 weeks in which wages from a covered employer were $15 or more in a base period similar to that of Rhode Island These tests are identical to the unemployment compensation eligibility tests and apply to disability claimants, whether employed or unemployed at onset of disability.

In California the eligibility test for disability benefits is the same for both employed and unemployed disabled claimants, but in one im-

portant respect California differs from the other three states, in each of which the eligibility tests are weeks-of-work tests, with the exception of the $1,200 in the base period alternative in the Rhode Island program The California statute requires earnings in covered employment of $300 in a four calendar quarter period, ending anywhere from four to seven months prior to onset of disability

Weekly Benefit Amount

Only California uses the best quarter of the base period as the basis for determining the weekly benefit amount In general, both New Jersey and New York base weekly benefits upon average weekly wages in the last eight weeks prior to onset of disability Rhode Island determines average weekly wages by dividing an individual's total wages earned for services performed in employment within his base period by the number of base period weeks in which the individual earned at least $20 for performing services in employment

The present statutory weekly maximum benefit in New York is $55 and in New Jersey it is $50 Rhode Island has adopted the escalator principle, providing that a claimant's weekly benefit shall be 55 percent of his average weekly wage, but not to exceed 50 percent of the average weekly wage in the state for the previous calendar year Rhode Island also has benefits skewed in favor of dependency, providing $3 per week for each dependent child, to a maximum of four, and a pregnancy benefit for a maximum of 14 weeks

In this latter connection New Jersey pays no benefits "for any period of disability due to pregnancy except for disability existing during the four weeks immediately before the expected birth of child, and the four weeks following the termination of the pregnancy."

Financing Unemployed Disabled Benefits

In Rhode Island all coverage is in the State Plan so there is no need for any special financing arrangements in connection with benefits paid to claimants classified as the unemployed disabled.

The three other states, New York, New Jersey, and California, permit coverage by private insurance companies and by self-insurance and, accordingly, some method must be established by which benefits are to be paid to the unemployed disabled, however defined, and some allocation of the costs of these benefits must be devised

Under the New York system eligible employees disabled after four weeks of unemployment and disabled employees of noninsured employers are paid statutory benefits directly from the Special Fund for Disability Benefits. The Special Fund was created by special temporary contributions by both employers and employees during the first six months of 1950 To replenish the fund, an assessment is levied against insurance companies and self-insurers The total assessment levied is an amount sufficient to restore the Special Fund to $12 million. There is also a special provision for other than an annual assessment under certain conditions, if the net assets of the fund are less than $2 million.

In 1965 initial claims allowed totaled 721,691, of which 6,059, or 0.83 percent, were paid by the Special Fund. The fund paid $2,898,343, compared with cash benefits of $158,354,429 under statutory and "plan" arrangements by carriers and self-insurers The latter also paid

$20,167,897 as medical, surgical and hospital benefits under accepted plans Thus, the assessment levied against self-insured plans and insurance companies, including the State Insurance Fund, to finance the benefits paid from the Special Fund is a minor cost factor. The assessment rate for 1965, levied as of April 1, 1966, to replenish the fund was 0 0000540448907 of covered wages for the previous three years, 1963, '64 and '65

In New Jersey, if an unemployed person becomes disabled within two weeks after termination of last employment, benefits are payable from last employment coverage, otherwise, payment is made out of the State Fund and charged against the unemployment disability account, which is an account within the State Fund Whenever the unemployment disability account shows an accumulated deficit of over $200 thousand at the end of a calendar year, an assessment of up to 0 0002 of covered wages is levied against both private and State Plan employers

The disabled unemployed in California, those who become disabled while unemployed or while employed in uninsured employment, are paid benefits by the State Fund, such benefits are charged to the "unemployed disabled account" in the State Fund The present arrangement was established effective January 1, 1962. The contributions credited to the "unemployed disabled account" are 0 0012 of taxable wages For the State Plan this is accomplished by crediting a portion of the total receipts of the 1 percent tax to the "unemployed disabled account"; the voluntary plans make their contributions through a quarterly assessment procedure For 1964 and 1965 the cost rates for the unemployed disabled were 0 00172 and 0.00145, respectively.

Duration

Both New Jersey and Rhode Island link the maximum number of weeks for which disability benefits will be paid to the number of weeks worked in the base period, with an absolute maximum of 26 times the weekly benefit amount for any one period of disability In general, the New Jersey formula may be described as one paying three weeks of benefits for every four weeks worked The Rhode Island formula pays three weeks for every five weeks worked New York, on the other hand, provides a maximum of 26 weeks of benefits during a period of 52 consecutive calendar weeks or during any one period of disability. However, "plan" benefit durations of more than 26 weeks are not uncommon Thus, the New York statutory provision is similar to the California provision. Currently, the California program limits basic benefits for each period of disability to the lesser of 26 times the weekly benefit amount or one-half base period earnings Prior to the 1965 amendment, the basic benefit maximum award was not restricted by the one-half base period wages limitation

Financing Structures

The Rhode Island and the California financing systems are similar in structure The taxable wage base for the Rhode Island program is $4,800, and is $7,400 in California In both states the employee contribution rate is 1 percent.

In New Jersey the employer is permitted to deduct from his employees' wages one-half of 1 percent of the first $3,000 of earnings for disability insurance However, New Jersey employers also are required to contribute to this program The employer contribution is experience rated within a schedule ranging from a minimum of 0 1 percent to a maximum of 0 75 percent Further, these employer contributions can be adjusted upward or downward, in accordance with a formula which determines whether more, or less, money is needed in the Disability Fund

Major Issues

No attempt was made to classify the literally hundreds of differences that exist among the programs of the four states Attention was focused on those areas which seem to have been sources of controversy, particularly with regard to the program in California

Financing Patterns and the Role of Private Insurance

There is a close relationship between the issue of the proper role of private insurance and the method of financing these programs To state the point more precisely, to what extent does the financing method determine the terms and conditions under which it is feasible to permit private insurance in this field?

California

A fundamental issue in the California program has been the proper role of insurance companies in insuring employees under this program The basic question always has been how to measure the extent to which the private insurance companies were not carrying their fair share of the groups which are poor risks and how to oblige them to do so, or to charge them for their failure to do so Clearly, there are differences in the benefit/income ratio of groups in each of the other three states, some groups of employees will be lower cost groups than others How has this issue, common to all four states, been handled?

In California the issue has been handled through an adverse selection device, the workings of which are such that private insurance companies can insure only a very small proportion of the total covered population In effect, this means that though the private insurers may cover risks whose loss experience is substantially more favorable than is that of the State Fund, the adverse effect upon State Fund experience is not substantial This is because the proportion of the total number of employees covered by private insurance companies currently is very small

Although the adverse selection regulation does not apply to self-insured plans, it is perfectly clear that if the number of employees covered by such plans were to become a significant proportion of the total, a serious question would be raised as to whether such self-insured plans constituted a substantial selection of risks adverse to the State Fund

New York

The New York financing system, where the employer contribution is open ended, means that the employer complies with the law on the

most favorable terms he can find In addition, the employer has substantial flexibility in determining what kinds of benefits he will provide to his employees, so long as they are equivalent to the statutory and regulatory standards

There is no pooling, financial or social, as there is in the other states The New York employer can either self-insure, insure with a private stock or mutual insurance company permitted to do business in the state, or, he can insure with the State Insurance Fund, which, for all practical purposes, operates competitively in a manner similar to a private insurance company This similarity is particularly important because it precludes the State Insurance Fund from carrying bad risks by means of the excess premiums it receives from good risks If the State Insurance Fund were to attempt to engage in such a practice, its good risks would seek coverage through another carrier or by self-insurance.

New Jersey

The New Jersey financing system is a modified form of the New York system. In New Jersey there is a flat rate employee contribution and an experience-rated employer contribution. The principal difference from New York is that the employer contribution in the State Plan in New Jersey is not open ended

The New Jersey program requires that private plan benefits be at least equal to the State Plan benefits in all respects This is a less severe requirement than that in the California program which requires the private plan to be better than the State Plan in at least one respect, and equal in all others More to the point, however, is the employer contribution required under the New Jersey program As stated previously, the employer's contribution is experience rated if he is in the State Plan If the employer has a private plan, he pays the balance of the cost remaining after his employees' contributions are taken into consideration. Although this arrangement should provide him with some incentive to insure his employees in that manner best calculated to minimize his costs for a given level of benefits, as a generalization it is accurate to say that the New Jersey system is a little less conducive to private insurance than the New York program because one of the by-products of the New Jersey State Plan financing system is thus "modified pooling" of loss experience

Rhode Island

Under the Rhode Island system the question of selection of risks cannot exist simply because that state has a monopolistic system, with no role in this program for either private insurance companies or self-insurance

Summary

Where no employer contribution is required and the employee contribution is on a flat-rate basis, there will be differences in the benefit/income ratio for various groups of employees Stated simply, the good risks carry the bad ones; and this is the essence of the *pooled* fund

In California the modifications of the pooled fund concept lie in self-insurance, and in private insurance as restricted by the adverse selec-

tion provision The latter has some effect in requiring the private carriers to assume a certain proportion of the inferior risks as measured by sex, age and wage criteria, but has a more important effect in that it restricts, as a practical matter, the proportion of the total coverage which can be provided by the private carriers The exemption, in practice, of the self-insured from the adverse selection regulation is an exception to the pooled fund concept on the self-evident basis that no single employer can be expected to meet sex, age and wage criteria

The Rhode Island program is the classic example of the pooled fund. As in the California system, there is only a flat-rate employee contribution, in addition, Rhode Island requires that all coverage be in the State Plan

The flat-rate contribution principle leads inevitably to the pooled fund, for all practical purposes Groups of employees, no matter how classified, will vary somewhat from one another in their cost rates The flat-rate contribution collects more than is needed from some groups of employees in order to pay more to other groups of employees than is contributed by them This principle, with minor modifications, is deeply embedded in the California system Its abandonment would require a radical revision of the present financing structure There appears to be little reason to believe that such a revision is supported by a major proportion of either employers or their employees

FINANCING ISSUES

The Taxable Wage Base

The taxable wage base and the contribution rate applied to that base determine for all practical purposes the amount of income to the Disability Fund. Since the inception of the program in 1946, the tax rate of 1 percent has remained unchanged except for the last five months of 1965, when a tax rate of 1.1 percent was in effect

Over the years the taxable wage base has been increased several times and is now $7,400. For approximately the first 10 years of the program, the taxable wage base of the first $3,000 earned in a year was more than adequate to finance the disability insurance program with a 1 0 percent tax rate In the second 10 years of the program the successive increases in the taxable wage base, by and large, were insufficient to finance the program, with the result that recurring financial crises plagued the disability insurance program, especially in the past few years

A striking characteristic of the debates and discussions on proposals to increase the taxable wage base is that, with few exceptions, neither advocates nor opponents have offered any rationale for a particular taxable wage base In general, spokesmen from organized labor have argued that unless a high percentage of total wages are taxed, there is merely a horizontal redistribution of funds at low wage levels, i e, a type of "regressive" taxation results They have seldom pressed this position seriously except to the extent they supported increases in the taxable wage base rather than in the tax rate, given the need for additional revenue

On the other hand, employer and insurance interests have from time to time suggested an increase in the rate, rather than in the base, on the ground that low base period wages are associated with high benefit cost experience

Now that the taxable wage base under the disability insurance program reaches approximately 85 percent of total covered wages, the question of horizontal redistribution ("regressive" taxation) is no longer a real issue The question now is to determine the relationship between the weekly benefit amount and wages, the total amount of these benefits and continuing eligibility for benefits

The maximum award for basic benefits under the program, as it now exists, is $2,080 To be entitled to receive this amount a claimant must have earned $4,160 in his base period On this basis, it could be argued that earnings in excess of $4,160 should not be subject to taxation because earnings in excess of this amount have no effect upon the total amount of basic benefits payable for any one period of disability (This, of course, ignores the "regressive" taxation argument)

Another rationale which can be advanced is that the taxable wage base should be equal to four times $1,875, the amount of high quarter base period earnings required to qualify for the current weekly maximum benefit amount of $80 Requiring four times the amount needed to qualify for the maximum weekly benefit is justified in that it provides greater continuity of ability to meet the monetary eligibility requirement and to qualify for both the maximum weekly benefit amount and the maximum benefit award If this rationale is adopted, it would

call for a current taxable wage base of $7,500, an increase of only $100

These two rationale are the most extreme positions which can be logically defended As noted previously, the current taxable wage base is $7 400

If the high quarter benefit formula is retained, it is proposed that the taxable wage base be equal to four times the high quarter earnings required to qualify for the maximum weekly benefit amount This means that if additional steps are added to the benefit schedule or if there are changes in the size of the "steps," the taxable wage base will change automatically at the beginning of the next calendar year. This mechanism is necessary for several reasons First, if additional steps are added to the benefit schedule, only those individuals having high quarter base period earnings in excess of $1,875 can benefit; therefore, it is they who should contribute Second, a rationale which is logical and is self-executing eliminates recurring conflicts as to what the taxable wage base should be

If the benefit formula is revised so that total base period wages are the basis for determining the weekly benefit amount, clearly the taxable wage base should be the base period wages required to qualify for the maximum benefit

Justification for a Flexible Tax Rate

If the program is in financial balance for any given year, the tax rate then in effect is the magnitude of the levy that must be placed on that particular taxable wage base As was clearly established by George Roche, Chief of Research and Statistics of the State Department of Employment in his testimony to the joint committee at its hearing in San Francisco on August 19, 1966, the difficulty in estimating the amount of income to the Disability Fund stems in large part from the unpredictability of the future level of economic activity; that is, the size of the taxable wage base A level of economic activity, as measured by taxable wages, which is lower than that estimated will produce less than the anticipated revenue; and taxable wages higher than estimated will produce revenue above the estimate

Although the above results appear to be obvious, their implications seem to have been ignored when action was needed to provide additional revenue to finance the disability program In addition, there was no generally accepted rationale underlying what the taxable wage base should be and the circumstances under which it should be changed

If the rationale proposed for changing the taxable wage base is accepted, it follows that the proper method of providing any additional needed revenue when the wage base shrinks is by a change in the tax rate

The tax rate should be adjusted on an annual basis, by administrative action in steps of one-tenth of 1 percent, in accordance with a determination made by the Department of Employment as to the amount of revenue needed to maintain a Disability Fund balance which meets the statutory requirements Such an arrangement, of course, means that the current rate of 1 percent can decline as well as rise Furthermore, such an arrangement assures that protection is built into the financial system against either recurring financial crises or

a Disability Fund balance far in excess of the amount necessary to maintain an adequate reserve

The Disability Fund Reserve Balance

In testimony presented at the August 19, 1966, hearing of the joint committee, George Roche was asked to discuss those factors which should be taken into consideration in establishing an adequate reserve for the Disability Fund

In summary, there appear to be two significant factors against which a reserve should be maintained. The first requirement is a reserve to meet monthly needs for cash disbursements This calls for the equivalent of a month's payments being on reserve as of the end of December This sum amounts to about 8 percent of a year's expenditures

The second significant factor against which a reserve should be maintained is the contingency of a recession A recession reduces the size of the taxable wage base, as discussed in a previous portion of this section of the report A recession as severe as that of 1949, the most severe in the post-World War II period, would require a reserve of about 10 percent of a year's benefit payments

Although the flexible tax rate previously discussed will increase the ability of the Disability Fund to stabilize itself and replenish the reserve before it is seriously depleted, there will be some time lag Therefore, it is proposed that the year-end reserve of the Disability Fund should be equal, as nearly as may be, to 15 percent of expenditures for that year This is the minimum recommended by the actuary of the Department of Employment

The year-end reserve balance should be set forth as a statutory requirement, as should the provision setting forth the criteria by which the taxable wage base is established. The Director of the Department of Employment should be given statutory authority to set the tax rate for a calendar year, in order to achieve the year-end reserve balance as provided by statute The tax rate increases or decreases from 1 percent are to be in steps of 0 1 percent.

MAXIMUM WEEKLY BENEFIT

Prior to 1961 the Legislature had enacted several increases in the maximum weekly benefit In the 1955 session the maximum was increased $5, in 1957, $10, and in 1959, $15. In 1961 the Legislature increased the maximum from $65 to $70 and adopted what has become popularly known as the "escalator" principle, the effect of which was to raise automatically the maximum weekly benefit on an annual basis as average wages under covered employment rose In 1965 the Legislature abandoned this policy and froze the maximum weekly benefit at its then current level of $80 a week

Automatic Escalation

The major question which the joint committee considered in this area was essentially the desirability of an automatic "escalator" provision as a matter of public policy

The case against automatic escalation of benefits is essentially an abdication of jurisdiction argument This position embraces the idea that numerous factors, such as level of economic activity, other changes in the program, the interrelationships of disability insurance to other social insurance programs, all have a bearing on what the maximum weekly benefit should be and that the Legislature should be obliged to take affirmative action to change the maximum weekly benefit amount if it concludes that such action is indicated Thus, to argue against the automatic escalation of the weekly benefit amount is to deny that any fixed statutory provision can effect a consistent and valid expression of an inherent articulation of the disability insurance program with social and economic factors, as well as an inherent responsibility of the disability insurance program to these same factors

The case for automatic escalation is that it is optimal as a legislative provision and as an administrative device, except for the difficulty of relating the maximum weekly benefit amount to other social insurance programs and to other social and economic factors

From 1961 to 1965, years in which the unemployment rate ranged from 5 9 percent to 6 9 percent, the maximum weekly benefit amount rose from $70 to $80 because the escalator provision was geared to average weekly wages It is a well-known fact that average wages rise during a recession This phenomenon is due, in part, to contract provisions calling for increases in wage rates at stated intervals, but such provisions also operate during "normal" times and during times of expanding economic activity The tendency of average wages to rise at a more rapid rate during a recession than in "normal" times is largely because the latest entrants into employment are likely to be the first to be terminated, and they generally are at relatively low wage levels Thus, the average wage level rises; but this is hardly a reason for escalating the maximum weekly benefit amount, even though the increase in average wages may suggest doing so This one example is indicative of the relationships which are difficult to codify legislatively and hence exemplifies the primary case against automatic escalation

If the maximum weekly benefit amount is considered to be, say, too low, then the basic point at issue is whether a disproportionate share

of those who claim benefits are denied their "full" benefits because of the maximum weekly rate limitation If this is indeed the case, then it means that the average weekly wage has risen absolutely, due to higher wage levels, and supports raising the weekly maximum benefit amount.

In this connection it is interesting to note the recommendation contained in the *Report of the Workmen's Compensation Study Commission*, April 1965, which reads "We recommend that the maximum rate of temporary disability indemnity be increased so that at least 75 percent of the injured workers may enjoy replacement of 65 percent (61 75) of their lost income Labor Code Section 4453 should be amended to provide for the annual adjustment of this figure by ministerial act based on the statistics, now regularly gathered, concerning the earnings of injured workers "

For the reasons stated earlier, the joint committee does not accept that portion of the recommendation pertaining to annual adjustment by ministerial action The joint committee, however, does recommend a policy statement in the statute that at least 75 percent of the claimants receiving basic benefits should receive those benefits at a weekly rate not restricted by the limitation on the weekly maximum and that such earnings "steps" as may be necessary should be added to the weekly benefit schedule to achieve this objective.

The joint committee believes that such a policy statement will be a useful and effective guideline to the Legislature in determining what action should be taken at each session, while at the same time continuing to require legislative consideration of all the relevant factors pertaining to the appropriate maximum weekly benefit amount

Supplementing Temporary Disability Benefits for Workmen's Compensation

Several of the witnesses appearing before the joint committee raised the matter of coordination between disability benefits and workmen's compensation benefits An individual entitled to temporary disability benefits under workmen's compensation is entitled to claim from disability insurance the difference between his workmen's compensation benefits for temporary disability and the amount to which he would be entitled under disability insurance.

Supplementary benefits paid from the State Fund under this statutory provision totaled slightly more than $2 4 million in 1965. Most of this amount was paid because the workmen's compensation maximum for temporary disability is $70 per week, and for disability insurance it is $80. Also, there was some supplementation of workmen's compensation as a result of differences in the benefit formulas of the two programs

The joint committee is not charged with the task of making recommendations as to what the weekly maximum benefit should be for temporary disability under workmen's compensation It should be pointed out, however, that the basis for the joint committee recommendation with regard to disability insurance is the recommendation quoted earlier and contained in the *Report of the Workmen's Compensation Study Commission*. Whether the Legislature will see fit to implement the study commission recommendation, of course, is not known. If, however, the Legislature does take such action, the recommendation of the joint committee will be in consonance with it.

THE BENEFIT FORMULA

Background

Historically the benefit formula is one in which the weekly benefit amount is related to the amount of earnings the claimant had in the highest quarter of his base period The base period is a four-calendar-quarter period, ending anywhere from four to seven months prior to the month in which the claimant files his claim As shown in Table 6, a claimant having high-quarter wages of $525 will receive in 13 weeks $338 in basic benefits His benefits amount to 64 38 percent of his high-quarter wages At the other end of the benefit schedule, an individual having high-quarter wages of $1,875 will receive in 13 weeks $1,040, which is 55 46 percent of his high-quarter wages

Inasmuch as the maximum weekly benefit amount is $80, a claimant having high-quarter wages of *more* than $1,875 will receive in 13 weeks something less than 55.46 percent of his high-quarter wages At the low end of the scale, all claimants having high-quarter wages of less than $525, but at least $75, are paid $25 a week in benefits which amounts to $325 over 13 weeks

Prior to action by the Legislature in 1965 the maximum basic benefits could not exceed 26 times the weekly benefit amount for each period of disability. Again referring to Table 6, it can be seen that if a claimant had all, or a high percentage, of his base period wages concentrated in one quarter, he would be able to recover more in benefits than his total base period earnings In 1965 the Legislature restored the limitation which had been in effect from 1947 through 1953, providing that no claimant could receive benefits for any one period of disability of more than 50 percent of his base period wages The other limitation in the program remains: maximum basic benefits not exceeding 26 times the weekly benefit amount for any one period of disability

A large part of the rationale behind the 50 percent limitation lay in the fact that individuals working only a small portion of the year could recover a substantially greater portion of their base period wages than could claimants who worked most or all of the year The 50 percent rule either eliminates or substantially reduces this disparity by reducing, sometimes drastically, the number of weeks for which claimants can draw benefits if a high percentage, or all, of their base period earnings are concentrated in one quarter.

The Contradictions in the Benefit Formula

The disability program provides benefits to a claimant for as long as 26 weeks if he continues to remain disabled for that period of time

The weekly benefit amount has been related historically to the wages in the base-period quarter in which the claimant's earnings were the highest The theory behind this relationship is that the highest quarter best represents the claimant's earning capacity, and it is assumed that if the claimant were not disabled, he would be earning wages at about the rate represented by his highest quarter.

In conflict with the above elements is a growing conviction that the steady full-time worker should receive treatment at least reasonably

comparable to that afforded the intermittent or seasonal worker when unable to work because of a disability.

Clearly, providing for a maximum duration of 26 weeks, relating the weekly benefit amount to high-quarter base period wages, and maintaining comparability of treatment between the seasonal-intermittent worker and the steady worker, are essentially contradictory as elements in the disability insurance program The reasons why these elements are contradictory can perhaps be best illustrated by an example If two claimants have the same amount of base period earnings, $2,000, the following results will occur·

Without 50 Percent Limitation

Claimant having 30 percent of base period earnings in highest quarter—weekly benefit amount—$29

$29 × 26 weeks = $754 $\frac{\$754}{\$2,000} = 37.7\%$

Claimant having 80 percent of base period wages in highest quarter—weekly benefit amount—$69

$69 × 26 weeks = $1,794 $\frac{\$1,794}{\$2,000} = 89\ 7\%$

Clearly, the part-time worker can recover more than twice the proportion of his base period wages that the steady worker can However, the weekly benefit amount is related to high-quarter wages, and both claimants are entitled to 26 weeks of benefits

With 50 Percent Limitation

Claimant having 30 percent of base period earnings in highest quarter—weekly benefit amount—$29

$29 × 26 weeks = $754 $\frac{\$754}{\$2,000} = 37\ 7\%$

Claimant having 80 percent of base period wages in highest quarter —weekly benefit amount—$69

$69 × 14 5 weeks = $1,000 $\frac{\$1,000}{\$2,000} = 50\%$

This example illustrates that even with the 50 percent limitation, the steady worker cannot receive as large a proportion of his base period earnings as can the part-time worker, although the difference is considerably less than in the example without the 50 percent limitation However, this worker is limited to only 14 5 weeks of benefits, rather than 26 weeks

Effect of Curtailed Duration

For regular liability basic claims which were terminated in 1964 the median duration fell in the 29 to 35 days range; for the unemployed disabled the median duration was in the 57 to 63 days range This means that half the claimants drew benefits for longer than the median duration In 1964 this was approximately 25,000 claimants among the unemployed disabled, over 9,000 of whom drew benefits for at least 176 days Over 190,000 regular liability claimants drew benefits for longer

than the median duration and, of this number, almost 33,000 drew benefits for 176 days or more (see Table 7).

On the basis of these data it is reasonable to conclude that even a slight reduction in duration will have a noticeable impact on many claimants This is especially true with regard to the unemployed disabled.

Concentration of Wages

A second aspect of the problem pertains to the percentage of claimants having a high proportion of their base period earnings in one quarter. This is set forth in detail in Table 8 Over 38 percent of unemployed disabled claimants have half or more of their base period earnings in one quarter, however, less than 15 percent of regular liability claimants have half or more of their total earnings concentrated in one quarter Inasmuch as regular liability claimants are almost 90 percent of all claimants, it can be seen that this aspect of the problem, though not insignificant, is restricted to a relatively small proportion, slightly under 17 percent of all claimants

An Alternate System

Another section of this report discussed the New York, New Jersey and Rhode Island systems, all of which relate the weekly benefit amount to the claimant's average weekly wages when he was working; and two of which, New York excepted, relate the duration of benefits to the number of weeks worked This type of benefit formula is considered by many to be a more valid method of determining both weekly benefit amount and duration than is the system used in California However, to administer such a system involves contacting one or more employers for wage information, a system known as request wage reporting. It must be acknowledged that if such a system for disability insurance were to be adopted in California, it would virtually require the use of request wage reporting for unemployment insurance as well.

The Joint Committee does not wish to make a judgment as to whether a request wage reporting system in California is desirable for both unemployment insurance and disability insurance The point should be made, however, that whatever the system used, it should be the same for both programs to minimize administrative and compliance costs.

A Modification of an Alternate System

The monetary eligibility requirement for disability benefits is earnings of $300 in the claimant's base period One objection to this kind of eligibility requirement is that the new entrant or reentrant into employment may become disabled before he has a quarter of earnings in his base period This is so because the end of a claimant's base period is a minimum of four months, and a maximum of seven months, prior to the date on which he files his claim

One alternative approach is to establish an eligibility provision for claimants who were employed at onset of disability, based upon a minimum number of weeks worked in a period immediately preceding the disability; for example, New York requires four consecutive weeks of work preceding disability.

If this kind of eligibility provision were in the California program, the employer for whom the claimant was working when he became dis-

abled would be required to provide information as to whether the claimant met the weeks-of-work test At the same time the employer also would provide information as to the amount of earnings the claimant had in these weeks Under such an arrangement, the weekly benefit amount could be geared to the claimant's average weekly wages for the weeks immediately prior to his disability It is generally conceded that the more closely the weekly benefit amount can be related to a claimant's current earnings, the more equitable the benefit formula can be made Furthermore, this arrangement provides protection not now afforded to the new entrant in employment, and sometimes not to the reentrant

Claimants who are either unemployed at onset of disability or who are working in noncovered employment would be subject to a different eligibility test Such a test *could* be the eligibility test for unemployment insurance benefits In California this is a more severe test than is the current eligibility test for disability insurance, but an argument can be made for having identical tests for individuals who are unemployed simply on the ground that there is no rational reason why it should be easier for an unemployed individual to qualify for disability benefits than for unemployment compensation With regard to such a test for the unemployed disabled, the vast majority of whom are unemployed, rather than working in noncovered employment at onset of disability; perhaps it would be feasible to permit such noncovered employed to qualify under the weeks-of-work test

A Proposal

Assuming that the present system of relating the weekly benefit amount to base period wages will not be abandoned, what modifications should be made in the benefit formula as now constituted?

Tables 9 and 10 illustrate the range of base period wages required to qualify for a $54 weekly benefit amount and a weekly benefit of $80, according to the ratio of high quarter to base period wages The claimant entitled to a weekly benefit amount of $54, who has an equal amount of wages in each of the four quarters of his base period, must have total base period wages of $4,900. If that same claimant had all his base period wages concentrated in one quarter, he also would be entitled to a weekly benefit amount of $54, but his total base period wages would be only $1,225.

From time to time it has been argued that the present system is inequitable because the same amount of benefits would have been paid in the above situation, though one worker paid four times as much in contributions as the other This imbalance has been reduced, of course, by restricting the total amount of basic benefits for any one period of disability to 50 percent of base period wages

A much more telling objection to the present benefit formula is that it fails to maximize the purpose of the disability insurance program as set forth in the Unemployment Insurance Code. The purpose is stated in Section 2601 and reads as follows·

> The purpose of this part is to compensate in part for the wage loss sustained by individuals unemployed because of sickness or injury and to reduce to a minimum the suffering caused by unemployment resulting therefrom. This part shall be construed liber-

ally in aid of its declared purpose to mitigate the evils and burdens which fall on the unemployed and disabled worker and his family

The crux of the problem lies in determining when wage loss occurs as the result of a nonoccupational disability and in determining the significance of the loss

It is reasonably clear that an employed worker who becomes unemployed because of a disability has suffered wage loss It is not at all clear, however, that an unemployed worker who becomes disabled while unemployed suffers wage loss as a result of his disability An inference is made that the unemployed worker would be working if he were not disabled In some cases this inference would be correct, in others it would not.

The second aspect of the problem is more important and more amenable to reasoned judgment The significance of the wage loss, i e, the suffering caused by unemployment because of sickness or injury, is the basic criterion on which the benefit formula should be based

Table 11 shows clearly that a substantial number of claimants having base period wages of less than $3,000 have a high proportion of their total base period wages concentrated in one quarter of the base period This strongly indicates that it is the other three quarters which best represent the normal status of those individuals If, on the other hand, base period wages are distributed relatively evenly throughout the four quarters of the base period, the amount of wages per quarter becomes a very modest amount, suggesting a pattern of intermittent employment

The most nearly equitable method of determining wage loss under the system in operation in California is to use the total base period wages The 12-month period reflects both seasonal and intermittent patterns of employment, and it also reflects the fact that many individuals withdraw from the labor market for limited periods of time In effect, total base period wages measure accurately the *average* earning capacity of an individual over a one-year period

The total base period wages also permit a reasoned judgment to be made as to the *significance* of the wage loss resulting from unemployment due to disability.

In general, it is reasonable to conclude that an individual whose base period wages are less than two or three thousand dollars is not relying solely, or even primarily, upon such wages to maintain himself and his family Although there undoubtedly are exceptions to this generalization, the evidence strongly indicates that in a substantial proportion of the cases the individuals work only a part of the year or are engaged in part-time employment on a year-around basis See Table 11 for the distribution of base period wages under $3,000 by the percent of total base period wages concentrated in one quarter

It seems probable, on the basis of the evidence, that in geenral the loss of such wages due to disability and unemployment does not cause the same degree of suffering as does the loss of wages which are very likely to be the sole or primary source of maintenance for an individual and his family.

An equitable benefit formula will reflect these realities Though no formula can do absolute justice under every circumstance because of the incredible variety of personal situations to which it must be applied, the

formula can be designed to accomplish the purpose of the program for a substantial majority To be specific, almost 52 percent of all claimants receiving basic benefits in 1964 were employed males, and slightly over 100,000 of these 205,555 employed male claimants had base period wages of $6,000 and over It seems self-evident that it is claimants such as these and the members of their families who will suffer most from unemployment due to disability

Accordingly, he joint committee proposes a substantial revision of the present benefit formula The proposed changes are the following·

1. The weekly benefit amount shall be related to *total* rather than quarterly base period wages
2. The maximum amount of basic benefits payable for any one period of disability shall not exceed 80 percent rather than 50 percent of base period wages.
3. The minimum amount of base period wages required to qualify for benefits shall remain unchanged
4. The weekly benefit amount shall be determined in accordance with the relationships implicit in the following benefit schedule.

BENEFIT SCHEDULE

Base period wages	*Percent replacement*	*Weekly benefit amount*	*(Weeks) maximum duration*
$300– 399 99	40 0	$25 00	9 6
400– 499 99	40 4	25 00	12.8
500– 599 99	40 8	25 00	16 0
600– 699 99	41 2	25 00	19 2
700– 799 99	41 6	25 00	22 4
800– 899 99	42 0	25 00	25 6
900– 999 99	42 4	25 00	
1,000–1,099 99	42 8	25 00	
1,100–1,199 99	43 2	25 00	
1,200–1,299 99	43 6	25 00	
1,300–1,399 99	44 0	25.00	
1,400–1,499 99	44 4	25 00	
1,500–1,599 99	44 8	25 00	
1,600–1,699 99	45 2	25 00	
1,700–1,799 99	45 6	25 00	
1,800–1,899 99	46 0	25 00	
1,900–1,999 99	46 4	25 00	
2,000–2,099 99	46.8	25 00	
2,100–2,199 99	47 2	25 00	
2,200–2,299 99	47 6	25 00	
2,300–2,399 99	48 0	25 00	
2,400–2,499 99	48.4	25 00	
2,500–2,599 99	48.8	25.00	
2,600–2,699 99	49 2	25 00	
2,700–2,799 99	49 6	25 75	
2,800–2,899.99	50 0	26 92	
2,900–2,999 99	50 4	28 12	
3,000–3,099 99	50 8	29 31	
3,100–3,199.99	51 2	30.52	
3,200–3,299 99	51 6	31.75	
3,300–3,399 99	52 0	33 00	
3,400–3,499 99	52 4	34 27	
3,500–3,599.99	52,8	35.54	

BENEFIT SCHEDULE—Continued

Base period wages	*Percent replacement*	*Weekly benefit amount*	*(Weeks) maximum duration*
3,600–3,699 99	53 2	36 83	
3,700–3,799 99	53 6	38 13	
3,800–3,899 99	54 0	39 46	
3,900–3,999 99	54 4	40 81	
4,000–4,099 99	54 8	42 15	
4,100–4,199 99	55 2	43 52	
4,200–4,299 99	55 6	44 90	
4,300–4,399 99	56 0	46 31	
4,400–4,499 99	56 4	47 73	
4,500–4,599 99	56 8	49 15	
4,600–4,699 99	57 2	50 59	
4,700–4,799 99	57 6	52 06	
4,800–4,899 99	58 0	53 54	
4,900–4,999 99	58 4	55 04	
5,000–5,099 99	58 8	56 54	
5,100–5,199 99	59 2	58 06	
5,200–5,299 99	59 6	59 60	
5,300–5,399 99	60 0	61 15	
5,400–5,499 99	60.4	62 73	
5,500–5,599 99	60 8	64 31	
5,600–6,699 99	61 2	65 90	
5,700–5,799 99	61 6	67 52	
5,800–5,899 99	62 0	69 15	
5,900–5 999 99	62 4	70 81	
6,000–6,099 99	62 8	72 46	
6,100–6,199 99	63 2	74 13	
6,200–6,299 99	63 6	75 83	
6,300–6,399 99	64 0	77 54	
6,400–6,499 99	64 4	79 27	
6,500–6,599 99	64 8	81 00	
6,600–6,699 99	64 4	81 73	
6,700–6,799 99	64 0	82 46	
6,800–6,899 99	63 6	83 17	
6,900–6,999 99	63 2	83 87	
7,000–7,099 99	62 8	84 54	
7,100–7,199 99	62 4	85 19	
7,200–7,299 99	62 0	85 85	
7,300–7,399 99	61.6	86 48	
7,400–7,499 99	61 2	87 10	
7,500 and over	60 8	87.69	

After the amount of base period wages is multiplied by the applicable percentage replacement, this figure is divided by 52, which gives the weekly benefit amount

Raising the limitation from 50 percent to 80 percent of base period wages on the maximum amount of basic benefits payable for any one period of disability permits a maximum duration of 26 times the weekly benefit amount for all claimants except those with base period wages of less than $900.

The proposed benefit formula is designed to replace the highest proportion of base period wages at the $6,500 level For each $100 above this amount, up to the $7,500 and over bracket, the percentage replacement is reduced by 0.4 percent. The same principle is applied to base period wages of less than $6,500.

The joint committee is not unmindful of the argument that individuals at low wage levels need to have a greater proportion of their wage loss replaced than do individuals at high wage levels. This position is valid, however, only if both groups are suffering equal burdens, i e , relying to the same extent upon these wages for support. The great increase in the post World War II period of part-time wage earners, well illustrated by both the pattern and the amount of earnings, calls for a redesigning of the benefit formula if the disability program is to serve the purpose for which it was established.

WORKERS AND CLAIMANTS

Characteristics of Workers

A sample of workers in State Plan employment as of the last quarter of employment in 1964 (Department of Employment Report 364 No 22 2) was analyzed to determine the earnings pattern of these workers when classified by age and sex, distributed by ratio of high quarter to annual wages The workers were divided into two earnings brackets annual earnings of at least $300 but under $4,000, and annual earnings of $4,000 and over (See Tables 12 and 13)

For the under $4,000 classification, 28 6 percent of the females had 33 percent or less of their annual earnings in the highest quarter, for males, 13.4 percent At the other extreme, 10 6 percent of females had all their earnings in one quarter, compared with 14 8 percent of males.

Turning to workers having annual earnings of $4,000 and more, a radically different distribution of workers by ratio of high quarter to annual wages appears For this classification, 80 9 percent of the males and 91 4 percent of the females have 33 percent or less of their annual earnings in the highest quarter At the other extreme, only 0 2 percent of both male and female workers have all their earnings in one quarter Even more dramatic is that only 2 8 percent of all males have half or more of their annual earnings in one quarter, for females this figure is 0 9 percent

Base Period Wages of Claimants

Of all claimants receiving basic benefits in 1964, almost 42 percent were females and slightly over 58 percent were males (See Table 15) Of the female claimants, slightly less than one out of three had base period earnings of $4,000 and over On the other hand, more than two out of three males earned $4,000 and over For a more detailed breakdown see Table 14

As shown in Table 15, approximately 46 percent of all claimants earned less than $4,000 and 54 percent earned $4,000 and over Roughly two-thirds of all unemployed disabled and employed female claimants had base period earnings of less than $4,000, only in the case of employed males is the number of claimants earning $4,000 and more larger than the under $4,000 group.

Table 16 gives additional information about earnings patterns of claimants, the most significant of which is that, when classified by base period earnings of under $4,000 and $4,000 and over, a substantially higher percentage of females than males had some earnings in each of the four quarters of their base periods This was true for both regular liability and unemployed disabled claimants.

However, when male and female claimants are compared without regard to total amount of base period earnings, as shown in Table 8, a slightly higher percentage of males than females had 33 percent or less of their base period earnings in the highest quarter of the base period

Duration Characteristics of Claimants

Table 17 is a tabulation of 1964 claimants by six age brackets, within sex and employment status at onset of disability according to base period earnings of less than $4,000 and $4,000 and over

For each of the eight classifications there is a clear relationship throughout the six age brackets between age and average duration.

If sex and employment status are held constant, the classifications having earnings of $4,000 and over have lower durations than the classifications with base period wages of less than $4,000

Also, when other factors are held constant, average durations are considerably shorter for regular liability claimants, both males and females, than for unemployed disabled claimants

The sex of the claimant is a factor of very minor, if any, importance in influencing average duration when other factors are held constant, as shown in Table 18.

When the percentage of claimants by compensated duration is tabulated by employment status, as shown in Table 7, it can be seen that more than one-half the regular liability claimants have compensated durations of less than 35 days Only 33 percent of the unemployed disabled fall in this category

Almost 19 percent of unemployed disabled claimants have compensated durations of 176 days or more, compared to less than 9 percent of regular liability claimants

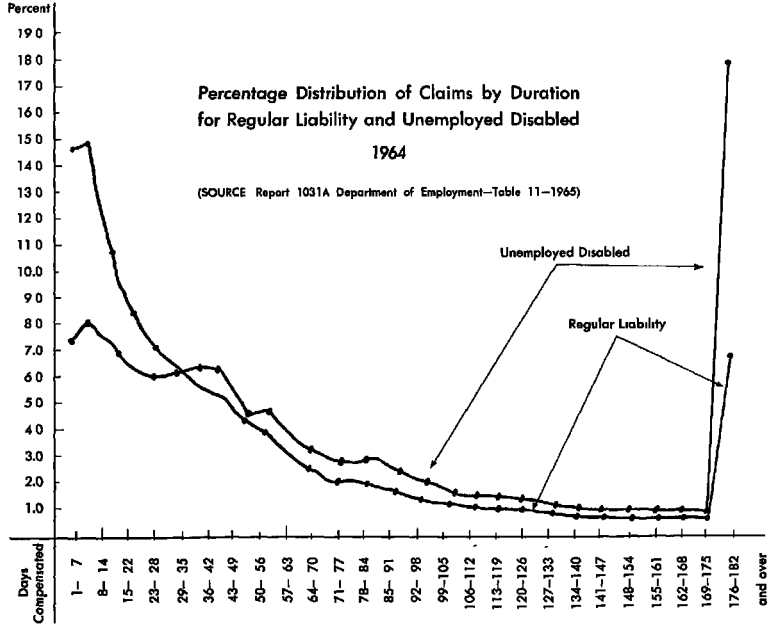
In summary, it appears that age and employment status are the most important factors affecting average duration, with amount of base period earnings a lesser factor (See Department of Employment Report 1000 No 11)

There is no clear relationship betwen the number of quarters in which claimants have base period earnings and average durations, other factors, except age, held constant Table 19 indicates that, in general, claimants having base period earnings in three or four quarters have shorter durations than claimants having earnings in only one or two quarters Seven of the 32 groups must be excluded because the number of claimants in the group is under 600, too small to be statistically reliable These average duration figures for the groups should be compared with great care There is no adjustment for the age factor, which has a major impact upon duration, and accordingly could alter radically the patterns and relationships which this table appears to indicate

Claimant-to-Worker Ratios

The ratio of claimants to workers is lowest where all wages are concentrated in one quarter, the ratio of claimants to workers is highest where wages are relatively evenly distributed throughout four calendar quarters As shown in Table 20, this pattern of ratios holds for both males and females in the under $4,000 category, as well as the $4,000 and over category

It should be acknowledged at the outset that these data are contrary to views long held regarding the filing rate of intermittent or seasonal workers as compared to workers regularly employed


Percentage Distribution of Claims by Duration
for Regular Liability and Unemployed Disabled
1964
(SOURCE Report 1031A Department of Employment—Table 11—1965)
Unemployed Disabled
Regular Liability
Percent
19.0
18.0
17.0
16.0
15.0
14.0
13.0
12.0
11.0
10.0
9.0
8.0
7.0
6.0
5.0
4.0
3.0
2.0
1.0
Days Compensated
1– 7
8– 14
15– 22
23– 28
29– 35
36– 42
43– 49
50– 56
57– 63
64– 70
71– 77
78– 84
85– 91
92– 98
99–105
106–112
113–119
120–126
127–133
134–140
141–147
148–154
155–161
162–168
169–175
176–182
and over

Various reasons can be advanced to explain the startling findings; the most plausible appears to be that there is substantial under-utilization of the disability insurance program by those individuals who are intermittent or seasonal in their employment pattern or who are new entrants into employment.

Whatever the correct explanations are for this phenomenon, it clearly suggests there is a large, but as yet undeveloped, potential liability against the disability insurance program Accordingly, as those entitled to benefits claim them, the cost of the program will increase significantly.

Tables 21 and 22 show claimant-to-worker ratios by under $4,000 and $4,000 and over earnings classifications, by age groupings These tables support the findings indicated in Table 20. In addition, these tables indicate that the ratio of claimants to workers increases substantially with increasing age.

Table 23 shows that claimants having 34 to 49 percent of their base period wages in one quarter receive the highest average amount of basic benefits per claimant However, in general the ratio of high quarter to total base period wages has relatively little effect upon the average amount of basic benefits per claimant, compared to the effect upon filing rates.

For all claimants, the average number of basic benefit days compensated per claimant was 53 3, as shown in Table 24 Claimants having 50 to 99 percent of their base-period wages in one quarter had the highest average number of days per claimant, 65.1. There does not appear to be any specific relationship between the ratio of high quarter to total base period wages and average number of compensated days per claimant.

SURVEY RESULTS OF MOVEMENT FROM INSURED VOLUNTARY PLAN TO STATE PLAN OR SELF-INSURED COVERAGE

Introduction

As a result of the adverse selection regulation which became effective at the beginning of 1963, the employees of many companies were moved from insured voluntary plan to State Plan or self-insured coverage The State Plan gained 737 2 thousand in average covered employment from 1962 to 1963, most of which was due to movement from voluntary plan to State Plan coverage.

One question often raised is whether this movement brought about any change in the character of these risks The principal aspect of this question revolves around what changes, if any, employers made in their wage and salary continuation policies and/or practices when their employees moved to State Plan coverage in 1963

Wage and Salary Continuation Practices

When a company offers a wage and salary continuation program (more commonly known as a sick leave program) to its employees, the company must decide how to relate this program to the disability insurance program Various possibilities are open to the employer as to how the benefits under these two programs may be related If the employees are covered under an insured or a self-insured voluntary plan, the three most common arrangements are the following.

1 The employer will pay full salary for a specified period (usually related to length of service) at the end of which time, if the employee is still disabled, he begins to draw benefits under the disability insurance program; that is, wage or salary continuation is primary

2 The employer will pay full salary for a specified period, and the employee will draw his disability benefits *in addition* to receiving his regular wage or salary

3 The employer will pay wages or salary amounting to the *difference* between the employee's regular wages or salary and the amount the employee is entitled to receive from disability insurance, e g, employee's weekly salary, $100, weekly disability benefit, $60; weekly wages or salary paid while disabled, $40; that is, wage and salary continuation benefits are integrated with disability insurance benefits

Clearly, the utilization rate for a disability insurance plan will be affected by how an employer decides to mesh the benefits under the two programs In the above three arrangements, the utilization rate would be higher under the second and third than under the first

The issue of concern here, however, is the extent to which employers *changed* their wage and salary continuation policies as a consequence of movement from insured voluntary plans to the State Plan A survey also was made of policy changes induced by movement from carrier insured to self-insured status

Before indicating the results of these surveys, a brief summary of the factors which would be relevant to the course of action employers might be expected to take is presented in the following section

Under an insured voluntary plan the premium charged the employees could be less than 1 percent if the loss experience was favorable The State Plan charges all a flat 1 percent Or, if loss experience was favorable, benefits significantly in excess of the statutory benefits could be provided to the employees for the 1 percent premium This could not be done under State Plan coverage Since loss experience is affected by the way wage and salary continuation programs are treated, employees gain if wage and salary continuation programs are primary

If, on the other hand, the employees of an employer are under State Plan coverage and the employer's wage and salary continuation program is primary to disability benefits, the principal beneficiary is the State Disability Fund, not the employees of that particular employer

The logic of the situation would seem to indicate that where there is State Plan coverage the rational course for the employer to follow would be to pay only the difference between regular wages or salary and the amount the disabled employee is entitled to under disability insurance, viz, an integrated program The resulting saving to the employer could be used either to improve other employee fringe benefit programs or treated as a reduction in the employer's wage and salary continuation costs

Survey Results

The problem was to ascertain the extent to which employers *integrated* their wage and salary continuation programs with disability insurance when their coverage was changed to the State Plan To do this a questionnaire (see Exhibit 1) was sent to a group of employers whose employees had moved from insured voluntary plan to State Plan coverage subsequent to the end of 1962 This sample was composed of 114 employers, each of whom had 300 or more employees, an aggregate of 229,635 employees Of these 114 companies, 51, or about 45 percent, responded These responding companies employed 140,444, or 61 2 percent, of the employees of employers in this sample.

The findings are given in the following tabulations.

SAMPLE SURVEYED
INSURED VOLUNTARY PLAN TO STATE PLAN COVERAGE

(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
Number of companies	*Number of responses*	*Percent response*	*Total number of employees*	*Number of employees of respondents*	*(5) as percent of (4)*
114	51	44 7	229,635	140,444	61 2

QUESTION: At about the time disability insurance coverage for your employees was changed from an insured voluntary plan to the State Plan, did your organization make any modifications in its wage and salary continuation policies or practices?

	Number of responding companies	*Percent*	*Number of employees of responding companies*	*Percent*
Total companies responding	51	100 0	140,444	100 0
Number answering "yes"	7	13.7	24,144	17 2
Number answering "no"	44	86 3	116,300	82 8

POLICY WITH REGARD TO PAYMENT OF WAGE AND SALARY CONTINUATION
PRIOR TO MOVEMENT FROM INSURED VOLUNTARY PLAN
TO STATE PLAN COVERAGE

	Number of responding companies	*Percent*	*Number of employees of responding companies*	*Percent*
Total companies responding	51	100 0	140,444	100 0
Wage and salary continuation benefits paid first or in addition to disability benefits	22	43 1	69,032	49 2
Wage and salary continuation integrated with disability benefits	26	51 0	67,295	47 9
Other *	3	5 9	4,117	2 9

* These companies either had no wage and salary continuation benefits or such benefits were paid or not paid according to a judgment made on each individual case, but no general policy or practice existed

POLICY WITH REGARD TO PAYMENT OF WAGE AND SALARY CONTINUATION
SUBSEQUENT TO MOVEMENT FROM INSURED VOLUNTARY PLAN
TO STATE PLAN COVERAGE

	Number of responding companies	*Percent*	*Number of employees of responding companies*	*Percent*
Total companies responding	51	100 0	140,444	100 0
Wage and salary continuation paid first	15	29 4	44,888	32 0
Wage and salary continuation integrated with disability benefits	33	64.7	91,439	65 1
Other *	3	5 9	4,117	2 9

* These companies either had no wage and salary continuation benefits or such benefits were paid or not paid according to a judgment made on each individual case, but no general policy or practice existed

SAMPLE SURVEYED
INSURED VOLUNTARY PLAN TO SELF-INSURED COVERAGE

(1) Number of companies	(2) Number of responses	(3) Percent response	(4) Total number of employees	(5) Number of employees of respondents	(6) (5) as percent of (4)
74	52	70 3	159,929	138,442	86 6

POLICY WITH REGARD TO PAYMENT OF WAGE AND SALARY CONTINUATION PRIOR TO MOVEMENT FROM INSURED VOLUNTARY PLAN TO SELF-INSURED PLAN

	Number of responding companies	Percent	Number of employees of responding companies	Percent
Total companies responding	52	100 0	138,442	100 0
Wage and salary continuation benefits paid first or in addition to disability benefits	31	59 6	122,263	88 3
Wage and salary continuation integrated with disability benefits	17	32.7	12,701	9 2
Other *	4	7 7	3,478	2 5

* These companies either had no wage and salary continuation benefits or such benefits were paid or not paid according to a judgment made on each individual case, but no general policy or practice existed

NOTE Subsequent to movement from insured voluntary plan to self-insured coverage, two organizations having a total of 2 percent of the employees of responding companies abandoned their practice of paying wage and salary continuation and disability benefits simultaneously; they integrated wage and salary continuation benefits with disability insurance benefits

Of the sample surveyed, 7 of the 22 companies having programs in which wage and salary continuation benefits were paid first, or in addition to disability benefits, integrated their wage and salary continuation programs with disability benefits subsequent to moving from insured voluntary plan to State Plan coverage Under insured voluntary plan coverage almost half the employees of responding employers received wage and salary continuation benefits first, or in addition to disability benefits Upon coming under State Plan coverage, this figure dropped to approximately one-third of all employees

It is not possible to conclude from this survey that these ratios would be applicable to all employees moving from insured voluntary plan to State Plan coverage. As previously indicated, the only employers surveyed were those having 300 or more employees Therefore, the sample is not reresentative of all employers moving from insured voluntary plan to State Plan coverage In summary, where wage and salary continuation was primary, or in addition to disability benefits. one-third of the employers changed their wage and salary continuation policies when coming under State Plan coverages, but two-thirds did not

Of those employers who moved from insured voluntary plan to self-insured coverage, only two employers modified their wage and salary continuation practices This seems reasonable, inasmuch as self-insurance permits the same flexibility of arrangements as can be had under an insured voluntary plan.

Now that current income to the Disability Fund exceeds current outgo, it is reasonable to conclude that, where wage and salary continuation benefits are primary to disability benefits, the cost to the State Plan for these groups is smaller than the income received from them

Although information was requested on the survey form as to the approximate percentage of each employer's employees covered by the wage and salary continuation program, many of the responding employers failed to provide this information, or provided it in such form that it was not usable.

1964 CLAIMANTS: NATURE OF DISABILITIES

Employed Females

For female claimants in 1964 having base-period wages of less than $4,000 the average number of weeks for which basic disability benefits were paid was 8 0 For the $4,000 and over group the average duration dropped to 6 9 weeks

In only 2 of the 16 major classifications of nature of disability for females were the average durations for the $4,000 and over group longer than for the under $4,000 These disabilities were diseases of the nervous system and sense organs, where the average duration was longer by only 0 2 weeks, and congenital malformations, where the average duration was longer by 2 6 weeks In the latter case, however, the number of claims is so small that the average-duration figures are subject to substantial error.

For both the under $4,000 and $4,000 and over classifications average duration increases with age

AVERAGE NUMBER OF WEEKS PER CLAIM BY AGE

	Total	*Under 45*	*45–54*	*55–64*	*65 and over*
Under $4,000	8 0	7 1	8 6	9 7	12 8
$4,000 and over	6 9	6.2	7 0	8 2	11 9

Employed Males

Average duration for the under $4,000 group was 8.1 weeks and was 6 5 weeks for those with base-period wages of $4,000 an dover. In all of the 15 major classifications of nature of disability for males the $4,000 and over group had lower average durations than those under $4,000

For males, as for females, average duration increases with age

AVERAGE NUMBER OF WEEKS PER CLAIM BY AGE

	Total	*Under 45*	*45–54*	*55–64*	*65 and over*
Under $4,000	8 1	6 5	8.6	10 9	13 0
$4,000 and over	6 5	5 2	6 7	8 3	11 0

The difference between the average durations for the under $4,000 and the $4,000 and over claimants is greater for males than it is for females This, combined with the fact that approximately two out of every three employed female claimants have base-period wages of less than $4,000, but almost three out of four employed male claimants fall in the $4,000 and over base-period-wages category have some significant cost implications.

Unemployed Disabled Males and Females

The average duration for unemployed males was 10 9 weeks, for unemployed females, 11 5

In three classifications of nature of disability the average duration for males was higher than for females

Nature of disability	*Males*	*Females*
Infective and parasitic diseases	13 1	12 8
Neoplasms	13 0	10 5
Diseases of the respiratory system	9 9	7 8

Nature of Disabilities

Seven classifications of nature of disability account for approximately 80 percent of all disabilities for both employed males and females and for about 75 percent of all disabilities for unemployed males and females, as shown in the following tabulation

	Employed				*Unemployed*	
	Under $4,000		*$4,000 and over*			
Nature of disability	*Males*	*Females*	*Males*	*Females*	*Males*	*Females*
Neoplasms	2,335	10,530	7,025	7,110	1,430	1,910
Diseases of the circulatory system	6,285	8,950	21,325	4,885	3,930	1,965
Diseases of the respiratory system	5,360	10,745	16,545	6,210	2,025	1,235
Diseases of the digestive system	8,830	12,625	29,635	5,960	5,080	2,095
Diseases of the genito-urinary system	2,485	12,275	9,145	6,840	1,420	2,005
Diseases of the bone and organs of movement	3,185	7,370	10,465	4,320	2,055	1,635
Injuries and related conditions	15,125	15,350	29,725	6,445	7,255	3,925
Totals	43,605	77,845	123,865	41,770	23,195	14,830
Percent of all disabilities	79 1	79.5	82 3	79 2	73 9	77 0
Total number of disabilities	55,130	97,955	150,530	52,710	31,395	19,270

The difference between the percentage of total disabilities accounted for by the seven major classifications as between employed claimants and unemployed claimants appears to be due largely to the greater proportion among the unemployed disabled of disabilities classified as mental, psychoneurotic and personality disorders.

	Mental, psychoneurotic and personality disorders	*Percent of total disabilities*
Employed		
Males	5,990	2 9
Females	7,180	4 8
Unemployed		
Males	2,960	9 4
Females	1,435	7.4

Department of Employment Report 1200 No. 12, Tables 1 through 18, give detailed breakdowns of the data summarized above. Also included are tables giving the number of weeks of basic benefits paid by nature of disability for both employed and unemployed by sex, distributed by age.

Exhaustees

Ordinarily, a claimant has exhausted his benefits when he has received basic benefits equal to 26 times his weekly benefit amount.

The seven major classifications of nature of disability, which account for 80 percent of all disabilities, account for 74.4 percent of the 22,710 male exhaustees and for 73 9 percent of 15,435 female exhaustees.

Two disabilities high on the exhaust list, but not among the first seven in terms of number of claimants, are mental, psychoneurotic, and personality disorders and diseases of the nervous system and sense organs The number of exhaustees by nature of disability is given in Department of Employment Report 1200 No. 11, Tables 1, 2 and 3.

CLAIMS AND WORK EXPERIENCE OF EXHAUSTEES

A seldom explored area is the experience of claimants subsequent to the period during which they exhaust their benefits To gain some insight into this area, a review was made of 9,275 persons who exhausted State Plan basic disability benefits during January–March 1965. The questions on which attention was focused were (1) What proportion of these exhaustees returned to employment during the four calendar quarters immediately subsequent to the quarter in which they exhausted their basic benefits? (2) What proportion of the exhaustees filed another claim for disability benefits or a claim for unemployment compensation benefits in the four-quarter period subsequent to the quarter of exhaust?

Males constituted 60 3 percent of the 9,275 exhaustees, and females made up the remaining 39 7 percent The experience of the younger exhaustees in having some insured employment in the April 1965 through March 1966 period is more favorable than is that of the 45 and older exhaustees.

All exhaustees	*Under 45*	*Percent*	*45–54*	*Percent*	*55–64*	*Percent*	*65 and over*	*Percent*
9 275	2,985	32 2	2,500	27 0	2,785	30 0	1,005	10 8
Some insured employment								
4,270	1,715	40 2	1,320	30 9	995	23 3	240	5 6

The total number of male exhaustees having some insured employment during the April 1965–March 1966 period was 2,515, and the average number employed during this period was 1,642 Comparable figures for females are total number employed, 1,755; average number employed, 1,141

The earnings per average employed male were $4,229, for females, the figure was $2,709 The earnings per average employed male were considerably higher than those for females; however, males were a slightly lower percentage of the total number of exhaustees having some insured employment (58 9 percent) than they were of the total number of exhaustees (60 3 percent) Females were 41 1 percent of the total number having some insured employment, and were 39 7 percent of the exhaustees

The total number employed in each of the four quarters by age, within sex and amount of earnings in each of the quarters, are given in Department of Employment Report 1000 No 12, Tables 4 and 5

Of the 9,275 claimants who exhausted their disability benefits in the January–March 1965 period, 465, or 5 0 percent, were deceased by March 1966

Six hundred fifty-five of the exhaustees in the first quarter of 1965 filed a claim for disability benefits during the April 1965 through March 1966 period, and during this same period, unemployment insurance benefits were paid to 2,100 persons who had exhausted a disability insurance basic claim during January through March 1965

Detailed data on these and other characteristics of the exhaustees are given in Department of Employment Report 1000 No 12

ADMINISTRATION

The disability insurance program is administered by the Division of Disability and Hospital Benefits, a division within the Department of Employment The costs of administering the program are paid by the State Disability Fund Assessments are levied against voluntary plans (insured and self-insured) to defray the costs incurred by the division in administering and supervising these plans.

At the outset, it should be said that all the evidence points to highly sophisticated administrative procedures and skills The cost of administering the program has remained under 5 percent of contributions for 1963 through 1965, a cost which compares favorably with similar programs A very low ratio of contested to total claims suggests consistency and reasonableness of standards in the handling of claims for benefits

Handling Inquiries

Although time limitations prevented a sampling of disability insurance offices, the joint committee staff visited the two largest offices in the state, the central Los Angeles office, located in the downtown section of the city, and the Long Beach office

The downtown office was visited during a period of high activity Most of the inquiries came into the office by telephone By ascertaining the last three numbers of the caller's social security number, the inquirer was transferred immediately to the claims examiner handling his claim Other claimants, or inquirers, coming into the office in person were seated on one side of a counter divided by partitions and were interviewed by the claims examiner handling that particular caller's claim This was a direct face-to-face contact, as the examiner arrived from the inner office with the claimant's file jacket in his possession so that he had all the necessary information with him when he talked to the inquirer This operation was observed for several hours, it was noteworthy that no inquirer was required to wait more than 10 minutes to be interviewed

In only one case was a claims examiner unable to answer satisfactorily an inquirer's request for information as to why he had neither received his check nor been notified that he was ineligible for benefits The examiner advised the inquirer that he would investigate the matter immediately and telephone the claimant that afternoon to advise him of the status of his claim Early that afternoon, the source of the difficulty had been determined The medical report on the claim form was incomplete and a request for additional information had been sent to the doctor. In this case, the doctor was tardy in replying, and as the case was one in which epileptic seizures were involved, it was impossible to make a determination until the additional medical evidence was received as to whether disability existed

In the Long Beach office, a random sample of claimants' jackets was reviewed, including some cases where the division had made a determination that an independent medical examination was justified. Although such a review is not necessarily indicative of the kinds of disabilities for which claims are filed, the casual inspection brought home forcefully the key role played by the attending doctor in making disability determinations. In a significant proportion of the cases reviewed, the physical complaints of the claimants were generalized in nature and of a kind associated with the afflictions accompanying the aging process or used to describe generally poor health.

Independent Medical Examinations

Independent medical examinations are ordered in about 5 percent of total claims. Generally, these examinations are ordered in those cases where benefits have been paid in accordance with the initial estimate of the patient's doctor of the duration of the disability, followed by one or more extensions of duration without adequate supportive medical evidence Ordinarily, the initial determination by the doctor that disability exists is accepted by the division.

As soon as the independent medical examination is conducted and the report received, it is evaluated and a determination is made by the claims examiner. This determination may be a formal notice to the claimant disallowing benefits for an indefinite period beginning with the date of examination or, conversely, the medical opinion may dispel any uncertainty and confirm the continued existence of disability.

The independent medical examination is viewed by the division as an effective method of duration control because it provides a professional means to verify a prolonged duration, gain additional independent medical information, or to terminate benefits, if necessary.

At the hearing of the joint commiteee in Los Angeles on September 1, 1966, some testimony was presented relative to the weight given by the appeals board to independent medical examination findings where, on the basis of the independent medical examination, the claimant was denied benefits or his benefits were terminated. The testimony presented was inconclusive as to whether the independent medical examination was a significant factor in shaping the decision of the referee or the appeals board were the claimant, in appealing the denial or termination of benefits, had obtained a statement from his physician that he continued to be disabled. Discussions with representatives in the division indicate that whether, in fact, independent medical examination evidence is unduly discounted, the majority of claims examiners feel it is not given due weight in many disputed cases.

One suggestion made at the hearing was that something akin to an independent medical board be established and that its findings be available to a referee upon request. This suggestion was not explored in any detail, but appears to merit more careful consideration.

Because the issue arises in only a small number of cases, the joint committee does not believe it is one of major importance; however, the subject should be explored further by an appropriate body. A useful beginning might well be made by asking the Advisory Council to

the State Department of Employment to consider the subject; and, based upon its findings, to make recommendations as to how the issue might usefully be further explored

Public Information

An area which appears to merit increasing attention on the part of the division is that of attempting to increase the general awareness of at least a portion of the working population of the nature of the disability insurance program and the purposes for which it exists

During the 20 years the program has been in existence, much has been done in the way of education to inform the worker of his rights, should he suffer a nonoccupational disability However, as shown in Table 20, the ratio of claimants to workers is much lower in those cases where workers and claimants work in only one or two quarters of the year than it is where employment is reasonably steady

There is no basis for believing that intermittent and seasonal workers are less subject to nonoccupational disabilities than are full-time workers; in fact, it generally is held that the contrary is true. A portion of the substantial difference in filing rates may be accounted for by withdrawal from the labor market and, possibly, by movement to another state However, a more significant reason for the low filing rates of the part-time and intermittent workers probably is either a complete lack of knowledge of the program or misinformation about the program, such that they believe they have no entitlement to benefits under it

The problem is a particularly difficult one in California because the labor force is growing at a rapid rate; and more important, very large numbers of people move in and out of the labor force each year This suggests that a continuing public information program of substantial proportions is indicated

TABLE 1. STATE PLAN

Basic Benefit Payments for Regular Liability Claims, Benefits and Net Taxable Wages and Indices of Each—1956–1965

Using 1956 as the "base year" and assigning an index figure of 100 to that year for each of the factors examined permit a determination of the rate of change of each factor on a year-to-year basis and a measurement of the total magnitude of the change over the 10-year period, 1956–65

The major findings for the 10-year period are

(1) The index of the average number of eligibles as a percent of average covered employment rose 6 points

(2) The index of claims as a percent of average number of eligibles stood at 123 in 1965.

(3) The average weekly benefit amount index has risen to 165

(4) The average weekly duration index has declined by 14 points.

(5) The index for total net benefit payments for basic benefits has risen to 420.

(6) The 1965 index for net taxable wages is 426 However, for every year, 1957–64 inclusive, the index of net taxable wages was substantially below the net benefit payments index for the same year.

TABLE 1 STATE PLAN

Basic Benefit Payments For Regular Liability Claims, Benefits and Net Taxable Wages and Indices of Each 1956–1965

(1) Year	(2) Average covered employment (in thousands)	(3) Index of average covered employment (1956=100)	(4) Average number of eligibles in covered employment (in thousands)	(5) Average number of eligibles in covered employment as a percent of average covered employment	(6) Index of average number of eligibles in covered employment as a percent of average covered employment (1956=100)	(7) Number of claims[a] (in thousands)	(8) Index of number of claims (1956=100)	(9) Claims as a percent of average number of eligibles in average covered employment	(10) Index of claims as a percent of average number of eligibles in covered employment (1956=100)	(11) Average weekly benefit amount[b]	(12) Index of average weekly benefit amount (1956=100)	(13) Average duration per claim (in weeks)	(14) Index of average duration per claim (1956=100)	(15) Product of columns (8) (12) (14)[c]	(16) Net benefit payments (in thousands)	(17) Index of net benefit payments (1956=100)	(18) Net taxable wages (in millions)	(19) Index of net taxable wages (1956=100)
1956	1,944 7	100	1,683 3	86 6	100	131 1	100	7 8	100	$32 83	100	8 6	100	100	$36,798	100	$5,197	100
1957	2,004 6	103	1,755 4	87 6	101	144 8	110	8 2	105	33 65	103	8 5	99	112	41,450	114	5,506	104
1958	2,081 1	107	1,879 9	90 3	104	166 6	127	8 9	114	37 70	115	8 1	94	138	50,887	138	6,635	123
1959	2,286 7	118	2,044 5	89 4	104	178 5	136	8 7	112	38 98	119	8 1	94	152	56 381	153	7,384	137
1960	2,608 6	134	2 360 0	90 5	105	225 1	172	9 5	122	44 37	136	7 6	88	206	75,898	206	8,591	159
1961	2 851 5	147	2 585 4	90 7	105	241 3	184	9 3	119	46 54	143	7 8	91	239	87,606	238	9,461	175
1962	3,397 0	175	3 059 9	90 1	104	284 5	217	9 3	119	48 54	149	7 4	86	278	102,157	278	12,235	227
1963	4,124 2	213	3 770 4	91 2	105	366 9	280	9 7	124	51 33	157	7 2	84	366	135 593	368	16,537	305
1964	4 259 3	220	3,885 7	91 3	105	383 9	291	9 8	126	52 59	161	7 4	86	403	148,696	404	18,349	340
1965	4,418 4	227	4 044 9	91 5	106	388 2	296	9 6	123	53 90	165	7 4	86	420	154,836	420	[p]22,969	425

SOURCE: Data for 1956 through 1961 the California Unemployment Compensation Disability Fund in Calendar Year 1964, Report of the Actuaries Woodward and Fondiller, Inc, July 1965 Appendix Tables 2, 6, 7 and 10 Data for 1965 work papers for 1965 Report of the Actuaries

[a] Derived by dividing reported number of weeks compensated by reported average weeks duration per terminated claim

[b] The average weekly benefit amount is computed by dividing net benefit payments by the reported number of weeks compensated during a calendar year Since basic and hospital benefit payments are not reported separately on a net basis, the figures given in this table are estimates computed from the gross payments data for which basic and hospital figures are reported separately

[c] Any differences in the figures in columns 15 and 17 are accounted for by rounding

[p] Preliminary

TABLE 2. STATE PLAN

Basic Benefit Payments to Unemployed Disabled Claims, Benefits and Total Net Taxable Wages and Indices of Each—1956–1965

Using 1956 as the "base year" and assigning an index figure of 100 to that year for each of the factors examined permit a determination of the rate of change of each factor on a year-to-year basis and a measurement of the total magnitude of the change over the 10-year period, 1956–65

The major findings for the 10-year period are.

(1) The index of average number of eligibles not in covered employment as a percent of average total covered employment rose by 64 points However, if adjustment is made for increased unemployment, the 1965 index stands at 100

(2) Claims as a percent of average number of eligibles not in covered employment remained virtually stationary; the index was 101 in 1965.

(3) The index of the average weekly benefit amount increased by 61 points

(4) The index of average duration per claim was very stable during the 10-year period; the 1965 index was 100

(5) The net benefit payments index stood at 372 in 1965.

(6) The 1965 total net taxable wage index was 241

TABLE 2. STATE PLAN

Basic Benefit Payments To Unemployed Disabled Claims, Benefits and Total Net Taxable Wages and Indices of Each 1956–65

(1) Year	(2) Total average covered employment (in thousands)	(3) Index of total average covered employment (1956=100)	(4) Average number of eligibles not in covered employment (in thousands)	(5) Average number of eligibles not in covered employment as a percent of total average covered employment	(6) Index of average number of eligibles not in covered employment as a percent of average total covered employment (1956=100)	(7) Number of claims[a] (in thousands)	(8) Index of number of claims (1956=100)	(9) Claims as a percent of average number of eligibles not in average covered employment	(10) Index of claims as a percent of average number of eligibles not in covered employment (1956=100)	(11) Average weekly benefit amount[b]	(12) Index of average weekly benefit amount (1956=100)	(13) Average duration per claim (in weeks)	(14) Index of average duration per claim (1956=100)	(15) Product of columns (8) (12)[c]	(16) Net benefit payments (in thousands)	(17) Index of net benefit payments (1956=100)	(18) Total net taxable wages (in millions)	(19) Index of total net taxable wages (1956=100)
1956	3,480 6	100	154 9	4 5	100	23 7	100	15 3	100	$31 71	100	11 4	100	100	$8,546	100	$10,293	100
1957	3,501 2	103	198 9	5 5	122	26 3	119	14 2	93	34 02	107	11 4	100	127	10,998	129	10,709	104
1958	3,511 4	101	304 9	8 7	193	40 3	170	13 2	86	37 43	118	11 0	96	193	16,588	194	11,935	116
1959	3,752 0	108	238 4	6 4	142	36 6	154	15 4	101	38 45	121	11 8	104	194	16,151	189	12,919	126
1960	3,832 7	110	302 4	7 9	176	40 9	173	13 5	88	43 07	135	10 7	94	221	18,848	221	13,269	129
1961	3,939 9	113	366 4	9 3	207	47 7	201	13 0	85	45 33	143	11 1	97	279	24,044	281	13,652	133
1962	4,201 5	124	316 4	7 4	164	45 2	191	14 3	93	46 52	147	11 1	97	272	23,370	273	16,063	156
1963	4,452 2	128	337 2	7 6	169	51 3	216	15 2	99	47 65	150	11 0	96	311	26,869	314	17,926	174
1964	4,584 3	132	345 2	7 5	167	55 3	233	16 0	105	49 40	156	11 2	98	356	30,073	352	19,902	193
1965	P4,741 0	136	352 3	7 4	164	54 5	230	15 5	101	51 13	161	11 4	100	370	31,760	372	P24,795	241

SOURCES Data for 1956 through 1964 the California Unemployment Compensation Disability Fund in Calendar Year 1964, Report of the Actuaries Woodward and Fondiller, Inc, July 1965 Appendix Tables 2, 6 and 12 Data for 1965 work papers for 1965 Report of the Actuaries

[a] Derived by dividing reported number of weeks compensated by reported average weeks duration per claim

[b] The average weekly benefit amount is computed by dividing net benefit payments by the reported number of weeks compensated during a calendar year Since basic and hospital benefit payments are not reported separately on a net basis, the figures given in this table are estimates computed from the gross payments data, for which basic and hospital figures are reported separately

[c] Any differences in the figures in columns 15 and 17 are accounted for by rounding

P Preliminary

TABLE 3. STATE PLAN

Hospital Benefit Payments for Regular Liability Claims, Benefits and Net Taxable Wages and Indices of Each—1956–1965

Using 1956 as the "base year" and assigning an index figure of 100 to that year for each of the factors examined permit a determination of the rate of change of each factor on a year-to-year basis and a measurement of the total magnitude of the change over the 10-year period, 1956–65

The major findings for the 10-year period are

(1) The index of claims as a percent of average number of eligibles in covered employment rose by 31 points
(2) The average duration per claim index increased by 10 points
(3) The net payments index stood at 412 in 1965
(4) The index of net taxable wages in 1965 was 426 However, for every year, 1957–64 inclusive, the index of net taxable wages was substantially below the net benefit payments index for the same year

TABLE 3 STATE PLAN

Hospital Benefit Payments For Regular Liability Claims, Benefits and Net Taxable Wages and Indices of Each 1956–1965

(1) Year	(2) Average covered employment (in thousands)	(3) Index of average covered employment (1956=100)	(4) Average number of eligibles in covered employment (in thousands)	(5) Average number of eligibles in covered employment as a percent of average covered employment	(6) Index of average number of eligibles in covered employment as a percent of average covered employment (1956=100)	(7) Number of claims[a] (in thousands)	(8) Index of number of claims (1956=100)	(9) Claims as a percent of average number of eligibles in covered employment	(10) Index of claims as a percent of average number of eligibles in covered employment (1956=100)	(11) Average daily benefit amount[b]	(12) Index of average daily benefit amount (1956=100)	(13) Average duration per claim (in days)	(14) Index of average duration per claim (1956=100)	(15) Product of columns (8) (12) (14)[c]	(16) Net benefit payments (in thousands)	(17) Index of net benefit payments (1956=100)	(18) Net taxable wages (in millions)	(19) Index of net taxable wages (1956=100)
1956	1,944 7	100	1,683 3	86 6	100	88 3	100	5 2	100	$9 87	100	7 1	100	100	$6,190	100	$5,397	100
1957	2,004 6	103	1,755 4	87 6	101	97 5	110	5 6	108	9 83	100	7 1	100	109	6,891	110	5,596	104
1958	2,081 1	107	1,879 9	90 3	104	119 7	136	6 4	123	11 68	118	7 7	108	173	10,758	173	6,635	123
1959	2,286 7	118	2,044 8	89 4	104	126 9	144	6 2	119	11 83	120	8 1	114	107	12,163	196	7,384	137
1960	2,608 6	134	2,360 0	90 5	105	138 3	170	6 7	129	11 86	120	8 0	113	243	15,011	243	8,591	159
1961	2,851 5	147	2,585 4	90 7	105	176 8	200	6 8	131	11 84	120	8 6	113	271	16,743	270	9,461	175
1962	3,307 0	175	3,059 9	90 1	104	208 5	236	6 8	131	11 84	120	7 9	110	312	19 252	311	12,245	227
1963	4,134 2	213	3,770 4	91 2	105	268 0	304	7 1	137	11 85	120	7 7	108	394	24 506	396	16,537	306
1964	4,282 9	220	3,888 7	90 8	105	278 1	315	7 2	138	11 82	120	7 8	110	416	25,648	414	18,849	340
1965	4,413 4	227	4,044 9	91 5	106	276 9	314	6 8	131	11 81	120	7 8	110	414	25,513	412	22,069	426

SOURCES Data for 1956 through 1964 the California Unemployment Compensation Disability Fund in Calendar Year 1964, Report of the Actuaries Woodward and Fondiller, Inc, July, 1965 Appendix Tables 2, 6, 9 and 10 Data for 1965 work papers for 1965 Report of the Actuaries

[a] Derived by dividing reported number of days compensated by reported average daily duration per claim

[b] The average daily benefit amount is computed by dividing net benefit payments by the reported number of days compensated during a calendar year Since basic and hospital benefit payments are not reported separately on a net basis the figures given in this table are estimates computed from the gross payments data, for which basic and hospital figures are reported separately

[c] Any differences in the figures in columns 15 and 17 are accounted for by rounding

P Preliminary

TABLE 4. STATE PLAN

Hospital Benefit Payments to Unemployed Disabled Claims, Benefits and Total Net Taxable Wages and Indices of Each—1956–1965

Using 1956 as the "base year" and assigning an index figure of 100 to that year for each of the factors examined permit a determination of the rate of change of each factor on a year-to-year basis and a measurement of the total magnitude of the change over the 10-year period, 1956–65.

The major findings for the 10-year period are:

(1) Index of number of claims stood at 264 for 1965.
(2) The index of claims as a percent of average number of eligibles not in covered employment rose by 17 points.
(3) The index of average duration per claim increased by 28 points.
(4) The net benefit payments index stood at 417 in 1965.
(5) The index of total net taxable wages was 241 in 1965.

TABLE 4 STATE PLAN

Hospital Benefit Payments To Unemployed Disabled Claims, Benefits and Total Net Taxable Wages and Indices of Each 1956–1965

(1) Year	(2) Total average covered employment (in thousands)	(3) Index of total average covered employment (1956=100)	(4) Average number of eligibles not in covered employment (in thousands)	(5) Average number of eligibles not in covered employment as a percent of total average covered employment	(6) Index of average number of eligibles not in covered employment as a percent of average total covered employment (1956=100)	(7) Number of claims[a] (in thousands)	(8) Index of number of claims (1956=100)	(9) Claims as a percent of average number of eligibles not in covered employment	(10) Index of claims as a percent of average number of eligibles not in covered employment (1956=100)	(11) Average daily benefit amount[b]	(12) Index of average daily benefit amount (1956=100)	(13) Average duration per claim (in days)	(14) Index of average duration per claim (1956=100)	(15) Product of columns (8) (12) (14)[c]	(16) Net benefit payments (in thousands)	(17) Index of net benefit payments (1956=100)	(18) Total net taxable wages (in millions)	(19) Index of total net taxable wages (1956=100)
1956	3,480 8	100	154 9	4 5	100	12 6	100	8 1	100	$9 84	100	8 2	100	100	$1,014	100	$10,293	100
1957	3,511 2	103	193 9	5 5	122	15 2	121	7 6	94	10 00	102	8 3	101	125	1,266	125	10,709	104
1958	3,511 4	101	304 9	8 7	193	24 1	191	7 9	98	11 75	119	9 5	116	264	2,691	265	11,925	116
1959	3,752 0	108	238 4	6 4	142	19 9	158	8 3	102	12 06	123	10 9	133	258	2,617	258	12,919	126
1960	3,832 7	110	302 4	7 9	175	24 5	194	8 1	100	12 05	122	10 5	128	303	3,067	306	13,269	129
1961	3,939 9	113	366 4	9 3	207	29 8	237	8 1	100	12 05	122	10 6	129	373	3,808	375	13,652	113
1962	4,201 6	124	316 4	7 4	164	28 0	222	8 8	109	12 05	123	10 4	127	347	3,510	346	16,063	156
1963	4,452 2	128	337 2	7 6	169	32 1	255	9 5	117	12 04	122	10 3	126	392	3,986	393	17,926	174
1964	4,584 3	132	345 2	7 5	167	33 8	268	9 8	121	12 08	123	10 3	126	415	4,204	415	19,902	193
1965	[p]4,741 0	136	352 3	7 4	164	33 3	264	9 5	117	12 07	123	10 5	128	416	4,224	417	[p]24,795	241

SOURCES Data for 1956 through 1964 the California Unemployment Compensation Disability Fund in Calendar Year 1964, Report of the Actuaries Woodward and Fondiller, Inc , July 1965 Appendix Tables 2, 6 and 13 Data for 1965 work papers for 1965 Report of the Actuaries

[a] Derived by dividing reported number of weeks compensated by reported average weeks duration per claim

[b] The average weekly benefit amount is computed by dividing net benefit payments by the reported number of weeks compensated during a calendar year Since basic and hospital benefit payments are not reported separately on a net basis, the figures given in this table are estimates computed from the gross payments data, for which basic and hospital figures are reported separately

[c] Any differences in the figures in columns 15 and 17 are accounted for by rounding

[p] Preliminary

TABLE 5

Ratios and Indices of Ratios of Average Number of Eligibles Not in Covered Employment to Average Unemployment—1956–1965

Over the 10-year period the average number of eligibles not in covered employment has more than doubled. However, when these figures are related to average unemployment and indices of these percentage relationships are examined, it is found that there has been virtually no change over the 10-year period as to the proportion of the unemployed who would be eligible for benefits were they to become disabled

TABLE 5

Ratios and Indices of Ratios of Average Number of Eligibles Not in Covered Employment to Average Unemployment

1956–1965

Year	Average unemployment (in thousands)	Average number of eligibles not in covered employment (in thousands)	Average number of eligibles not in covered employment as a percent of average unemployment	Index of average number of eligibles not in covered employment as a percent of average unemployment (1956 = 100)
1956	188	154 9	82 4	100
1957	243	198 9	81 9	99
1958	377	304 9	80 9	98
1959	292	238 4	81 6	99
1960	367	302 4	82 4	100
1961	446	366 4	82 1	100
1962	380	316 4	81 3	99
1963	411	337 2	82 0	100
1964	422	345 2	81 8	99
1965	429	352 3	82 1	100

SOURCE Appendix Tables 1 and 2, Report of Actuaries, 1964 and 1965 Report of Actuaries work papers

TABLE 6. STATE PLAN

Ratio of 13 Times Weekly Benefit Amount to Minimum High-Quarter Wages Required to Qualify for Each Weekly Benefit Amount

For high-quarter wages of $75 but less than $525, there is no real relationship between the amount of high-quarter wages and the amount

TABLE 6—STATE PLAN

Ratio of Thirteen Times Weekly Benefit Amount to Minimum High Quarter Wages Required to Qualify for Each Weekly Benefit Amount

High quarter wages	Weekly benefit amount	Weekly benefit amount × 13 weeks	Benefit amount as a percent of high quarter wages
$75	$25	$325	433 3
525	26	338	64 38
550	27	351	63 81
75	28	364	63 30
600	29	377	62 83
25	30	390	62.40
50	31	403	62 00
75	32	416	61 63
700	33	429	61 28
25	34	442	60 96
50	35	455	60 66
75	36	468	60 38
800	37	481	60 12
25	38	494	59 87
50	39	507	59 64
75	40	520	59 42
900	41	533	59 22
25	42	546	59 02
50	43	559	58 84
75	44	572	58 66
1,000	45	585	58 50
25	46	598	58 34
50	47	611	58 19
75	48	624	58 04
1,100	49	637	57 90
25	50	650	57 77
50	51	663	57 65
75	52	676	57 53
1,200	53	689	57 41
25	54	702	57 30
50	55	715	57 20
75	56	728	57 09
1,300	57	741	57 00
25	58	754	56 90
50	59	767	56 81
75	60	780	56 72
1,400	61	793	56 64
25	62	806	56 56
50	63	819	56 46
75	64	832	56.40
1,500	65	845	56 33
1,525	66	858	56 26
50	67	871	56 19
75	68	884	56 12
1,600	69	897	56 06
25	70	910	56 00
50	71	923	55 93
75	72	936	55 88
1,700	73	949	55 82
25	74	962	55 76
50	75	975	55 71
75	76	988	55 66
1,800	77	1,001	55 61
25	78	1,014	55 56
50	79	1,027	55 51
75 and over	80	1,040	55 46

of weekly basic benefits payable in a 13-week period This same statement applies in those cases where the high-quarter wages are in excess of $1,875.

Within the above two limits, claimants having high-quarter wages of $525 receive basic benefits of $338 in 13 weeks, or 64 38 percent of their high-quarter wages At the other end of the benefit schedule, claimants having high-quarter wages of $1,875 receive basic benefits of $1,040 in 13 weeks, or 55 46 percent of their high-quarter wages

TABLE 7. STATE PLAN

Number of Basic Claims by Compensated Duration for Regular Liability and Unemployed Disabled—1964

More than one-half of the regular liability claimants were paid basic benefits for 35 days or less. For the unemployed disabled, more than one-half the claimants were in the 63-day or less category

At the other extreme, less than 9 percent of regular liability claimants were paid basic benefits for 176 days or more Almost 19 percent of the unemployed disabled claimants were in this category.

TABLE 7—STATE PLAN

Number of Basic Claims by Compensated Duration for Regular Liability and Unemployed Disabled

1964

Days compensated	Regular liability		Unemployed disabled	
	Total number of claims	Percent	Total number of claims	Percent
Total	381,214	100	50,471	100
1- 7	54,802	14 4	3,202	6 3
8- 14	55,804	14 6	3,977	7 9
15- 21	39,401	10 3	3,477	6 9
22- 28	30,147	7 9	3,028	6 0
29- 35	25,631	6 7	3,003	5 9
36- 42	21,851	5 7	3,084	6 1
43- 49	20,286	5 3	3,146	6 2
50- 56	16,155	4 2	2,187	4 3
57- 63	14,911	3 9	2,340	4 6
64- 70	10,413	2 7	1,728	3 4
71- 77	8,475	2 2	1,473	2 9
78- 84	7,361	1 9	1,305	2 6
85- 91	7,031	1 9	1,417	2 8
92- 98	5,694	1 5	1,167	2 3
99-105	4,614	1 2	964	1 9
106-112	4,191	1 1	734	1 5
113-119	3,416	0 9	714	1 4
120-126	3,275	0 9	729	1 4
127-133	2,836	0 7	612	1 2
134-140	2,461	0 6	520	1 0
141-147	2,115	0 6	505	1 0
148-154	2,022	0 5	505	1 0
155-161	1,744	0 5	433	0 8
162-168	1,779	0 5	387	0 8
169-175	2,063	0 5	377	0 7
176-182	31,642	8 3	9,380	18 6
183 and over	1,204	0 3	87	0 2

SOURCE Department of Employment Report 1031A No 16 Table 11.

TABLE 8. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants and Percentage of Claimants by Ratio of High Quarter to Base Period Earnings; by Sex Within Employment Status and by Sex Regardless of Employment Status

The percentage of claimants by ratio of high-quarter wages to total base period wages varies widely according to employment status, but is relatively minor when measured on the basis of sex

Thirty-eight percent of the unemployed disabled have at least half their base period earnings in only one quarter

Less than 17 percent of regular liability claimants have at least half their base period earnings in only one quarter

Almost 16 percent of all males and 18 6 percent of all females have at least half their base period earnings in only one quarter.

Virtually the same percent of unemployed disabled males and females have less than one-third of their base period earnings in one quarter.

For regular liability claimants, a slightly higher percent of males than females have 33 percent or less of their base period earnings in only one quarter

TABLE 8—STATE PLAN

1964 Claimants Receiving Basic Benefits Number of Claimants and Percentage of Claimants by Ratio of High Quarter to Base Period Earnings, by Sex Within Employment Status and by Sex Regardless of Employment Status

	Percentage ratio of high quarter to base period earnings						
	25–33	34–49	50–59	60–79	80–99	100	Total
Unemployed disabled							
Males	7,870	8 625	3,315	3,230	1,555	1 690	28 275
Females	4,585	4,885	2,135	2,175	1,060	1,090	15,930
Total	12,455	13,510	5,450	5,450	2,615	2,770	42,205
Employed							
Males	137,690	40,930	10,595	7,760	3,400	5,180	205,555
Females	94,275	31 650	8,910	7,535	3,910	4,635	150,915
Total	231,965	72,580	19,505	15 295	7,010	9,815	356,170
Total males	145,560	49,555	13,910	10,990	4,955	6,860	231,830
Total females	98,860	36,535	11,045	9,710	4,670	5,725	166,545
All Claimants	244,420	86,090	24,955	20,700	9,625	12,585	398,375
Percentage Distribution							
Unemployed disabled							
Males	29 9	32 8	12 6	12 2	5 9	6 3	100 0
Females	28 7	30 6	13 4	13 6	6 6	6 8	100 0
Total	29 5	32 0	12 9	12 8	6 1	6 5	100 0
Employed							
Males	67 0	19 9	5 2	3 8	1 7	2 5	100 0
Females	62 6	21 0	5 9	5 0	2 4	3 1	100 0
Total	65 1	20 4	5 5	4 3	2 0	2 8	100 0
Total males	62 8	21 4	6 0	4 7	2 1	3 0	100 0
Total females	59 4	21 9	6 6	5 8	2 8	3 4	100 0
All Claimants	61 3	21 6	6 2	5 1	2 4	3 1	100 0

Percentage distributions in some cases may not add to 100% due to independent rounding

TABLE 9. STATE PLAN

Range of Base Period Earnings Required for Weekly Benefit of $54 and Range of 1 Percent of Taxable Base Period Earnings, by Ratio of High Quarter to Base Period Earnings

This table illustrates the range of base period earnings for a claimant qualifying for a weekly benefit amount of $54, according to the proportion of base period earnings which are earned in the highest quarter

The table also shows the range of revenue which would be derived from each range of base period earnings

TABLE 9—STATE PLAN

Range of Base Period Earnings Required for Weekly Benefit of $54 * and Range of 1 Percent of Taxable Base Period Earnings, by Ratio of High Quarter to Base Period Earnings

Ratio of high quarter to base period earnings (percent)	Required earnings in high quarter for $54 weekly benefit	Range of base period earnings for weekly benefit	One percent of taxable base period earnings range required for weekly benefit
25–33	$1,225	$4,900–$3,712	$49 00–$37 12
34–49	1,225	3,603– 2,500	36 03– 25 00
50–59	1,225	2,450– 2,076	24 50– 20 76
60–79	1,225	2,042– 1,551	20 42– 15 51
80–99	1,225	1,531– 1,237	15 31– 12 37
100	1,225	1,225	12 25

* The average weekly benefit amount for regular liability claimants in 1965 was $53 90

TABLE 10. STATE PLAN

Range of Base Period Earnings Required for Maximum Weekly Benefit of $80 and Range of 1 Percent of Taxable Base Period Earnings, by Ratio of High Quarter to Base Period Earnings

This table illustrates the range of base period earnings for a claimant qualifying for the maximum weekly benefit amount according to the proportion of base period earnings which are earned in the highest quarter

The table also shows the range of revenue which would be derived from each range of base period earnings

TABLE 10—STATE PLAN

Range of Base Period Earnings Required for Maximum Weekly Benefit of $80 and Range of 1 Percent of Taxable Base Period Earnings, by Ratio of High Quarter to Base Period Earnings

Ratio of high quarter to base period earnings (percent)	Required earnings in high quarter for maximum weekly benefit	Range of base period earnings for maximum weekly benefit	One percent of taxable base period earnings range required for maximum weekly benefit
25–33	$1,875	$7,500–$5,682	$74 00–$56 83
34–49	1,875	5,515– 3,827	55 15– 38 27
50–59	1,875	3,750– 3,178	37 50– 31 78
60–79	1,875	3,125– 2,372	31 25– 23 73
80–99	1,875	2,344– 1,894	23 44– 18 94
100	1,875	1,875	18 75

TABLE 11. STATE PLAN

Claimants Receiving Basic Benefits in 1964. Number of Claimants by Base Period Wages, Distributed by High Quarter Wages as a Percent of Total Wages, by Sex Within Employment Status

Claimants having a high proportion of base period wages in one quarter are concentrated heavily in the under $3,000 group.

Almost 70 percent of the unemployed disabled male claimants having base period wages of less than $1,000 had 60 percent or more of their base period wages in one quarter and more than 27 percent of them had all their wages in one quarter For the comparable classification of females approximately 68 percent had 60 percent or more of their base period wages in one quarter and 24 2 percent had all their base period wages in one quarter

For regular liability claimants for both sexes the figures are roughly comparable to those for the unemployed disabled.

TABLE 11. STATE PLAN

Claimants Receiving Basic Benefits in 1964 Number of Claimants by Base Period Wages, Distributed by High Quarter Wages as a Percent of Total Wages, by Sex Within Employment Status

Employment status and sex	Under $1,000	Percent of claimants	$1,000–1,999 99	Percent of claimants	$2,000–2,999 99	Percent of claimants	$3,000–3,999 99	Percent of claimants	$4,000–4,999 99	$5,000–5,999 99	$6,000–7,499 99	$7,500 and over
Unemployed disabled												
Males												
25–33	110	2 4	250	5 3	560	15 1	705	22 7	1,050	1,390	1,810	1,995
34–49	580	12 9	1,355	28 8	1,655	44 5	1,650	53 1	1,325	835	715	510
50–59	685	15 2	920	19 6	765	20 6	485	15 6	250	90	65	55
60–79	1,090	24 2	1,340	28 4	540	14 5	230	7 4	80	20	5	25
80–99	810	18 0	535	11 4	155	4 2	30	1 0	15	10	--	--
100	1,225	27 2	405	8 6	45	1 2	5	0 2	--	--	--	--
Totals	4,500		4,705		3,720		3,105		2,720	2,345	2,595	2,585
Females												
25–33	125	3 1	555	11 2	1,015	34 3	1,195	62 7	915	475	250	55
34–49	500	12 4	1,945	39 2	1,505	50 8	625	32 8	195	80	15	20
50–59	645	16 0	1,095	22 1	320	10 8	45	2 4	10	10	5	5
60–79	1,075	26 7	945	19 0	110	3 7	30	1 6	10	5	--	--
80–99	710	17 6	330	6 6	5	0 2	5	0 3	--	--	10	--
100	975	24 2	95	1 9	5	0 2	5	0 3	5	--	--	5
Totals	4,030		4,965		2,960		1,905		1,135	570	290	85
Regular Liability												
Males												
25–33	330	3 3	1,615	11 2	3,310	23 8	6,680	40 3	13 010	22,195	39,890	50,660
34–49	1,300	13 5	3,925	27 1	5,785	41 5	7,335	44 2	7,335	5,830	4,585	4,775
50–59	1,505	15 0	2,965	20 5	2,535	18 2	1,885	11 4	805	385	165	350
60–79	3,045	30 4	3,055	21 1	1,670	12 0	550	3 3	155	75	60	150
80–99	1,515	15 1	1,425	9 8	355	2 5	70	0 4	15	5	5	10
100	3,285	32 7	1,485	10 1	280	2 0	60	0 4	25	15	5	25
Totals	10,040		14,470		13,935		16,580		21,346	28,505	44,710	55,970
Females												
25–33	590	3 9	4,670	19 4	16,860	56 9	23,275	80 0	23,625	17,040	6,760	1,555
34–49	2,155	14 3	9,990	41 4	10,495	35 4	5,450	18 7	2,280	635	380	265
50–59	2,200	14 6	4,385	18 2	1,885	6 4	270	0 9	45	45	30	50
60–79	3,625	24 1	3,405	14 1	370	1 2	70	0 2	15	10	--	40
80–99	2,430	16 1	1,125	4 7	20	0 1	10	--	--	--	10	15
100	4,055	26 9	550	2 3	10	--	10	--	5	--	5	--
Totals	15,055		24,125		29,640		29,085		25,870	17,730	7,185	1,925
GRAND TOTALS	33,625		48,265		50,255		50,675		51,070	49,150	54,770	60,565

TABLE 12

1964 State Plan Employment During Last Quarter of Employment of Workers With Annual Earnings of $300 But Less Than $4,000

(In Thousands of Workers)

Over 72 percent of the workers are less than 45 years old

Less than one-third of annual earnings were in one quarter for 28 6 percent of the females, but for only 13 4 percent of the males.

It is only in the 45-to-54 age group that the number of female workers exceeds the number of male workers by a significant margin In the 25-to-44 age group females slightly exceed males

TABLE 12—1964

State Plan Employment During Last Quarter of Employment of Workers With Annual Earnings of $300 But Less Than $4,000

(in thousands of workers)

	High quarter wages as percent of annual wages									
Age and sex	25–33	Percent of workers	34–49	Percent of workers	50–99	Percent of workers	100	Percent of workers	Number of workers	Percent of total workers
Under 25										
Males	57 3	10 8	155 5	29 2	255 2	48 0	64 3	12 1	532 2	20 6
Females	62 4	18 0	94 0	27 1	148 8	43 9	41 8	12 0	347 0	13 4
									879 2	34 0
25 to 44										
Males	58 3	11 7	140 5	28 3	211 5	42 6	86 0	17 3	496 3	19 2
Females	139 3	27 7	138 1	27 5	168 8	33 6	56 4	11 2	502 6	19 4
									998 9	38 6
45 to 54										
Males	25 3	15 8	42 8	26 7	68 4	42 7	23 8	14 8	160 3	6 2
Females	82 3	38 4	61 7	28 8	53 4	24 9	17 1	8 0	214 5	8 3
									374 8	14 5
55 to 64										
Males	26 8	12 2	36 1	28 6	44 0	34 9	19 3	15 3	126 2	4 9
Females	51 0	46 3	25 6	23 3	26 3	23 9	7 2	6 5	110 1	4 2
									236 3	9 1
65 and older										
Males	17 2	27 4	12 8	20 4	22 3	35 5	10 5	16 7	62 8	2 4
Females	11 3	31 0	0.5	24.0	9 9	27 1	5 8	15 9	36 5	1 4
									99 3	3 8
ALL MALES	184 9	13 4	387 7	28 1	601 4	43 6	203 8	14 8	1,377 8	53 2
ALL FEMALES	346 3	28 6	328 9	27 2	407 2	33 6	128 3	10 6	1,210 7	46 8
TOTAL WORKERS	531 2	20 5	716 6	27 7	1,008 6	39 0	332 1	12 8	2,588 5	100 0

TABLE 13

1964 State Plan Employment During Last Quarter of Employment of Workers Earning $4,000 and More

(In Thousands of Workers)

The male-to-female worker ratio is more than 4-to-1.

Over one-half the workers are in the 25-to-44 age group.

Less than 2 5 percent of the workers have one-half or more of their annual earnings in one quarter.

TABLE 13—1964

State Plan Employment During Last Quarter of Employment of Workers Earning $4,000 and More

(in thousands of workers)

Age and sex	Ratio of high quarter wages to total wages									
	25-33	Percent	34-49	Percent	50-99	Percent	100	Percent	Total workers	Percent of total
Under 25										
Males	142 1	78 7	34 3	19 0	4 0	2 2	0 1	0 1	180 5	7 0
Females	47 3	95 2	1 9	3 8	0 5	1 0	--	--	49 7	1 9
									230 2	8 9
25 to 44										
Males	937 8	81 4	134 7	16 0	28 5	2 5	1 1	0 1	1,152 1	44 8
Females	206 8	91 7	17 8	7 9	0 9	0 4	0 1	--	225 6	8 8
									1,377 7	53 6
45 to 54										
Males	382 1	81 1	74 0	15 7	13 0	2 8	1 8	0 4	470 9	18 3
Females	111 3	89 7	11 0	8 9	1 3	1 0	0 5	0 4	124 1	4 8
									595 0	23 1
55 to 64										
Males	209 2	80 8	42 2	16 3	7 0	2 7	0 6	0 2	259 0	10.1
Females	56 0	91 6	4 5	7 2	0 6	1 0	0 1	0 2	62 1	2 4
									321 1	12 5
65 and older										
Males	26 6	73 3	7 4	20 4	1.6	4 4	0 7	1 9	36 3	1 4
Females	6 7	87 0	0 7	9 1	0 1	1 3	0 2	2 6	7 7	0 3
									44 0	1 7
MALES	1,697 8	80 9	342 6	16 3	54 1	2 6	4 3	0 2	2,098 8	81 7
FEMALES	429 0	91 4	35 9	7 7	3 4	0 7	0 9	0 2	469.2	18 3
TOTAL	2,126 8	82 8	378 5	14 7	57 5	2 2	5 2	0 2	2,568 0	100 0

TABLE 14. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Male and Female Claimants by Employment Status at Onset of Disability, Distributed by Base Period Wages

Almost 50 percent of the unemployed disabled males and 75 percent of the unemployed disabled females have base period earnings of less than $3,000

Less than 19 percent of regular liability males and slightly under 46 percent of regular liability females have base period earnings of less than $3,000.

Regular liability male claimants constitute more than one-half of all claimants Of these more than 205,000 regular liability males, almost half have base period wages of $6,000 or more.

TABLE 14—STATE PLAN

1964 Claimants Receiving Basic Benefits Number of Male and Female Claimants by Employment Status at Onset of Disability, Distributed by Base Period Wages

Base period wages	Unemployed disabled males	Percent of all unemployed disabled males	Unemployed disabled females	Percent of all unemployed disabled females	Regular liability males	Percent of all regular liability males	Regular liability females	Percent of all regular liability females	Total	Percent of all claimants
Under $1,000	4,500	17 1	4,030	25 3	10,040	4 9	15,055	10 0	33,625	8 4
$1,000-1,999 99	4,705	17 9	4,965	31 2	13,470	7 9	24,125	16 0	48,265	12 1
$2,000-2,999 99	3,720	14 3	2,960	18 6	13,935	6 8	29,640	19 7	50,255	12 6
$3,000-3,999 99	3,105	11 8	1,905	12 0	16,580	8 1	29,085	19 3	50,675	12 7
$4,000-4,999 99	2,720	10 4	1,135	7 1	21,345	10 4	25,870	17 2	51,070	12 8
$5,000-5,999 99	2 345	8 9	570	3 6	28,505	13 9	17,730	11 8	49,150	12 3
$6,000-7,499 99	2,595	9 9	280	1 8	44,710	21 8	7,185	4 8	54,770	13 7
$7,500 and over	2,585	9 8	85	0 5	55,970	27 3	1,925	1 3	60,565	15 2
All claimants	26,275	100 0	15,930	100 0	205,555	100 0	150,615	100 0	398,375	100 0

Percentage distributions may not add to 100% because of independent rounding

TABLE 15. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants and Percent of Total Claimants by Employment Status; Base Period Earnings Within Sex

1 Almost 42 percent of all claimants are females, and slightly over 58 percent are males.

2 Of all female claimants, less than one out of three had base period earnings of $4,000 and over; for males, more than two out of three earned $4,000 and over.

3. Overall, approximately 46 percent of the claimants earned less than $4,000 in the base period, and 54 percent earned $4,000 and over.

4 Only in the case of employed males did the number of claimants having base period earnings of $4,000 and over exceed the number earning less than $4,000 For unemployed disabled males and females and for employed females the under $4,000 group was larger.

TABLE 15—STATE PLAN

1964 Claimants Receiving Basic Benefits Number of Claimants and Percent of Total Claimants by Employment Status, Base Period Earnings Within Sex

	Employed		Unemployed			
	Number of claimants	Percent of total claimants	Number of claimants	Percent of total claimants	Number of claimants	Percent of total claimants
Males						
Under $4,000	55 025	13 8	16,030	4 0	71,055	17 8
$4,000 and over	150,530	37 8	10,245	2 6	160,775	40 4
Total	205,555	51 6	26,275	6 6	231,830	58 2
Females						
Under $4,000	97,905	24 6	13,860	3 5	111,765	28 1
$4,000 and over	52,710	13 2	2,070	0 5	54,780	13 8
Total	150,615	37 8	15,930	4 0	166,545	41 8
Claimants under $4,000	152,930	38 4	29,890	7 5	182,820	45 9
Claimants $4,000 and over	203,240	51 0	12,315	3 1	215,555	54 1
Total all claimants	356,170	89 4	42,205	10 6	398,375	100 0

TABLE 16. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants by Base Period Earnings Within Employment Status and Sex, Distributed by Number of Quarters Worked in Base Period

This table gives the number of claimants by base period wages and sex within employment status, according to number of quarters in the base period in which there were earnings

(1) For the unemployed disabled, almost two-fifths of the men earned $4,000 and over in the base period, but for unemployed females, approximately one-eighth earned $4,000 and over.

(2) For employed males, about three out of four earned $4,000 and over. In the case of employed females, one out of three earned $4,000 and over.

(3) When classified by earnings, a significantly higher percentage of females had earnings in four quarters than did males This is true for both the unemployed disabled and regular liability claimants.

TABLE 16. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants by Base Period Earnings Within Employment Status and Sex, Distributed by Number of Quarters Worked in Base Period

	Base period earnings	Total number of claimants	One quarter	Percent	At least two quarters	Percent	At least three quarters	Percent	Four quarters	Percent
Unemployed Disabled										
Males	Under $4,000	16,030	1,690	10 5	7,485	46 7	5,240	32 7	1,625	10.1
	$4,000 and over	10,245	--	----	615	6 0	3,385	33 0	6,245	61 0
Females	Under $4,000	13,860	1,080	7 8	5,315	38 3	4,575	33 0	2,890	20 9
	$4,000 and over	2,070	10	0 5	55	2 7	310	15 0	1,695	81 9
Regular Liability										
Males	Under $4,000	55,025	5,110	9 3	19,575	35 6	18,405	33 4	11,935	21.7
	$4,000 and over	150,530	70	0 04	2,180	1 4	22,525	15 0	125,755	83.5
Females	Under $4,000	97,905	4,625	4 7	19,795	20 2	28,090	28 7	45,395	46.4
	$4,900 and over	52,710	10	0 01	250	0 5	3,560	6 8	48,880	92 7
Totals		398,375	12,585	3 1	55,280	13 9	86,090	21 6	244,420	61 4

TABLE 17. STATE PLAN

1964 Claimants Receiving Basic Benefits: Claimants Having Base Period Earnings of Less Than $4,000 and $4,000 and Over; Days Compensated, Number of Claimants, and Average Duration; by Age, Within Employment Status and Sex

Average durations of claimants by six age brackets indicate a clear relationship between increasing age and increases in average durations. This relationship holds for each of the eight classifications

In each case the classifications with base period earnings of $4,000 and over had shorter average durations than the comparable groups with base period earnings of less than $4,000

Where employment status and base period earnings were the same, there were no significant differences between average durations for males and females.

TABLE 17—STATE PLAN

1964 Claimants Receiving Basic Benefits· Claimants Having Base Period Earnings of Less Than $4,000 and $4,000 and Over, Days Compensated, Nnumber of Claimants, and Average Duration, by Age, Within Employment Status and Sex

	Base period earnings under $4,000			Base period earnings $4,000 and over		
	Days comp	Number of claimants	Average duration	Days comp	Number of claimants	Average duration
Unemployed Disabled						
Males						
Age Under 25	118,935	1,990	59 8	22,900	450	50 9
25–44	392,050	5,840	67 1	230,305	3,775	61 0
45–54	305,900	3,665	83 7	199,825	2,860	69 9
55–64	310,155	3,185	97 4	193,020	2,375	81 3
65–74	125,350	1,220	102 7	74,810	750	99 7
75 and over	14,140	130	108 8	4,185	35	119 6
Total	1,267,530	16,030	79 1	725,045	10,245	70 8
Females						
Age Under 25	69,295	1 150	60 9	4,585	125	36 7
25–44	443 205	6,015	73 7	64,250	970	66 2
45–54	319,605	3,780	84 6	47,010	590	79 7
55–64	223,310	2,240	99 7	25,005	295	84 8
65–74	66,960	615	108 9	9,905	85	116 5
75 and over	8,345	60	139 1	910	5	182 0
Total	1,131,420	13,860	81 6	151,665	2,070	73 3
Regular Liability						
Males						
Age Under 25	482,580	12,410	38 9	236,685	7,570	31 3
25–44	944,910	19,070	49 5	2,367,570	64,245	36 9
45–54	502,340	8,325	60 3	1,015,310	40,895	46 8
55–64	769,410	10,070	76 4	1,870,255	32,130	58 2
65–74	296 600	2,955	90 0	408,750	5,340	76 5
75 and over	65,110	695	95 1	32,160	360	89 3
Total	3,121,550	55,025	56 7	6,830,760	150,530	45 4
Females						
Age Under 25	352,770	10,460	33 7	71,415	2,470	28 9
25–44	2,421,975	45,545	53 1	1,154 825	25,605	45 1
45–54	1,523,480	25,440	59 9	771,785	15,765	49 0
55–64	917,240	13,470	68 1	457,190	7,955	57 5
65–74	225,965	2,015	86 4	72,380	875	82 7
75 and over	33,030	275	120 1	3,935	40	98 4
Total	5,474,460	97,905	55 9	2,531,530	52,710	48 0

TABLE 18. STATE PLAN

1964 Claimants Receiving Basic Benefits: Average Durations of Basic Benefits and Percentage Ratios of Female to Male Durations by Base Period Earnings of Less Than $4,000 and $4,000 and Over; Males and Females Within Employment Status

When employment status and base period wages are held constant, there is very little difference in average duration between male and female claimants.

For claimants with base period wages of less than $4,000 and $4,000 and over, average durations are substantially longer for the unemployed disabled than for regular liability claimants

TABLE 18—STATE PLAN

1964 Claimants Receiving Basic Benefits Average Durations of Basic Benefits and Percentage Ratios of Female to Male Durations by Base Period Earnings of Less Than $4,000 and $4,000 and Over, Males and Females Within Employment Status

	Base period earnings under $4,000 Average duration (days)	Female duration as percent of male	Base period earnings of $4,000 and over Average duration (days)	Female duration as percent of male
Unemployed Disabled				
Males	79 1		70 8	
Females	81 6		73 3	
		103 1		103 5
Regular Liability				
Males	56 7		45 4	
Females	55 9		48 0	
		98 5		105 7

TABLE 19. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants, Basic Days Compensated and Average Duration by Number of Quarters Worked in Base Period; Base Period Earnings Under $4,000 and $4,000 and Over Within Sex and Employment Status

Average durations are computed on the basis of number of quarters worked in the base period, by wages and sex within employment status

In general, claimants having earnings in four quarters have lower average durations than do claimants having earnings in two or less quarters.

When sex, employment status, and number of quarters worked are held constant, claimants with base period earnings of $4,000 and over generally have lower durations than the $4,000 groups

Where employment status, number of quarters worked, and earnings are held constant, females generally have slightly longer durations than males

Where number of quarters worked, sex, and earnings are held constant, the unemployed disabled have significantly longer durations than do regular liability claimants

Except for the differences in average durations when claimants are classified by employment status, the differences in average durations are relatively slight and not always consistent A number of the classifications have too few claimants to be statistically reliable and therefore should be used with this important limitation in mind

TABLE 19. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants, Basic Days Compensated and Average Duration by Number of Quarters Worked in Base Period, Base Period Earnings under $4,000 and $4,000 and over Within Sex and Employment Status

	Base period earnings	Total number of claimants	One quarter	Days compensated	Average duration	At least two quarters	Days compensated	Average duration	At least three quarters	Days compensated	Average duration	Four quarters	Days compensated	Average duration
Unemployed Disabled														
Males	Under $4,000	16,030	1,680	137,655	81 9	7,485	620,450	82 9	5,240	383,220	73 1	1,625	126,205	77 7
	$4,000 and over	10,245	--	--	--	615	45,295	73 7	3,385	247,595	73 4	6,245	432,155	69 2
Females	Under $4,000	13,860	1,080	101,905	94 4	5,315	446,885	84 1	4,575	358,180	78 3	2,890	224,450	77 7
	$4,000 and over	2,070	10	310	31 0	55	4,970	90 4	310	21,170	68 3	1,695	125,215	73 9
Regular Liability														
Males	Under $4,000	55,025	5,110	265,580	52 0	19,575	1,158,575	59 2	18,405	1,023,405	55 6	11,935	673,990	56 5
	$4,000 and over	150,530	70	4,130	59 0	2,180	122,895	56 4	22,525	1,163,440	51 7	125,755	5,540,295	44.1
Females	Under $4,000	97,905	4,635	265,715	57 5	19,795	1,183,720	59 8	28,090	1,626,920	57 9	45,395	2,398,105	52 8
	$4,000 and over	52,710	10	1,005	100 5	260	16,865	64 7	3,560	194,655	54 7	48,880	2,319,005	47 4

TABLE 20

1964 Number of Workers in State Plan Employment During Last Quarter of Employment in 1964 Having Total Wages of $300 or More; Number of Claimants Receiving Basic Benefits; Ratio of Claimants to Workers, Distributed by Ratio of High Quarter Wages to Total Wages

The ratio of claimants receiving basic benefits to workers is lowest where the ratio of high-quarter wages to total wages is high This ratio rises as high-quarter wages as a percentage of total wages declines.

The above pattern applies for both males and females and for both those with wages of less than $4,000 and $4,000 and over

TABLE 20—1964

Number of Workers in State Plan Employment During Last Quarter of Employment in 1964 Having Total Wages of $300 or More, Number of Claimants Receiving Basic Benefits Ratio of Claimants to Workers, Distributed by Ratio of High Quarter Wages to Total Wages

(workers and claimants in thousands)

Workers and claimants	Ratio of high quarter wages to total wages				
	25–33%	34–49%	50–99%	100%	Total
Under $4,000					
Male workers	184 9	387 7	601 4	203 8	1,377 8
Male claimants	13 6	23 6	27 1	6 8	71 1
Claimants as percent of workers	7.4	6 1	4 5	3 3	5 2
Female workers	346 3	328 9	407 2	128 3	1,210 7
Female claimants	48 3	32 7	25 1	5 7	111 8
Claimants as percent of workers	13 9	9.9	6 2	4 4	9 2
$4,000 and over					
Male workers	1,607.8	342 6	54 1	4 3	2,008 8
Male claimants	132 0	25 9	2 8	0 07*	160 7
Claimants as percent of workers	7 8	7 6	5 2	1 6*	7 7
Female workers	429 0	35 9	3 4	0 9	469 2
Female claimants	50 6	3 9	0 3*	0 02*	54 8
Claimants as percent of workers	11 8	10 9	8 8*	2 2*	11 7
Under $4,000					
All workers	531.2	716 6	1,008 6	332 1	2,588 5
All claimants	61 9	56 3	52 2	12 5	182 9
Claimants as percent of workers	11 7	7 9	5 2	3 8	7 1
$4,000 and Over					
All workers	2,126 8	378 5	57 5	5 2	2,568 0
All claimants	182 6	29 8	3 1	0 1*	215 5
Claimants as percent of workers	8 6	7 9	5 4	1 9*	8 4
All male workers	1,882 7	730 3	655 5	208 1	3,476 6
All male claimants	145 6	49 5	29 9	6 9	231 9
Claimants as percent of workers	7 7	6 8	4 6	3 3	6 7
All female workers	775 3	364 8	410 6	129 2	1,679 9
All female claimants	98 9	36 6	25 4	5 7	166 6
Claimants as percent of workers	12 8	10 0	6 2	4 4	9 9
All workers	2,658 0	1,095 1	1,066 1	337 3	5,156 5
All claimants	244 4	86 1	55 3	12 6	398 4
Claimants as percent of workers	9 2	7 9	5 2	3.7	7.7

* The number of claimants is too small to be statistically reliable

TABLE 21

1964 State Plan Employment During Last Quarter of Employment of Workers With Annual Wages of $300 But Less Than $4,000, Number of Claimants Receiving Basic Benefits With Base Period Wages of Less Than $4,000, by Sex Within Age, Distributed by High Quarter Wages as Percent of Total Wages. Regular Liability Claimants as Percent of Workers, and Regular Liability and Unemployed Disabled Combined as Percent of Workers

For both male and female claimants, the ratio of claimants to workers rises as age increases, with the exception of the 65 and older group.

The ratio of claimants to workers for females is higher by a substantial margin than the ratio of males, 9.3 percent for females as compared with 5 2 percent for males

NOTE· Claimant totals in this table for some classifications may differ slightly from those shown in other tables due to independent rounding to the nearest 100 claimants for each age category.

TABLE 21—1964

State Plan Employment During Last Quarter of Employment of Workers With Annual Wages of $300 But Less Than $4,000, Number of Claimants Receiving Basic Benefits With Base Period Wages of Less Than $4,000, by Sex Within Age, Distributed by High Quarter Wages as Percent of Total Wages. Regular Liability Claimants as Percent of Workers, and Regular Liability and Unemployed Disabled Combined as Percent of Workers

(workers and claimants in thousands)

Age and sex	High quarter wages as percent of total wages				
	25%-33%	34%-49%	50%-99%	100%	Total
Under 25					
Male workers	57 3	155 5	255 2	64 2	532 2
Regular liability claimants	2 3	4 4	4 7	1 0	12 4
Claimants as percent of workers	4 0%	2 8%	1 8%	1 6%	2 3%
Unemployed disabled claimants	3	7	.8	.1	1 9
All claimants as percent of workers	4 5%	3 3%	2 2%	1 7%	2 7%
Female workers	62 4	94 0	148 8	41 8	347 0
Regular liability claimants	3 5	3 1	3 1	8	10 5
Claimants as percent of workers	5 6%	3 3%	2 1%	1 9%	1 0%
Unemployed disabled claimants	3	4	4	1	1 2
All claimants as percent of workers	6 1%	3 7%	2 4%	2 2%	3 4%
25 to 44					
Male workers	58 3	140 5	211 5	86 0	496 3
Regular liability claimants	3 2	6 4	7 3	2 2	19 1
Claimants as percent of workers	5 5%	4 6%	3 5%	2 6%	3 8%
Unemployed disabled claimants	5	1 9	2 7	7	5 8
All claimants as percent of workers	6 3%	5 9%	4 7%	3 4%	5 0%
Female workers	139 3	138 1	168 8	56 4	502 6
Regular liability claimants	19 1	13 9	10 1	2 6	45 7
Claimants as percent of workers	13 7%	10 1%	6 0%	4 6%	9 1%
Unemployed disabled claimants	1 3	2 0	2 2	5	6 0
All claimants as percent of workers	14 6%	11 5%	7 3%	5 5%	10 3%
45 to 54					
Male workers	25 3	42 8	68 4	23 8	160 3
Regular liability claimants	1 8	3 4	3 5	1 0	9 8
Claimants as percent of workers	7 1%	7 9%	5 3%	4 2%	6 1%
Unemployed disabled claimants	3	1 2	1 8	4	3 7
All claimants as percent of workers	8 3%	10 7%	7 9%	5 9%	8 4%
Female workers	82 3	61 7	53 4	17.1	214 5
Regular liability claimants	13 6	7 0	4 0	8	25 4
Claimants as percent of workers	16 5%	11 3%	7 5%	4 7%	11 8%
Unemployed disabled claimants	8	1 3	1 5	3	3 9
All claimants as percent of workers	17 5%	13 5%	10 3%	6 4%	13 7%
55 to 64					
Male workers	26 8	36 1	44 0	19 3	126 2
Regular liability claimants	3 1	3 2	3 1	7	10 1
Claimants as percent of workers	11 6%	8 9%	7 0%	3 6%	8 0%
Unemployed disabled claimants	4	1 0	1 5	3	3 2
All claimants as percent of workers	13 1%	11 6%	10 5%	5 2%	10 5%
Female workers	51 0	25 6	26 3	7 2	110 1
Regular liability claimants	7 6	3 3	2 2	*4	13 5
Claimants as percent of workers	14 9%	12 9%	8 4%	*5 6%	12 3%
Unemployed disabled claimants	5	7	1 0	2	2 4
All claimants as percent of workers	15 9%	15 6%	12 2%	8 3%	14 4%
65 and over					
Male workers	17 2	12 8	22 3	10 5	62 8
Regular liability claimants	1 6	9	9	*2	3 6
Claimants as percent of workers	9 3%	7 0%	4 0%	*1 9%	5.7%
Unemployed disabled claimants	2	4	.6	*.2	1 4
All claimants as percent of workers	10.5%	10 2%	6.7%	*2.8%	8.0%

TABLE 21—1964—*Continued*
(workers and claimants in thousands)

Age and sex	High quarter wages as percent of total wages				
	25%–33%	34%–49%	50%–99%	100%	Total
Female workers	11 3	9 5	9 9	5 8	36 5
Regular liability claimants	1 6	8	* 4	* 1	2 9
Claimants as percent of workers	14 2%	8 4%	*4 0%	*1 7%	7 9%
Unemployed disabled claimants	2	2	3		7
All claimants as percent of workers	15 9%	10 5%	7 1%	*1 7%	9 9%
All male workers	184 9	387 7	601 4	203 8	1 377 8
Regular liability claimants	12 0	18 3	19 6	5 1	55 0
Claimants as percent of workers	6 5%	4 7%	3 3%	2 5%	4 0%
Unemployed disabled claimants	1 7	5 2	7 4	1 7	16 0
All claimants as percent of workers	7 4%	6 1%	4 5%	3 3%	5 2%
All female workers	346 3	328 9	407 2	128 3	1,210 7
Regular liability claimants	45 4	28 1	19 8	4 7	98 0
Claimants as percent of workers	13 1%	8 5%	4 9%	3 7%	8 1%
Unemployed disabled claimants	3 1	4 6	5 4	1 1	14 2
All claimants as percent of workers	14 0%	9 9%	6 2%	4 5%	9 3%
Totals					
Workers	531 2	716 6	1,008 6	332 1	2,588 5
Regular liability claimants	57 4	46 4	39 4	9 8	153 0
Claimants as percent of workers	10 8%	6 5%	3 9%	3 0%	5 9%
Unemployed disabled claimants	4 8	9 8	12 8	2 8	30 2
All claimants as percent of workers	11 7%	7 8%	5 2%	3 8%	7 1%

* The number of claimants is too small to be statistically reliable

TABLE 22

1964 State Plan Employment During Last Quarter of Employment of Workers With Annual Wages of $4,000 and Over, Number of Claimants Receiving Basic Benefits With Base Period Wages of $4,000 and Over, by Sex Within Age, Distributed by High Quarter Wages as Percent of Total Wages. Regular Liability Claimants as Percent of Workers, and Regular Liability and Unemployed Disabled Combined as Percent of Workers

The ratio of claimants to workers for females is 11.7 percent and is 7 2 percent for males

The ratio of claimants to workers increases substantially as age increases; the rate of increase being considerably higher for males than for females

Workers with a high proportion of base period wages in one quarter have a considerably lower filing rate than do workers with a low proportion of total base period wages in one quarter

NOTE: Claimant totals may differ slightly for some classifications from those shown in other tables due to independent rounding to nearest one hundred claimants for each age category.

TABLE 22—1964

State Plan Employment During Last Quarter of Employment of Workers With Annual Wages of $4,000 and Over, Number of Claimants Receiving Basic Benefits With Base Period Wages of $4,000 and Over, by Sex Within Age, Distributed by High Quarter Wages as Percent of Total Wages Regular Liability Claimants as Percent of Workers, and Regular Liability and Unemployed Disabled Combined as Percent of Workers

(workers and claimants in thousands)

Age and sex	High quarter wages as percent of total wages				
	25%–33%	34%–49%	50%–99%	100%	Total
Under 25					
Male workers	142 1	34 3	4 0	* 1	180 5
Regular liability claimants	6 4	1 2	* 06	--	7 7
Claimants as percent of workers	4 5%	3 5%	1 5%	--	4 3%
Unemployed disabled claimants	3	1	* 01	--	4
All claimants as percent of workers	4 7%	3 8%	*1 8%	--	4 5%
Female workers	47 3	1 9	* 5	--	49 7
Regular liability claimants	2 3	* 2	* 01	--	2 5
Claimants as percent of workers	4 9%	*10 5%	*2 0%	--	5 0%
Unemployed disabled claimants	1	* 01	--	--	1
All claimants as percent of workers	5 1%	*10 5%	*2 0%	--	5 2%
25 to 44					
Male workers	937 8	184 7	28 5	1 1	1,152 1
Regular liability claimants	53 8	9 5	1 0	* 03	64 2
Claimants as percent of workers	5 7%	5 1%	3 5%	*2 7%	5 6%
Unemployed disabled	2 4	1 1	2	--	3 7
All claimants as percent of workers	6 0%	5 7%	4 2%	*2 7%	5 9%
Female workers	206 8	17 8	9	* 1	225 6
Regular liability claimants	23 8	1 7	* 1	--	25 6
Claimants as percent of workers	11 5%	9 6%	*11 1%	--	11 3%
Unemployed disabled claimants	8	1	* 03	* 01	9
All claimants as percent of workers	11 9%	10 1%	*14 4%	--	11 7%
45 to 54					
Male workers	382 1	74 0	13 0	1 8	470 9
Regular liability claimants	33 9	6 4	6	* 03	40 9
Claimants as percent of workers	8 9%	8 6%	4 6%	*1 7%	8 7%
Unemployed disabled claimants	1 7	1 0	2	--	2 9
All claimants as percent of workers	9 3%	10 0%	6 2%	*1 7%	9 3%
Female workers	111 3	11 0	1 3	* 5	124 1
Regular liability claimants	14 7	1 0	* 08	* 01	15 8
Claimants as percent of workers	13 2%	9 1%	6 2%	*2 0%	12 7%
Unemployed disabled claimants	5	1	* 02	--	6
All claimants as percent of workers	13 7%	10 0%	*7 7%	*2 0%	13 2%
55 to 64					
Male workers	209 2	42 2	7 0	6	259 0
Regular liability claimants	26 9	4 8	* 4	* 02	32 1
Claimants as percent of workers	12 9%	11 4%	*5 7%	*3 3%	12 4%
Unemployed disabled claimants	1 3	9	* 1	--	2 3
All claimants as percent of workers	13 5%	13 5%	*7 1%	*3 3%	13 3%
Female workers	56 9	4 5	8	* 1	62 1
Regular liability claimants	7 3	6	* 07	* 01	8 0
Claimants as percent of workers	12 8%	13 3%	*11 7%	*10 0%	12 9%
Unemployed disabled claimants	2	1	* 01	--	3
All claimants as percent of workers	13 2%	15 6%	*13 3%	*10 0%	13 4%
65 and over					
Male workers	26 5	7 4	1 5	7	36 3
Regular liability claimants	4 9	7	* 1	* 01	5 7
Claimants as percent of workers	18 4%	9 3%	*6 3%	*14 2%	15 7%
Unemployed disabled claimants	5	3	* 1	--	9
All claimants as percent of workers	20 3%	13 5%	*12 5%	*14.2%	18 2%

TABLE 22—1964—Continued

(workers and claimants in thousands)

Age and sex	High quarter wages as percent of total wages				
	25%–33%	34%–49%	50%–99%	100%	Total
Female workers	6 7	7	* 1	* 2	7 7
Regular liability claimants	8	* 1	* 02	--	9
Claimants as percent of workers	11 9%	*14 3%	*20 0%	--	11 7%
Unemployed disabled claimants	1	* 02	* 01	* 01	1
All claimants as percent of workers	13 4%	*17 1%	*30 0%	*5 0%	13 0%
All male workers	1,697 3	342 6	54 1	4 3	2,098 8
Regular liability claimants	125 9	22 6	2 2	* 07	150 8
Claimants as percent of workers	7 4%	6 0%	4 1%	*1 6%	7 2%
Unemployed disabled claimants	6 2	3 4	6	--	10 2
All claimants as percent of workers	7 8%	7 6%	5 2%	*1 6%	7 7%
All female workers	429 0	35 9	3 4	9	469 2
Regular liability claimants	48 9	3 6	* 3	* 02	52 8
Claimants as percent of workers	11 4%	10 0%	*8 8%	*2 2%	11 3%
Unemployed disabled claimants	1 7	3	* 07	*0 1	2 1
All claimants as percent of workers	11 8%	10 9%	*8 8%	*2 2%	11 7%
Totals					
Workers	2,126 8	378 5	57 5	5 2	2,568 0
Regular liability claimants	174 8	26 2	2 5	* 1	203 6
Claimants as percent of workers	8 2%	6 9%	4 3%	*1 9%	7 9%
Unemployed disabled claimants	7 9	3 7	7	* 01	12 5
All claimants as percent of workers	8 6%	7 9%	5 6%	*2 1%	8 4%

* Number of workers and claimants is too small to be statistically valid.

TABLE 23. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants by Percent of High Quarter to Base Period Earnings, Amount of Basic Benefits Paid and Average Amount Per Claimant; by Earnings and Sex Within Employment Status

Claimants having 34–49 percent of their base period wages in one quarter receive the highest average amount of basic benefits per claimant This is true for both those with base period wages of under $4,000 and $4,000 and over.

When classified by sex, claimants with 34–49 percent of their base period wages in one quarter have the highest average amount of basic benefits per claimant.

For all claimants, the average basic benefit amount per claimant is $405, and for each ratio of high quarter to base period wages the average amount is close to this figure, except for claimants with all their base period wages in one quarter The average amount for this group is $345.

TABLE 23—STATE PLAN

1964 Claimants Receiving Basic Benefits Number of Claimants by Percent of High Quarter to Base Period Earnings, Amount of Basic Benefits Paid and Average Amount Per Claimant, by Earnings and Sex Within Employment Status

(claimants and benefits in thousands)

	Percent of high quarter to base period earnings				
	25-33	34-49	50-99	100	Total
Unemployed Disabled					
Under $4,000					
Males	1 6	5 2	7 5	1 7	16 0
Basic benefits	$726 7	$2 489 9	$4,150 8	$854 8	$8,222 2
Average per claimant	$454	$479	$553	$503	$514
Females	2 9	4 6	5 3	1 1	13 9
Basic benefits	1,197 7	1,955 2	2,339 5	539 7	6,026 1
Average per claimant	$413	$425	$440	$491	$434
$4,000 and over					
Males	6 2	3 4	0 6	--	10 2
Basic benefits	4,332 2	2,578 0	481 2	--	7,391 4
Average per claimant	$699	$758	$802		$725
Females	1 7	*0 3	*0 00	*0 01	2 1
Basic benefits	1,095 7	205 7	44 7	3 4	1,349 5
Average per claimant	$645	*$686	*$745	*$340	$643
Regular Liability					
Under $4,000					
Males	11 0	18 4	19 6	5 1	55 0
Basic benefits	3 752 1	6,693 8	7,758 8	1,641 2	19,845 9
Average per claimant	$315	$364	$396	$322	$361
Females	45 4	28 1	19 8	4 6	97 9
Basic benefits	12,986 4	9,165 9	6,270 3	1,250 8	29,673 4
Average per claimant	$286	$326	$317	$272	$303
$4,000 and over					
Males	125 8	22 5	2 2	*0 07	150 6
Basic benefits	53,984 8	11,356 6	1,208 7	43 1	66,593 2
Average per claimant	$429	$505	$549	*$616	$442
Females	48 9	3 5	*0 3	*0 01	52 8
Basic benefits	20,358 7	1,905 9	138 6	11 1	22,414 3
Average per claimant	$416	$539	*$462	*$1,110	$425
Unemployed disabled					
Males	7 8	8 5	8 1	1 7	26 2
Basic benefits	5,058 9	5,067 9	4,632 0	854 8	15,613 6
Average per claimant	$649	$589	$572	$503	$596
Females	4 6	4 9	5 4	1 1	16 0
Basic benefits	2,293 4	2,160 9	2,378 2	543 1	7,375 5
Average per claimant	$499	$441	$440	$494	$461
Under $4,000					
Claimants	4 5	9 8	12 8	2 8	29 9
Basic benefits	1,924 4	4,445 1	6,434 3	1,394 5	14,248 3
Average per claimant	$428	$454	$507	$498	$477
$4,000 and over					
Claimants	7 9	3 7	0 7	*0 01	12 3
Basic benefits	5,427 9	2,783 7	525 9	3 4	8,740 9
Average per claimant	$687	$752	$751	*$340	$711
Regular liability					
Males	137 7	40 9	21 8	5 2	205 6
Basic benefits	57,736 9	18,050 4	8,967 5	1,684 3	86,439 1
Average per claimant	$419	$441	$411	$324	$420
Females	94 3	31 7	20 1	4 6	150 7
Basic benefits	33,345 1	11,071 8	6,408 9	1,261 9	52,087 7
Average per claimant	$354	$349	$319	$274	$346
Under $4,000					
Claimants	57 3	46 5	39 4	9 7	153 9
Basic benefits	16,738 5	15,859 7	14,029 1	2,892 0	49,519 3
Average per claimant	$292	$341	$356	$298	$324

TABLE 23—STATE PLAN—*Continued*

(claimants and benefits in thousands)

	Percent of high quarter to base period earnings				
	25–33	34–49	50–99	100	Total
$4,000 and over					
Claimants	174 7	26 1	2 5	*0 1	203 4
Basic benefits	74,343 5	13 262 5	1,347 3	54 2	89,007 5
Average per claimant	$426	$508	$539	*$542	$438
All Claimants					
Under $4,000					
Males	13 5	23 6	27 1	6 8	71 0
Basic benefits	4 478 8	9,183 7	11,909 6	2,496 0	28,068 1
Average per claimant	$332	$389	$439	$367	$395
Females	48 3	32 7	25 1	5 7	111 8
Basic benefits	14,184 1	11,121 1	8,603 8	1,790 5	35,699 5
Average per claimant	$294	$340	$343	$314	$319
$4,000 and over					
Males	132 0	25 9	2 8	*0 1	160 8
Basic benefits	58,317 0	13,934 6	1,689 9	43 1	73,984 6
Average per claimant	$442	$538	$604	*$431	$460
Females	50 6	3 9	*0 4	*0 02	54 9
Basic benefits	21 454 4	2,111 6	183 3	14 5	23,763 8
Average per claimant	$424	$541	*$458	*$725	$433
Under $4,000					
Claimants	61 8	56 3	52 2	12 5	182 8
Basic benefits	18,662 9	20,304 8	20,513 4	4,286 5	63 767 6
Average per claimant	$302	$361	$393	$343	$349
$4,000 and over					
Claimants	182 6	29 8	3 2	*0 1	215 7
Basic benefits	79,771 4	16,046 2	1,873 2	57 6	97,748 4
Average per claimant	$437	$538	$585	*$576	$453
All males	145 5	49 5	29 9	6 9	231 8
Basic benefits	62,795 8	33,118 3	13,599 5	2,539 1	102,052 7
Average per claimant	$432	$467	$455	$368	$440
All females	98 9	36 6	25 4	5 7	166 6
Basic benefits	35,638 5	13,232 7	8,787 1	1,805 0	59,463 3
Average per claimant	$360	$362	$346	$317	$357
All claimants	244 4	86 1	55 3	12 6	398 4
Basic benefits	98,434 3	36,351 0	22,386 6	4,344 1	161,516 0
Average per claimant	$403	$422	$405	$345	$405

* Number of claimants is too small to be statistically valid

TABLE 24. STATE PLAN

1964 Claimants Receiving Basic Benefits: Number of Claimants by Percent of High Quarter to Base Period Wages, Number of Basic Benefit Days Compensated and Average Number of Basic Benefit Days Per Claimant; by Sex and Base Period Wages Within Employment Status

For all claimants, those having 50–99 percent of their base period wages in one quarter had the highest average days compensated per claimant.

The average days compensated per claimant was 47 5 for claimants with base period wages of $4,000 and over, and was 60.2 days for the under $4,000 group

The average days compensated for all males was 51 5 days, and for females it was 55.8 days

TABLE 24—STATE PLAN

1964 Claimants Receiving Basic Benefits Number of Claimants by Percent of High Quarter to Base Period Wages, Number of Basic Benefit Days Compensated and Average Number of Basic Benefit Days per Claimant, by Sex and Base Period Wages Within Employment Status

(Claimants and basic days compensated in thousands)

	High quarter wages as percent of total wages				
	25%–33%	34%–49%	50%–99%	100%	Total
Unemployed Disabled					
Under $4,000					
Males	1 6	5 2	7 5	1 7	16 0
Days compensated	126 2	383 2	620 5	137 7	1,267 6
Average per claimant	78 9	73 7	82 7	81 0	79 2
Females	2 9	4 6	5 3	1 1	13 9
Days compensated	224 5	358 2	446 9	101 9	1,131 5
Average per claimant	77 4	77 9	84 3	92 6	81 4
$4,000 and over					
Males	6 2	3 4	0 6	--	10 2
Days compensated	432 2	247 6	45 3	--	725 1
Average per claimant	69 7	72 8	75 5	--	71 1
Females	1 7	*0 3	*0 06	*0 01	2 1
Days compensated	125 2	21 2	5 0	*0 3	151 7
Average per claimant	73 6	*70 7	*83 3	*30 0	72 2
Regular Liability					
Under $4,000					
Males	11 9	18 4	19 6	5 1	55 0
Days compensated	674 0	1,023 4	1,159 5	265 6	3,122 5
Average per claimant	56 6	55 6	59 2	52 1	56 8
Females	45 4	28 1	19 8	4 6	97 9
Days compensated	2,398 1	1,626 9	1,183 7	265 7	5,474 4
Average per claimant	53 8	57 9	59 8	57 8	55 9
$4,000 and over					
Males	125 8	22 5	2 2	*0 07	150 6
Days compensated	5,540 3	1,163 4	122 0	4 1	6,829 8
Average per claimant	44 0	51 7	55 5	*58 6	45 4
Females	48 9	3 6	*0 3	*0 01	52 8
Days compensated	2,319 0	194 7	18 9	1 0	2,531 6
Average per claimant	47 4	54 1	*56 3	*100 0	47 9
Unemployed Disabled					
Males	7 8	8 6	8 1	1 7	26 2
Days compensated	558 4	630 8	665 8	137 7	1,992 7
Average per claimant	71 6	73 3	82 2	81 0	76 1
Females	4 6	4 9	5 4	1 1	16 0
Days compensated	349 7	379 4	451 9	102 2	1,283 2
Average per claimant	76 0	77 4	83 7	92 9	80 2
Under $4,000					
Claimants	4 5	9 8	12 8	2 8	29 9
Days compensated	350 7	741 4	1,067 4	239 6	2,399 1
Average per claimant	77 9	75 7	83 4	85 5	80 2
$4,000 and over					
Claimants	7 9	3 7	0 7	*0 01	12 3
Days compensated	557 4	268 5	50 3	*0 3	876 8
Average per claimant	70 6	72 6	71 9	*30 0	71 3
Regular Liability					
Males	137 7	40 9	21 8	5 2	205 6
Days compensated	6,314 3	2,186 8	1,281 5	266 7	9,952 3
Average per claimant	45 1	53 5	58 8	51 9	48 4
Females	94 3	31 7	20 1	4 6	150 7
Days compensated	4,717 1	1,821 6	1,200 6	266 7	8,006 0
Average per claimant	50 0	57 5	59 7	58 0	53 1
Under $4,000					
Claimants	57 3	46 5	39 4	9 7	152 9
Days compensated	3,072 1	2,630 3	2,343 2	531 3	8,596 9
Average per claimant	53 6	57 0	59 5	54 8	56 2

TABLE 24—STATE PLAN—Continued

(Claimants and basic days compensated in thousands)

	High quarter wages as percent of total wages				
	25%-33%	34%-49%	50%-99%	100%	Total
$4,000 and over					
Claimants	174 7	26 1	2 5	*0 1	203 4
Days compensated	7,859 3	1,358 1	138 9	5 1	9,301 4
Average per claimant	45 0	52 0	55 6	*51 0	46 0
All Claimants					
Under $4,000					
Males	13 5	23 6	27 1	6 8	71 0
Days compensated	800 2	1,406 6	1,780 0	403 3	4,390 1
Average per claimant	59 3	59 6	65 7	59 3	61 8
Females	48 3	32 7	25 1	5 7	111 8
Days compensated	2,622 6	1,985 1	1,630 6	367 6	6,605 9
Average per claimant	54 3	60 7	65 0	64 5	59 1
$4,000 and over					
Males	132.0	25 9	2 8	*0 1	160 8
Days compensated	5,972 5	1,411 0	167 3	4 1	7,554 9
Average per claimant	45 2	54 5	59 8	*41 0	47 0
Females	50 6	3 9	*0 4	*0 02	54 9
Days compensated	2,444 2	215 9	21 9	1 3	2,683 3
Average per claimant	48 3	55 4	*54 8	*65 0	48 9
Under $4,000					
Claimants	61 8	56 3	52 2	12 5	182 8
Days compensated	3,422 8	3,391 7	3,410 6	770 9	10,996 0
Average per claimant	55 4	60 2	65 3	61 7	60 2
$4,000 and over					
Claimants	182 6	29 8	3 2	*0 1	215 7
Days compensated	8,416 7	1,626 9	189 2	5 4	10,238 2
Average per claimant	46 1	54 6	59 1	*54 0	47 5
All males	145 5	49 5	29 9	6 9	231 8
Days compensated	6,772 7	2,817 6	1,947 3	407 4	11,945 0
Average per claimant	46.5	56 9	65 1	59 0	51 5
All females	98 9	36 6	25 4	5 7	166 6
Days compensated	5,066 8	2,201 0	1,652 5	368 0	9,289 2
Average per claimant	51 2	60 1	65 1	64 7	55 8
All claimants	244 4	86 1	55 3	12 6	398 4
Days compensated	11,839 5	5,018 6	3,599 8	776 3	21,234 2
Average per claimant	48 4	58 3	65 1	61 6	53 3

* The number of claimants is too small to be statistically reliable

TABLE 25

Average California Civilian Labor Force and Unemployment Rate 1956–1965

Over the 10-year period the Unemployment Rate index has risen by 74 points, reaching a high in 1961 of 203

In absolute terms, the number of unemployed has more than doubled, from 188 thousand in 1956 to 429 thousand in 1965

The average number of employed has risen from approximately 5 4 million in 1956 to 6 8 million in 1965.

TABLE 25

Average California Civilian Labor Force and Unemployment Rate—1956–1965

(in thousands)

Year	Average civilian labor force			Unemployment rate, percent	Index (1956=100)
	Total	Employed	Unemployed		
1	2	3	4	5	6
1956	R5,566	R5,378	188	3 4	100
1957	R5,797	R5,554	243	4 2	124
1958	R5,904	R5,526	377	6 4	188
1959	R6,104	R5 812	292	4 8	141
1960	R6,299	R5,933	367	5 8	171
1961	R6,481	R5,936	446	6 9	203
1962	R6,651	R6,262	389	5 8	171
1963	R6,860	R6,449	411	6 0	175
1964	R7,062	R6,640	422	6 0	176
1965F	7,262	6,833	429	5 9	174

R Revised
F Preliminary
SOURCE Report of the Actuaries, 1965, Appendix Table 1

EXHIBIT 1

CALIFORNIA LEGISLATURE
JOINT COMMITTEE ON UNEMPLOYMENT
COMPENSATION DISABILITY INSURANCE

As you may know, the 1965 General Session of the California Legislature, by the adoption of Assembly Concurrent Resolution No. 45, created a Joint Legislative Committee on Unemployment Compensation Disability Insurance and charged it with the responsibility of making a thorough study of this program One of the areas in which the Joint Committee is interested is what modifications, if any, were made in employers' wage and salary continuance programs or practices about the time (the end of 1962) the new adverse selection regulations became effective, resulting in a mass cancellation of insured voluntary plans

According to Department of Employment records your organization's employees now are covered for disability insurance purposes in the State Plan, rather than by an insured voluntary plan. The area we want to explore is whether this shift from insured voluntary plan to State Plan coverage brought about any modification in your organization's policies or practices relative to paying either full or partial wages or salaries to employees who are off work because of nonoccupational illness or a nonindustrial injury. We also are interested in the reasons for any modifications you may have made

Some employers paid employees disabled due to a nonoccupational illness or injury regular wages or salary for a limited period of time, generally related to the employee's length of service Other employers did this only for certain employees in their organization, those at the supervisorial level and above Still other employers paid wages or salary amounting to the difference between the employee's regular wages or salary and the amount the employee received from disability insurance; for example: employee's weekly salary $100, weekly disability benefit $60; weekly wages or salary paid while disabled $40.

We realize the above descriptions do not cover all the arrangements which were, or are, in effect. We think, however, the attached questionnaire not only will provide considerable information on this aspect of the interrelationships between wage and salary continuation programs and practices and the disability insurance program, but also will indicate the effects, if any, of the shift in coverage from insured voluntary plans to the State Plan upon wage and salary continuation policies and practices of employers.

Ample space is provided in the questionnaire for such narrative comments as you may care to make We realize this is a somewhat complex area and that narrative comment or explanation may be necessary to give an accurate account of what has happened and why Please feel welcome to make such use of narrative comment as you see fit and necessary.

All information provided will be treated as confidential No organization will be identified in the Joint Committee report. We solicit your

cooperation and welcome any comments you may have regarding the questionnaire and the intent of the questions asked.

Cordially,

JOHN K HISLOP
Committee Consultant

Please return to John K Hislop Consultant
Joint Committee on Unemployment
Compensation Disability Insurance
Institute of Industrial Relations
206 California Hall
University of California
Berkeley, California 94720

QUESTIONNAIRE

1 At about the time disability insurance coverage for your employees was changed from an insured voluntary plan to the State Plan, did your organization make any modifications in its wage and salary continuation policies or practices?
YES ---- NO ----

If "NO," describe your organization's wage and salary continuation policies or practices at that time

If "YES," what were your organization's policies or practices when your employees were covered by an insured voluntary plan, and what changes were made when your employees became covered by the State Plan?

NOTE Please indicate whether these policies or practices apply to all your employees or to only a portion of them. If to only a portion, roughly what percent.

2 If your organization modified its wage and salary continuation policies or practices about the time your employees became covered by the State Plan, please indicate the reasons these changes were made

Additional comments:

State of California
Department of Employment
Report 364 No 22 2

Research and Statistics
November 22, 1966

Characteristics of Workers with Earnings in State Plan Employment 1964

(Prepared for the Joint Committee on Unemployment Compensation Disability Insurance)

The accompanying tables present certain characteristics of workers of known age and sex who were in State Plan insured employment during their last quarter of employment The assignment to type of coverage—State Plan or voluntary plan—is based on the first wage item in the final quarter of reported earnings

This report is expanded from a 1 percent sample of workers who had insured earnings during calendar year 1964

The tabulations utilized in compiling this report contained 31 more sample workers with last employment under State Plan than the tabulations which formed the basis of Report 364 No 22 1, Table 4, and Report 364 No 22, Table 3 The difference may be attributed to the fact that the aforementioned reports specify that race be known along with age and sex

The differences between these reports are so minor that they would not affect the interpretation of the data

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1

Total Men[1] in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%-33%	34%-49%	50%-99%	100%
Total	3,893 0	1,884 0	737 7	764 4	506 9
Under $300	416 4	1 3	7 4	108 9	298 8
$300-$599	217 4	2 8	16 8	111 5	86 3
600-999	222 7	8 7	24 8	129 1	55 1
1,000-1,499	223 7	16 8	50 6	123 4	32 0
1,500-1 999	173 8	16 0	52 9	88 6	16 3
2,000-2,499	143 7	20 6	59 4	56 1	7 6
2,500-2,999	135 0	27 9	59 4	44 9	2 8
3 000-3 499	136 4	44 6	62 5	30 1	2 0
3,500-3 999	125 1	50 3	56 3	17 7	0 8
4,000-4,499	129 5	64 1	52 9	12 3	0 2
4 500-4,999	139 9	82 3	47 5	9 5	0 5
5,000-5 499	145 1	101 8	36 2	6 3	0 9
5,500-5,999	151 5	116 5	33 9	4 0	0 1
6,000-6,499	157 0	134 5	23 3	3 4	0 8
6,500-6,999	169 9	145 4	21 2	2 9	0 4
7,000-7,499	170 0	158 7	20 0	1 2	0 1
7 500-7,999	150 3	135 4	13 4	1 2	0 3
8,000-8,499	138 1	125 3	10 0	0 6	0 2
8,500-8,999	121 2	109 6	10 4	1 2	0 0
9,000-9,499	97 7	90 9	6 2	0 6	0 0
9,500-9,999	82 6	75 3	6 5	0 9	0 0
10,000 and over	433 1	368 1	54 1	10 1	0 8

[1] Excludes men of unknown age
SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 2

Men Under 25 in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	924 6	199 7	103 0	323 6	208 3
Under $300	211 9	0 3	3 2	64 4	144 0
$300–599	108 9	0 9	9 7	62 6	35 7
600–899	103 7	3 5	14 5	67 9	17 8
1,000–1,499	95 7	4 2	25 3	57 8	8 4
1,500–1,999	67 5	6 1	25 6	34 0	1 8
2 000–2,499	49 1	6 7	26 3	15 8	0 3
2,500–2,999	40 7	9 9	20 1	10 6	0 1
3,000–3,499	34 9	11 9	18 4	4 5	0 1
3,500–3 999	31 7	14 1	15 6	2 0	0 0
4,000–4,499	30 5	17 4	11 9	1 2	0 0
4,500–4,999	27 5	18 8	7 7	1 0	0 0
5,000–5,499	28 6	22 7	5 4	0 5	0 0
5,500–5,999	21 4	18 1	3 2	0 1	0 0
6,000–6 499	20 2	17 8	2 2	0 2	0 0
6,500–6,999	16 0	14 1	1 5	0 4	0 0
7 000–7,499	9 9	8 8	0 9	0 1	0 1
7,500–7,999	8 6	8 1	0 5	0 0	0 0
8 000–8,499	5 7	5 3	0 4	0 0	0 0
8,500–8,999	4 3	3 8	0 4	0 1	0 0
9,000–9,499	2 7	2 7	0 0	0 0	0 0
9,500–9,999	2 3	2 2	0 0	0 1	0 0
10,000 and over	2 8	2 3	0 2	0 3	0 0

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 3

Men 25–44 in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	1,772 9	996 6	327 1	265 0	183 3
Under $300	134 5	0 5	1 9	25 0	96 2
$300–599	95 2	0 5	4 2	28 6	31 9
600–999	87 3	1 3	7 0	34 5	24 5
1,000–1,499	99 8	2 4	13 3	39 9	13 2
1,500–1 999	92 6	3 5	15 1	35 4	8 6
2,000–2,499	56 4	5 4	20 2	26 2	4 6
2,500–2 999	60 3	9 9	26 0	22 9	1 5
3,000–3,499	59 8	14 6	28 7	15 2	1 3
3,500–3 999	54 9	19 7	26 0	8 8	0 4
4,000–4 499	61 0	28 3	25 0	7 5	0 2
4,500–4,999	66 3	36 6	24 0	5 6	0 1
5,000–5 499	70 2	46 1	20 4	3 4	0 3
5,500–5 999	80 4	57 9	20 5	1 9	0 1
6,000–6,499	90 9	72 3	16 8	1 6	0 2
6,500–6,999	92 2	80 2	10 6	1 4	0 0
7 000–7,499	92 8	81 8	10 2	0 8	0 0
7 500–7 999	88 9	80 2	8 2	0 4	0 1
8,000–8,499	82 8	75 6	6 9	0 3	0 0
8 500–8 999	71 2	64 9	5 7	0 6	0 0
9 000–9,499	58 2	54 1	3 7	0 4	0 0
9 500–9,999	49 2	44 2	4 4	0 6	0 0
10,000 and over	248 0	215 6	28 3	4 0	0 1

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 4

Men 45–54 in State Plan Employment During Last Quarter of Employment in 1964
Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	667 1	407 6	117 8	90 5	51 2
Under $300	35 9	0 2	1 0	0 1	25 6
$300–$599	18 2	0 2	1 4	8 4	8 2
600–999	23 0	0 9	3 9	12 9	6 3
1,000–1,499	22 2	1 3	3 7	12 3	4 9
1,500–1,999	21 5	2 4	5 5	11 0	2 6
2,000–2,499	18 3	1 3	6 7	7 6	0 7
2,500–2,999	17 5	3 8	6 3	6 8	0 6
3,000–3,499	20 5	5 9	9 0	5 3	0 3
3,500–3,999	19 1	7 5	7 3	4 1	0 2
4,000–4,499	20 3	9 1	8 5	2 6	0 0
4,500–4,999	24 0	11 7	10 3	1 9	0 1
5,000–5,499	22 5	15 1	5 6	1 3	0 5
5,500–5,999	29 4	23 0	5 4	1 0	0 0
6,000–6,499	31 0	23 9	6 0	0 8	0 3
6,500–6,999	36 8	29 9	6 1	0 6	0 2
7,000–7,499	41 7	36 6	4 9	0 2	0 0
7,500–7,999	32 0	28 9	2 3	0 7	0 1
8,000–8,499	31 8	25 8	2 8	0 1	0 1
8,500–8,999	31 8	28 6	2 9	0 3	0 0
9,000–9,499	24 7	23 1	1 5	0 1	0 0
9,500–9,999	22 1	20 5	1 5	0 1	0 0
10,000 and over	122 9	102 9	16 2	3 3	0 5

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 5

Men 55–64 in State Plan Employment During Last Quarter of Employment in 1964
Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	409 9	236 1	79 2	56 4	38 2
Under $300	24 7	0 1	0 9	5 4	18 3
$300–$599	13 6	0 3	0 7	5 0	6 6
600–999	16 7	0 9	2 9	8 3	4 6
1 000–1,499	18 9	1 7	5 1	8 6	3 5
1,500–1,999	16 4	2 5	5 1	6 4	2 4
2,000–2,499	15 2	3 7	4 9	5 2	1 4
2,500–2,999	12 8	3 4	5 5	3 6	0 3
3,000–3,499	16 0	7 1	5 8	3 7	0 3
3 500–3 999	15 7	7 2	6 1	2 2	0 2
4 000–4 499	14 8	7 9	6 2	0 7	0 0
4 500–4,999	17 4	11 8	4 5	0 9	0 2
5,000–5 499	20 5	15 4	4 3	0 8	0 0
5,500–5,999	20 5	15 5	4 3	0 7	0 0
6,000–6,499	22 3	18 9	2 7	0 6	0 1
6 500–6,999	22 5	19 1	2 7	0 5	0 3
7,000–7,499	22 5	19 1	3 3	0 1	0 0
7 500–7,999	18 9	16 8	2 0	0 1	0 0
8,000–8 499	15 8	14 1	1 6	0 1	0 0
8,500–8,999	12 5	11 1	1 2	0 2	0 0
9,000–9,499	11 3	10 3	0 9	0 1	0 0
9,500–9,999	8 0	7 3	0 6	0 1	0 0
10,000 and over	52 0	41 9	7 9	2 1	0 1

SOURCE Expanded from a one percent sample.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 6

Men 65 and Older in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	118 5	44 0	20 6	28 0	25 9
Under $300	19 4	0 2	0 4	4 1	14 7
$300–$599	11 5	0 9	0 8	5 9	3 9
600– 999	13 0	2 1	2 5	5 5	1 3
1,000–1,499	17 1	6 2	3 2	4 8	2 9
1,500–1,999	8 8	1 5	1 6	1 8	0 9
2,000–2,499	4 7	1 5	1 3	1 3	0 6
2,500–2,999	3 7	0 9	1 5	1 0	0 3
3,000–3,499	4 3	2 3	0 6	1 4	0 0
3,500–3,999	3 7	1 8	1 3	0 6	0 0
4,000–4,499	3 0	1 4	1 3	0 3	0 0
4,500–4,999	4 6	3 4	1 0	0 1	0 1
5,000–5,499	3 3	2 5	0 5	0 2	0 1
5,500–5,999	2 8	2 0	0 5	0 3	0 0
6,000–6,499	2 6	1 6	0 6	0 2	0 2
6,500–6,999	2 4	2 1	0 3	0 0	0 0
7,000–7,499	2 1	2 4	0 7	0 0	0 0
7,500–7,999	1 9	1 4	0 4	0 0	0 1
8,000–8,499	2 0	1 5	0 7	0 1	0 1
8,500–8,999	1 4	1 2	0 2	0 0	0 0
9,000–9,499	0 8	0 7	0 1	0 0	0 0
9,500–9,999	1 0	1 0	0 0	0 0	0 0
10,000 and over	7 4	5 4	1 5	0 4	0 1

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 7

Total Women [1] in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	2,102 7	776 5	373 9	509 2	443 1
Under $300	422 8	1 2	9 1	98 6	313 9
$300–$599	186 3	3 1	15 5	96 1	71 6
600– 999	190 1	9 2	20 1	114 3	37 5
1,000–1,499	186 5	14 6	53 9	105 8	12 2
1,500–1,999	146 9	25 7	64 1	53 7	3 4
2,000–2,499	131 5	43 4	62 5	23 6	2 0
2,500–2,999	131 0	72 0	49 4	8 7	0 9
3,000–3,499	122 4	89 0	32 2	3 8	0 6
3,500–3,999	116 0	92 3	22 1	1 5	0 1
4,000–4,499	108 9	95 7	12 5	0 7	0 0
4,500–4,999	92 2	84 9	6 4	0 9	0 0
5,000–5,499	88 0	84 0	3 5	0 4	0 1
5,500–5,999	67 2	64 8	2 1	0 2	0 1
6,000–6,499	41 9	39 2	2 4	0 1	0 2
6,500–6,999	23 1	21 2	1 7	0 0	0 2
7,000–7,499	14 8	12 7	1 9	0 0	0 0
7,500–7,999	10 1	9 3	0 8	0 0	0 0
8,000–8,499	5 8	4 9	0 7	0 1	0 1
8,500–8,999	4 1	3 0	1 1	0 0	0 0
9,000–9,499	1 8	1 4	0 3	0 1	0 0
9,500–9,999	2 0	1 3	0 4	0 2	0 1
10,000 and over	9 6	6 6	2 1	0 7	0 1

[1] Excludes women of unknown age.

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 8

Women Under 25 in State Plan Employment During Last Quarter of Employment in 1964 *Distributed by Ratio of High Quarter Wages to Total Wages*

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	576 2	110 1	98 7	197 2	170 2
Under $300	179 5	0 4	2 8	47 9	128 4
$300–$599	78 7	0 6	6 0	45 2	26 9
600– 999	65 2	2 4	9 7	41 6	11 5
1,000–1,499	59 8	1 7	18 6	38 6	2 9
1,500–1,999	36 4	3 1	17 6	15 4	0 2
2,000–2,499	32 4	5 5	18 9	6 7	0 3
2,500–2,999	25 4	10 7	13 8	0 9	0 0
3,000–3,499	22 6	14 7	7 5	0 4	0 0
3,500–3,999	26 6	22 7	3 9	0 0	0 0
4,000–4,499	21 5	20 5	0 9	0 1	0 0
4,500–4 999	12 3	11 6	0 6	0 1	0 0
5,000–5,499	7 8	7 6	0 0	0 2	0 0
5,500–5,999	5 2	5 1	0 1	0 0	0 0
6,000–6,499	1 2	1 1	0 1	0 0	0 0
6,500–6,999	0 9	0 8	0 1	0 0	0 0
7,000–7,499	0 3	0 3	0 0	0 0	0 0
7,500–7 999	0 1	0 1	0 0	0 0	0 0
8,000–8,499	0 2	0 1	0 1	0 0	0 0
8,500–8,999	0 0	0 0	0 0	0 0	0 0
9,000–9,499	0 1	0 0	0 0	0 1	0 0
9,500–9,999	0 0	0 0	0 0	0 0	0 0
10,000 and over	0 1	0 1	0 0	0 0	0 0

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 9

Women 25–44 in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	881 4	346 4	159 3	201 3	174 4
Under $300	155 2	0 3	3 4	31 8	117 9
$300–$599	69 8	0 9	5 4	33 3	30 2
600– 999	77 5	2 1	10 3	47 4	17 7
1,000–1,499	78 4	4 7	21 9	43 6	5 2
1,500–1,999	66 0	12 1	26 0	26 1	1 8
2,000–2,499	56 2	18 4	26 6	10 6	0 6
2,500–2,999	59 9	32 0	22 5	4 8	0 6
3,000–3,499	51 9	35 6	14 2	1 9	0 2
3,500–3,999	45 9	33 5	11 2	1 1	0 1
4,000–4,499	49 0	41 4	7 3	0 3	0 0
4,500–4,999	44 9	41 5	3 2	0 2	0 0
5,000–5,499	46 2	44 4	1 7	0 1	0 0
5,500–5,999	31 6	30 7	0 9	0 0	0 0
6,000–6,499	21 7	20 4	1 2	0 1	0 0
6,500–6,999	9 4	8 7	0 6	0 0	0 1
7,000–7,499	6 4	5 8	0 6	0 0	0 0
7,500–7,999	5 2	4 7	0 5	0 0	0 0
8,000–8,499	2 7	2 5	0 2	0 0	0 0
8,500–8,999	1 9	1 6	0 3	0 0	0 0
9,000–9,499	1 0	0 9	0 1	0 0	0 0
9,500–9,999	1 0	0 9	0 1	0 0	0 0
10,000 and over	4 6	3 3	1 1	0 2	0 0

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 10

Women 45–54 in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	387 9	193 7	73 9	99 1	54 2
Under $300	49 3	0 1	1 2	11 4	36 6
$300–$599	22 0	0 8	2 2	10 2	8 8
600– 999	25 5	1 2	4 2	15 4	4 7
1,000–1,499	29 1	3 8	9 6	13 5	2 2
1,500–1,999	27 9	6 6	13 5	7 9	0 5
2,000–2,499	27 1	11 0	11 6	4 1	0 4
2,500–2,999	27 8	17 4	8 8	1 4	0 2
3,000–3,499	29 4	21 3	7 0	0 8	0 3
3,500–3,999	25 7	20 8	4 5	0 1	0 0
4,000–4,499	22 9	18 5	3 1	0 2	0 0
4 500–4,999	22 8	20 7	1 6	0 5	0 0
5,000–5 499	22 1	20 7	1 4	0 0	0 0
5 500–5,999	19 2	18 3	0 8	0 0	0 1
6,000–6,499	13 5	12 5	0 8	0 0	0 2
6,500–6,999	8 3	7 7	0 6	0 0	0 0
7,000–7 499	4 8	3 9	0 9	0 0	0 0
7,500–7,999	3 1	2 9	0 2	0 0	0 0
8,000–8,499	1 4	1 3	0 1	0 0	0 0
8,500–8,999	1 2	0 7	0 5	0 0	0 0
9,000–9,499	0 5	0 4	0 1	0 0	0 0
9,500–9,999	1 0	0 4	0 3	0 2	0 1
10,000 and over	3 3	2 2	0 6	0 4	0 1

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 11

Women 55–64 in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	198 9	108 2	30 0	31 8	28 0
Under $300	26 7	0 3	0 5	4 9	20 7
$300–$599	10 1	0 3	1 0	5 1	3 7
600– 999	13 9	2 0	2 6	7 0	2 3
1,000–1,499	13 8	2 3	3 4	7 5	0 6
1,500–1,999	12 5	3 6	5 5	3 1	0 3
2,000–2,499	12 7	5 0	4 6	1 9	0 3
2,500–2,999	14 8	9 8	3 7	1 2	0 0
3,000–3,499	15 8	13 0	2 6	0 2	0 0
3,500–3,999	16 5	14 0	2 2	0 3	0 0
4,000–4 499	14 8	13 5	1 2	0 1	0 0
4,500–4,999	10 4	9 5	0 8	0 1	0 0
5,000–5,499	11 0	10 5	0 4	0 1	0 0
5,500–5,999	9 7	9 4	0 2	0 1	0 0
6,000–6 499	5 0	4 8	0 2	0 0	0 0
6,500–6 999	3 9	3 5	0 3	0 0	0 1
7,000–7,499	2 9	2 5	0 4	0 0	0 0
7,500–7,999	1 3	1 2	0 1	0 0	0 0
8,000–8,499	1 2	0 9	0 2	0 1	0 0
8,500–8 999	0 8	0 5	0 3	0 0	0 0
9,000–9,499	0 1	0 0	0 1	0 0	0 0
9,500–9,999	0 0	0 0	0 0	0 0	0 0
10,000 and over	1 0	0 6	0 3	0 1	0 0

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 12

Women 65 and Older in State Plan Employment During Last Quarter of Employment in 1964 Distributed by Ratio of High Quarter Wages to Total Wages

Total wages	Number of workers in thousands by ratio of high quarter wages to total wages				
	Total	25%–33%	34%–49%	50%–99%	100%
Total	58 3	18 1	11 1	12 8	16 3
Under $300	14 1	0 1	0 9	2 8	10 3
$300–$599	5 7	0 5	0 9	2 3	2 0
600– 999	8 0	1 5	2 3	2 0	1 8
1,000–1,499	8 4	2 1	2 4	2 8	1 3
1,500–1,999	4 2	0 9	1 5	1 2	0 6
2,000–2,499	3 1	1 6	0 8	0 3	0 4
2,500–2,999	3 1	3 0	0 6	0 4	0 1
3,000–3,499	2 7	1 4	1 0	0 2	0 1
3,500–3,999	1 3	1 3	0 0	0 0	0 0
4,000–4,499	0 7	0 7	0 0	0 0	0 0
4,500–4,999	1 8	1 6	0 2	0 0	0 0
5,000–5,499	0 9	0 8	0 0	0 0	0 1
5,500–5,999	1 5	1 3	0 1	0 1	0 0
6,000–6,499	0 5	0 4	0 1	0 0	0 0
6,500–6,999	0 6	0 5	0 1	0 0	0 0
7,000–7,499	0 2	0 2	0 0	0 0	0 0
7,500–7,999	0 4	0 4	0 0	0 0	0 0
8,000–8,499	0 3	0 1	0 1	0 0	0 1
8,500–8,999	0 2	0 2	0 0	0 0	0 0
9,000–9,499	0 1	0 1	0 0	0 0	0 0
9,500–9,999	0 0	0 0	0 0	0 0	0 0
10 000 and over	0 5	0 4	0 1	0 0	0 0

SOURCE Expanded from a one percent sample

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 13

Total Men [1] in State Plan Employment During Last Quarter of Employment in 1964, by Total Wages by Age

Total wages	Number of men (000) by age					
	Total	Under 25	25–44	45–54	55–64	65 and older
Total	3,893 0	924 6	1 772 0	667 1	409 9	118 5
Under $300	416 4	211 9	124 5	35 9	24 7	19 4
$ 300–$ 599	217 4	108 9	65 2	18 2	13 5	11 5
600– 999	222 7	104 7	67 3	23 9	16 7	13 0
1,000–1,499	223 7	95 7	91 8	22 2	18 9	17 1
1,500–1,999	173 8	67 5	62 6	21 5	16 4	5 8
2,000–2,499	143 7	49 1	56 4	18 3	15 2	4 7
2,500–2,999	135 0	40 7	60 3	17 5	12 8	3 7
3,000–3,499	138 4	34 0	59 8	20 5	16 9	4 3
3,500–3,999	125 1	31 7	54 0	19 1	15 7	3 7
4,000–4,499	129 5	30 5	61 0	20 2	14 8	3 0
4,500–4,999	139 8	27 5	66 3	24 0	17 4	4 6
5,000–5 499	145 1	28 6	70 2	22 5	20 5	3 3
5 500–5,999	154 5	21 4	80 4	29 4	20 5	2 8
6,000–6,499	107 0	20 2	60 9	31 0	22 3	2 6
6,500–6,999	169 9	16 0	92 2	36 8	22 5	2 4
7,000–7,499	170 0	9 9	92 8	41 7	22 5	3 1
7,500–7,999	130 3	8 6	88 9	33 0	18 9	1 0
8,000–8,499	138 1	6 7	83 8	31 8	15 8	2 0
8,500–8,999	121 2	4 3	71 2	31 8	12 5	1 4
9,000–9,499	97 7	2 7	58 2	24 7	11 3	0 8
9,500–9,999	82 6	2 3	49 2	22 1	8 0	1 0
10,000 and over	433 1	2 8	248 0	122 9	52 0	7 4

[1] Excludes males of unknown age

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 14

Total Women[1] in State Plan Employment During Last Quarter of Employment in 1964, by Total Wages by Age

Total wages	Number of women (000) by age					
	Total	Under 25	25–44	45–54	55–64	65 and older
Total	2,102 7	576 2	881 4	387 9	198 9	58 3
Under $300	422 8	179 5	153 2	49 3	26 7	14 1
$ 300–$ 599	186 3	78 7	69 8	22 0	10 1	5 7
600– 999	190 1	65 2	77 5	25 5	13 9	8 0
1,000–1,499	186 5	59 8	75 4	29 1	13 8	8 4
1,500–1,999	146 9	36 3	66 0	27 0	12 5	4 2
2,000–2,499	141 5	32 4	56 2	27 1	12 7	3 1
2,500–2,999	141 0	25 4	59 9	27 8	14 8	3 1
3,000–3,499	122 4	22 6	51 9	29 4	15 8	2 7
3,500–3,999	116 0	26 6	45 9	25 7	18 5	1 3
4,000–4,499	108 9	21 5	49 0	22 9	14 8	0 7
4,500–4,999	92 2	13 4	44 9	22 8	10 4	1 8
5,000–5,499	86 0	7 8	46 2	22 1	11 0	0 9
5,500–5,999	67 2	5 3	31 9	19 2	9 7	1 5
6,000–6,499	41 9	1 2	21 7	13 5	5 0	0 5
6,500–6,999	23 1	0 9	9 4	8 3	3 9	0 6
7,000–7,499	14 6	0 3	6 4	4 8	3 0	0 2
7,500–7,999	10 1	0 1	5 2	3 1	1 3	0 4
8,000–8,499	5 8	0 2	2 7	1 4	1 2	0 3
8,500–8,999	4 1	0 0	1 9	1 2	0 8	0 2
9,000–9,499	1 8	0 1	1 0	0 5	0 1	0 1
9,500–9,999	2 0	0 0	1 0	1 0	0 0	0 0
10,000 and over	9 5	0 1	4 6	3 3	1 0	0 5

[1] Excludes women of unknown age

State of California
Department of Employment
Report 1000 No 11

Research and Statistics
August 5, 1966

Average Compensated Durations of Claims Paid to the Employed and Unemployed State Plan Claimants, by Annual Earnings and by Occupation 1964

(Prepared for the Joint Committee on Unemployment Compensation Disability Insurance)

Tables 1 and 2 report the average compensated durations, in days, of basic and hospital claims paid to State Plan employed and unemployed claimants The data are distributed by annual base period earnings These tables were computed from a 20 percent sample of claims which began in 1964 and were reported terminated by September 1965

Table 3 reports the average compensated durations, in weeks, of basic claims paid to State Plan employed and unemployed claimants, by occupation The table is based on a 20 percent sample of claims which were reported terminated in 1964 Additional data on these claimants is given in Report 1000 No 7, *Occupation and Employment Status of State Plan Claimants, 1964*

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1

Average Number of Compensated Days of State Plan Basic Benefits, Base Period Wages, by Sex and by Employment Status, Claims Begun During 1964

Base period wages	Average number of days compensated					
	Employed			Unemployed		
	Total	Men	Women	Total	Men	Women
Total	50 7	48 7	53 4	77 7	76 2	80 3
Under $500	61 8	61 3	62 2	84 6	83 9	85 6
$500–$599	57 4	53 5	60 4	80 1	74 7	87 5
600–699	61 3	57 6	63 5	81 9	79 2	84 6
700–799	66 3	67 8	65 3	91 1	85 0	97 1
800–899	60 4	57 1	62 4	91 9	93 3	90 6
900–999	58 2	56 1	59 7	81 8	75 8	87 6
1,000–1,099	61 3	60 5	61 8	78 1	79 8	76 4
1,100–1,199	62 5	63 6	61 7	85 7	82 6	88 2
1,200–1,299	60 6	62 7	59 3	87 1	84 3	89 8
1,300–1,399	59 4	57 1	60 8	89 2	89 4	89 1
1,400–1,499	53 7	50 8	55 3	77 4	71 1	83 0
1,500–1,599	62 8	63 7	62 2	85 6	90 9	80 1
1,600–1,699	58 5	59 4	58 0	73 8	73 7	73 8
1,700–1,799	59 1	59 5	58 8	71 4	74 0	68 0
1,800–1,899	55 2	55 6	54 9	79 9	82 6	76 6
1,900–1,999	59 1	61 3	58 0	79 1	83 3	74 9
2,000–2,099	54 8	53 0	55 7	80 6	87 3	71 7
2,100–2,199	53 2	52 3	53 7	83 9	81 8	86 5
2,200–2,299	54 4	53 7	54 7	81 2	80 0	82 6
2,300–2,399	55 6	54 4	56 2	89 7	72 2	89 6
2,400–2,499	56 2	58 3	55 2	76 8	76 7	77 0
2,500–2,599	55 3	56 9	54 6	73 0	69 3	78 2
2,600–2,699	54 1	51 8	55 1	71 0	66 1	76 9
2,700–2,799	56 5	57 7	55 9	82 1	80 4	84 9
2,800–2,899	56 4	55 0	57 1	70 4	67 0	74 0
2,900–2,999	55 6	59 0	53 9	79 0	76 1	82 3
3,000–3,099	54 3	59 9	51 6	63 4	62 2	65 6
3,100–3,199	52 9	52 2	53 3	66 2	69 4	59 7
3,200–3,299	55 3	53 5	56 3	79 1	80 5	75 9
3,300–3,399	55 2	59 9	52 5	76 2	83 1	67 3
3,400–3,499	50 1	52 6	48 6	82 9	76 7	91 8
3,500–3,599	50 5	54 2	48 5	76 7	79 1	72 2
3,600–3,699	53 1	55 4	51 7	81 5	78 1	87 7
3,700–3,799	49 7	55 2	46 4	64 5	66 8	61 6
3,800–3,899	51 4	51 3	51 4	72 1	77 6	64 3
3,900–3,999	46 8	46 3	47 1	76 6	77 7	75 2
4,000–4,099	49 7	55 0	46 3	79 7	78 8	81 2
4,100–4,199	52 9	56 0	50 8	88 7	79 7	98 8
4,200–4,299	50 4	52 2	49 2	76 5	77 5	73 6
4,300–4,399	48 8	53 8	44 7	58 4	64 1	42 2
4,400–4,499	48 7	47 6	49 6	68 5	70 6	63 3
4,500–4,599	50 8	50 0	51 5	79 0	76 1	85 1
4,600–4,699	50 6	53 3	48 0	70 5	74 2	60 6
4,700–4,799	49 6	52 0	47 4	84 1	91 9	56 8
4,800–4,899	51 5	53 3	49 9	76 0	74 2	79 4
4,900–4,999	47 8	47 6	48 1	91 0	90 1	93 9
5,000–5,099	48 6	51 5	45 4	81 1	82 8	76 6
5,100–5,199	49 2	49 7	48 4	68 3	69 2	66 4

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1—Continued

Average Number of Compensated Days of State Plan Basic Benefits, Base Period Wages, by Sex and by Employment Status, Claims Begun During 1964

	Average number of days compensated					
	Employed			Unemployed		
Base period wages	Total	Men	Women	Total	Men	Women
5,200–5,299	49 3	51 0	47 2	82 6	89 0	60 4
5,300–5,399	49 4	48 1	51 0	62 9	60 8	64 3
5,400–5,499	48 3	45 5	45 0	63 0	65 7	53 7
5,500–5,599	49 1	51 2	45 6	63 1	64 2	58 7
5,600–5,699	49 6	50 5	47 9	63 8	65 4	55 6
5,700–5,799	47 3	46 2	49 7	70 7	70 5	71 8
5,800–5,899	51 8	54 0	49 1	77 4	72 3	118 2
5,900–5,999	46 8	47 8	44 4	70 4	68 4	81 7
6,000 and over	43 3	42 8	48 2	67 9	67 4	75 6

SOURCE Computed from a 20 percent sample of State Plan claims begun in 1964 and reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 2

Average Number of Compensated Days of State Plan Hospital Benefits, Base Period Wages, by Sex and by Employment Status, Claims Begun During 1964

	Average number of days compensated					
	Employed			Unemployed		
Base period wages	Total	Men	Women	Total	Men	Women
Total	7 7	8 0	7 3	10 3	11 1	8 8
Under $500	9 0	10 0	8 2	11 9	13 2	9 9
$500–$599	9 0	10 1	8 1	11 9	13 5	9 2
600–699	8 6	9 2	8 2	12 1	14 3	9 9
700–799	8 7	9 6	8 1	11 3	12 1	10 4
800–899	8 7	9 8	8 0	11 0	12 4	9 6
900–999	8 6	9 9	7 6	10 8	12 0	9 7
1,000–1,099	8 4	9 4	7 7	10 5	11 7	9 2
1,100–1,199	8 7	9 8	7 8	10 9	11 4	10 4
1,200–1,299	9 0	10 5	8 0	9 6	10 2	8 9
1,300–1,499	8 1	8 8	7 6	10 8	11 8	9 8
1,400–1,499	7 4	8 1	7 0	10 5	11 5	9 7
1,500–1,599	8 5	9 9	7 7	10 7	12 6	8 8
1,600–1,699	8 6	9 9	7 7	10 5	12 2	9 2
1,700–1,799	8 3	9 4	7 5	10 1	11 9	7 8
1,800–1,899	7 9	8 9	7 3	10 6	12 1	8 6
1,900–1,999	8 1	9 8	7 2	10 4	11 5	9 1
2,000–2,099	7 5	8 2	7 2	9 7	11 6	7 2
2,100–2,199	7 7	9 0	7 0	10 1	11 2	8 5
2,200–2,299	7 7	8 6	7 3	10 8	12 1	9 0
2,300–2,399	8 1	9 1	7 6	10 5	11 9	8 8

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 2—Continued

Average Number of Compensated Days of State Plan Hospital Benefits, Base Period Wages, by Sex and by Employment Status, Claims Begun During 1964

Base period wages	Average number of days compensated					
	Employed			Unemployed		
	Total	Men	Women	Total	Men	Women
2,400–2,499	8 1	8 0	7 7	12 2	12 3	12 0
2,500–2,599	8 0	8 9	7 6	9 9	10 5	9 0
2,600–2,699	7 8	8 3	7 5	10 7	12 0	9 1
2,700–2,799	7 5	8 0	7 1	10 3	11 1	8 7
2 800–2,899	7 7	8 1	7 5	10 3	11 2	9 2
2,900–2,999	8 1	8 8	7 8	11 7	11 5	12 3
3 000–3 099	7 8	8 1	7 5	10 0	10 7	8 6
3,100–3,199	7 8	8 5	7 4	9 2	10 3	6 5
3,200–3,299	8 5	9 5	8 0	11 8	12 6	8 7
3,300–3,399	7 7	8 6	7 1	10 1	11 8	7 1
3,400–3,499	7 5	8 0	6 7	9 5	10 5	8 0
3,500–3,599	7 5	8 7	6 8	9 7	11 3	6 4
3,600–3,699	8 0	8 6	7 7	10 4	11 3	8 0
3,700–3,799	7 6	9 3	6 6	8 7	11 0	5 6
3,800–3,899	7 8	8 0	7 6	9 6	11 4	6 8
3,900–3,999	7 2	7 8	6 9	8 2	9 7	5 6
4 000–4,099	7 4	8 1	7 0	8 9	9 7	7 5
4,100–4,199	7 5	8 2	7 1	8 9	9 0	8 9
4,200–4,299	7 6	8 9	6 9	10 2	11 8	5 8
4,300–4,399	7 6	8 4	7 1	9 1	9 7	6 9
4,400–4,499	7 0	7 3	6 7	10 0	11 5	6 9
4,500–4,599	7 7	8 4	7 2	10 6	11 0	9 0
4,600–4,699	7 7	8 5	7 1	9 7	10 6	5 3
4,700–4,799	7 6	8 2	7 1	10 5	12 2	4 7
4,800–4,899	7 7	8 5	7 1	10 0	11 3	6 9
4,900–4,999	7 3	8 1	6 8	10 6	11 5	5 0
5,000–5,099	7 5	8 2	6 9	10 0	10 6	8 0
5,100–5,199	7 7	8 3	7 1	8 9	9 4	6 3
5,200–5,299	7 3	7 8	6 8	10 2	10 4	9 0
5,300–5 399	7 6	8 0	7 1	10 6	11 1	9 0
5,400–5,499	7 2	7 5	6 8	10 1	10 9	6 4
5,500–5,599	7 2	7 5	6 7	10 2	10 6	7 4
5,600–5 699	7 9	8 0	7 3	10 4	11 0	8 2
5,700–5,799	7 4	7 6	7 1	9 6	9 7	8 8
5,800–5,899	7 9	8 3	7 1	9 8	9 7	11 7
5,900–5,999	7 2	7 7	6 1	9 8	10 0	8 4
6,000 and over	7 4	7 5	7 0	9 7	9 8	7 2

SOURCE Computed from a 20 percent sample of State Plan Claims begun in 1964 and reported terminated by September 1965.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 3

Average Number of Weeks Compensated by State Plan Basic Benefits, by Occupation and *Employment Status Claims Reported Terminated in 1964*

Occupation	Average number of weeks paid		
	Total	Employed	Unemployed disabled
Total all occupations	7 8	7 4	11 2
Professional semiprofessional, and managerial	7 3	6 9	11 3
Professional occupations	7 1	6 7	10 6
Accountants and auditors	6 9	6 6	10 7
Engineers	6 0	5 5	11 0
Industrial	6 1	5 4	12 2
Mechanical	5 9	5 5	10 3
All other	6 1	5 9	8 4
Trained nurses	8 4	8 2	11 1
All others	7 3	6 5	10 2
Semiprofessional occupations	6 5	6 0	11 1
Laboratory technicians and assistants	5 6	5 3	9 1
Draftsmen	5 9	5 5	9 1
All others	7 1	6 5	10 6
Managers and officials	7 8	7 4	12 1
Retail managers	7 9	7 7	9 6
All others	7 8	7 3	12 3
Clerical and sales	7 7	7 2	11 8
Clerical and kindred occupations	7 6	7 1	13 1
Bookkeepers and cashiers except bank cashiers	8 1	7 6	12 4
Checkers	7 7	7 4	13 7
General office clerks	7 9	7 3	12 6
General industry clerks	7 3	6 9	11 6
Office machine operators	6 8	6 4	11 1
Secretaries	7 3	7 1	11 1
Shipping and receiving clerks	7 6	7.0	10 6
Stenographers and typists	6 7	6 1	10 8
Stock clerks	7 6	7 2	11 3
Telephone operators	7 8	7 3	14 2
All others	7 7	7 2	11 0
Sales and kindred occupations	7 8	7 5	11 1
Sales clerk	7 9	7 0	11 2
Sales person	8 1	7 8	11 2
All others	7 8	7 5	10 4
Service occupations	8 9	8 5	11 6
Personal services	8 7	8 3	11 4
Bartenders	8 8	8 1	12 2
Cooks except private family	9 7	9 3	12 1
Waiters and waitresses except private family	8 3	8 1	10 4
Kitchen workers in hotels, restaurants, etc	8 9	8 3	11 8
Barbers beauticians and manicurists	7 9	7 5	13 0
Attendants at hospitals and other institutions	7 9	7 5	11 0
All others	9 7	9 3	11 2
Protective services	9 9	9 3	13 2
Building service workers and porters	9 4	9 0	11 8
Charwomen and cleaners	9 4	9 0	12 0
Janitors and sextons	9 6	9 1	11 7
All others	8 5	8 0	11 4
All other service occupations	12 0	11 8	12 4
Agriculture, fishery forestry, and kindred occupations	9 5	9 2	10 7
Agriculture horticulture and kindred	9 5	9 2	10 7
Farm hands	9 4	9 1	10 5
All others	9 8	9 3	11 2
Fishery and forestry	9 5	9 0	11 0

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 3—Continued

Average Number of Weeks Compensated by State Plan Basic Benefits, by Occupation and Employment Status Claims Reported Terminated in 1964

Occupation	Average number of weeks paid		
	Total	Employed	Unemployed disabled
Skilled occupations	7.6	7.1	11.0
Occupations in manufacturing and related activities	7.3	6.9	10.8
Production of food products	7.0	6.8	9.5
Production of fabricated textile products	9.3	8.9	13.0
Dressmakers and seamstresses	9.4	9.1	13.1
Production of lumber and lumber products	7.7	7.4	10.4
Printing occupations	6.5	6.2	11.5
Metalworking occupations	6.9	6.5	10.3
Machinists	6.4	6.2	9.2
Tinsmiths, coppersmiths, sheetmetal workers	7.5	6.9	13.4
Welders and flame cutters	6.7	6.4	9.0
Electricians and manufacture of electrical equipment	7.6	7.1	10.9
Electricians	7.5	6.9	11.1
Manufacture of transport equipment	8.2	8.0	11.5
All others	6.9	6.6	10.7
Occupations in nonmanufacturing activities	8.1	7.5	10.9
Construction occupations	8.2	7.5	10.9
Carpenters	8.5	7.7	11.1
Painters, construction and maintenance	8.4	7.5	11.4
Plumbers, gasfitters, steamfitters	7.2	6.6	10.4
Transportation occupations	8.1	8.0	8.5
Bus, emergency vehicle, and taxi drivers	8.1	8.0	10.0
All others	7.5	6.9	12.8
Miscellaneous skilled occupations	7.5	7.0	11.6
Airplane mechanics and repairmen	5.8	5.8	5.7
Motor vehicle mechanics and repairmen	7.9	7.4	13.0
Mechanics and repairmen, except above and railway	7.5	7.1	12.1
Foremen, except of manual and craft workers	7.5	7.2	10.9
Foremen in manufacturing	7.4	7.1	11.5
Semiskilled occupations	7.7	7.3	11.3
Occupations in manufacturing and related activities	7.7	7.3	11.8
Production of food products	7.0	6.7	9.8
Production of fabricated textiles	9.8	9.3	13.5
Production of lumber and lumber products	7.3	7.0	10.4
Metalworking occupations	7.2	6.8	11.9
Manufacture of electrical equipment	7.6	7.3	11.8
Radios, phonographs and accessories	7.7	7.3	11.1
Manufacture of transportation equipment	6.9	6.7	11.5
All others	7.2	6.8	11.0
Occupations in nonmanufacturing and related activities	7.9	7.5	10.9
Transportation	7.6	7.3	10.7
Routemen	7.4	7.2	11.4
Chauffeurs and drivers	7.6	7.2	11.1
Trade and service	8.5	8.1	11.0
Laundering, cleaning, dyeing, pressing	9.0	8.5	13.0
All others	7.9	7.3	10.7
Miscellaneous semiskilled	7.2	6.7	11.1
Unskilled occupations	8.1	7.6	10.4
Occupations in manufacturing and related activities	7.9	7.5	10.4
Production of food products	8.3	7.9	9.8
Laborers in canning and preserving of food products	8.8	8.3	9.6
Slaughtering and preparation of meat	8.0	7.7	12.2
Metalworking occupations	7.5	7.1	11.7
All others	7.7	7.4	11.3
Occupations in nonmanufacturing and related activities	8.8	8.4	10.1
Construction laborers	8.6	8.1	10.1
Transportation occupations	9.2	9.0	10.7
Longshoremen and stevedores	9.0	9.0	11.8
All others	8.8	8.5	9.7
Miscellaneous unskilled	7.7	7.3	10.7
Occupations not reported	7.5	6.9	10.9

SOURCE Computed from a 20 percent sample of claims reported terminated in 1964

State of California
Department of Employment
Report 1000 No 12

Research and Statistics
December 1, 1966

California Disability Insurance Program

Experience of State Plan Claimants Who Exhausted Basic Benefits During January–March 1965

(Prepared for the Joint Committee on Unemployment Compensation Disability Insurance)

The following tables present data on the estimated 9.275 persons who exhausted State Plan basic disability benefits during January–March 1965 Table 1 shows age-sex distributions of the claimants in terms of their status (employed, unemployed, or deceased) during the period April 1965 through March 1966, while Tables 2 and 3 show the benefit experience of these claimants The status terms *employed, unemployed,* and *deceased,* as used in these tables, have the following special definitions

Employed indicates that the person had some reported earnings, no matter how small, in insured employment at some time during April 1965 through March 1966 except if deceased For example, 4,270 or 46 0 percent, of the 9.275 claimants had some earnings during this period (Table 1) , employment was highest in the fourth quarter of 1965 when 2,945, or 69 0 percent, of the 4 270 persons had some earnings (Table 4) Table 5 shows the amount of money these persons earned

Unemployed indicates that the person had no reported earnings in insured employment during April 1965 through March 1966, except if deceased There were 4,540 such claimants, or 48 9 percent of the total (Table 1)

Deceased indicates that the person's death before the end of March 1966 was reported to the Department of Employment by the California Department of Public Health There were 465 deaths—5 0 percent of the claimants.

In addition to the claimants who received benefits on the claims which ended in the first quarter of 1965, there were 655 claimants who received benefits on subsequent claims filed during April 1965 through March 1966 and reported terminated by June 30, 1966 (Tables 6 and 7).

There were also 2,100 exhaustees who were paid unemployment insurance benefits during April 1965 through March 1966 on 2 670 regular unemployment insurance and extended duration claims Various data about these claimants are reported in Table 8

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1

Number of State Plan Claimants Who Exhausted Basic Benefits, During January–March 1965, by Sex, Status During April 1965–March 1966, and Age at Onset of Disability

Status	Total	Age at onset of disability			
		Under 45	45–54	55–64	65 and over
All claimants					
Total	9,275	2,985	2,500	2,785	1,005
Employed	4,270	1,715	1,520	995	240
Unemployed	4,510	1,175	1,075	1,610	680
Deceased	465	95	105	180	85
Men					
Total	5,590	1,585	1,370	1,930	705
Employed	2,515	920	755	670	170
Unemployed	2,705	610	530	1,105	460
Deceased	370	55	85	155	75
Women					
Total	3,685	1,400	1,130	855	300
Employed	1,755	795	565	325	70
Unemployed	1,835	565	545	505	220
Deceased	95	40	20	25	10

SOURCE Expanded from a 20-percent sample of State Plan Claimants exhausting basic benefits during January–March, 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 2

Amount of Basic Benefits Paid to State Plan Claimants Who Exhausted Basic Benefits During January–March 1965 by Sex, Status During April 1965–March 1966 and Age at Onset of Disability

Status	Total	Age at onset of disability			
		Under 45	45–54	55–64	65 and over
All claimants					
Total	$12,262,800	$3,580,480	$3,446,800	$3,928,420	$1,307,100
Employed	5,721,110	2,071,310	1,873,210	1,472,620	303,970
Unemployed	5,882,600	1,389,830	1,395,110	2,184,300	913,300
Deceased	659,090	119,340	178,480	271,440	89,830
Men					
Total	$8,137,430	$2,048,780	$2,147,970	$2,933,750	$1,006,930
Employed	3,676,820	1,196,500	1,130,570	1,084,160	235,590
Unemployed	3,890,180	772,110	811,410	1,617,650	688,010
Deceased	570,430	79,170	155,990	251,940	83,320
Women					
Total	$4,125,370	$1,531,700	$1,298,830	$994,670	$300,170
Employed	2,044,290	874,810	692,640	408,460	68,380
Unemployed	1,992,420	616,720	583,700	566,710	225,290
Deceased	88,660	40,170	22,490	19,500	6,500

SOURCE Expanded from a 20-percent sample of State Plan Claimants exhausting basic benefits during January–March, 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 3

Amount of Hospital Benefits Paid to State Plan Claimants Who Exhausted Basic Benefits During January–March 1965, by Sex, Status During April 1965–March 1966, and Age at Onset of Disability

Status	Total	Age at onset of disability			
		Under 45	45–54	55–64	65 and over
All claimants					
Total	$1,010,460	$358,140	$208,080	$270,420	$89,820
Employed	486,120	200,640	162,680	101,880	20,940
Unemployed	460,020	136,920	118,320	143,580	61,200
Deceased	70,320	20,580	17,100	24,960	7,680
Men					
Total	$655,680	$210,120	$177,900	$198,540	$69,120
Employed	315,900	123,480	103,500	73,080	15,840
Unemployed	285,360	75,300	60,660	102,840	46,560
Deceased	54,420	11,340	13,740	22,620	6,720
Women					
Total	$360,780	$148,020	$120,180	$71 880	$20,700
Employed	170,220	77,160	59 160	28,800	5,100
Unemployed	174,660	61,620	57,660	40,740	14,640
Deceased	15,900	9,240	3,360	2,340	960

SOURCE Expanded from a 20-percent sample of State Plan Claimants exhausting basic benefits during January–March, 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 4

Number of State Plan Claimants Who Exhausted Basic Benefits in the First Quarter of 1965 and Who Had Some Insured Employment at Some Time During the Following Four Quarters, by Quarter of Employment Within Age and Sex

Sex and age at onset of disability	Average employed during four quarters	Number employed each quarter			
		1965 Quarter 2	1965 Quarter 3	1965 Quarter 4	1966 Quarter 1
All claimants					
Total	2,784	2,525	2,835	2,945	2,830
Under 45	1,158	975	1,180	1,260	1,215
45–54	866	805	865	900	895
55–64	626	625	645	645	590
65 and over	134	120	145	140	130
Men					
Total	1,642	1,525	1,680	1,730	1,635
Under 45	626	525	650	695	655
45–54	502	470	490	525	525
55–64	416	450	450	410	355
65 and over	98	80	110	100	100
Women					
Total	1,141	1,000	1,155	1,215	1,195
Under 45	531	450	550	565	560
45–54	364	335	375	375	370
55–64	210	175	195	235	235
65 and over	36	40	35	40	30

NOTE Excludes 100 persons reported deceased during the period.
SOURCE Expanded from a 20-percent sample.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 5

Amount of Earnings of State Plan Claimants Who Exhausted Basic Benefits in the First Quarter of 1965 and Who Had Some Insured Employment at Some Time During the Following Four Quarters by Quarter of Earnings Within Age and Sex

Age and sex	Total	Amount of earnings			
		1965 Quarter 2	1965 Quarter 3	1965 Quarter 4	1966 Quarter 1
All claimants					
Total	$10,034,543	$1,926,277	$2,554,144	$2,909,652	$2,644,470
Under 45	4,083,597	737,529	1,013,246	1,187,845	1,144,976
45–54	3,452,609	712,884	863,357	1,006,922	868,846
55–64	2,132,852	421,008	579,843	617,794	514,117
65 and over	335,485	54,767	97,096	97,091	86,531
Men					
Total	$6,943,928	$1,346,440	$1,801,537	$2,011,389	$1,784,562
Under 45	2,865,020	469,490	687,925	763,813	744,692
45–54	2,410,453	501,842	582,716	704,194	621,701
55–64	1,577,879	331,626	446,350	455,132	344,671
65 and over	289,676	43,582	84,346	88,250	73,498
Women					
Total	$3,090,615	$579,837	$752,607	$898,263	$859,908
Under 45	1,417,677	268,038	325,323	424,032	400,284
45–54	1,072,156	211,042	281,241	302,728	277,145
55–64	554,973	89,572	133,293	162,662	169,446
65 and over	45,809	11,185	12,750	8,841	13,033

NOTE Excludes $90,357 earned by 100 persons reported deceased during the period
SOURCE Expanded from a 20-percent sample.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 6

State Plan Disability Insurance Benefit Experience April 1965 Through March 1966 of Persons Who Exhausted a Prior Claim During the First Quarter of 1965, by Quarter Subsequent Claim Filed

Period claim filed	Number of claims	Basic			Hospital	
		Benefits	Weeks	Weekly benefit	Benefits	Days
Total	655	$391,556	7,609	$51 46	$57,600	4,800
1965 quarter 2	140	123,734	2,134	57 98	14,640	1,220
quarter 3	195	124,385	2,345	53 04	18,600	1,550
quarter 4	175	95,023	2,063	46 50	14,100	1,175
1966 quarter 1	145	47,515	1,067	44 53	10,260	855

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 7

State Plan Disability Insurance Benefit Experience April 1965 Through March 1966 of Persons Who Exhausted a Prior Claim During the First Quarter of 1965, by Sex

Sex	Number of claims	Basic			Hospital	
		Benefits	Weeks	Weekly benefit	Benefits	Days
Total	655	$391,556	7,600	$51 46	$57,600	4,800
Men	320	212,818	3,532	60 25	32,220	2,685
Women	335	178,738	4,077	43 84	25,380	2,115

SOURCE Expanded from a 20-percent sample of State Plan claims which had been reported terminated by June 30, 1966

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 8

Unemployment Insurance Benefits Paid During April 1965 Through March 1966 on 2,670 [a] *Claims to 2,100 Persons Who Had Exhausted a Disability Insurance Basic* Claim During January Through March 1965

Item	1965–66			
	Apr –June	July–Sept	Oct –Dec	Jan –Mar
Number of claims paid each quarter	1,751	1,730	1,180	500
Number of weekly payments	13,795	12,640	7,685	2,560
Amount paid during quarter	$616,235	$568,575	$348,950	$117,305
Average weekly benefit amount	$44 67	$44 98	$45 41	$45 82

[a] New claims, additional claims, and extended duration claims are included in the count of 2,670 claims
SOURCE Expanded from a 20-percent sample

State of California
Department of Employment
Report 1200 No 10

Research and Statistics
August 3, 1966

California Disability Insurance Program

Disabilities of State Plan Claimants, by Employment Status 1965

(Prepared for the Joint Committee on Unemployment Compensation Disability Insurance)

The attached table gives distributions by nature of disability of the employed and the unemployed disabled State Plan claims reported terminated in 1965

Comparable morbidity data for voluntary plan claimants can be obtained from *Disability Insurance Terminated Claims, 1965*, Report 1061 No 4, Table 1a Morbidity data on State Plan claimants employed in agriculture at the onset of disability are given in *Sex, Occupation, and Morbidity Characteristics of State Plan Claimants Employed in Agriculture at the Onset of Disability, 1964*, Report 115 No 7, Tables 5–12 which concerns claims which *began* in 1964

Since the data presented in the attached table were derived from a sample, they are likely to differ from the results which would be obtained from a complete count of the population The paper *Reliability of Estimates*, Technical Paper Series M No 79, discusses the precision of estimates derived from samples of this nature

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1

Number of State Plan Claims Reported Terminated In 1965, by Employment Status And Nature of Disability

Nature of disability	Employment status		
	Total	Regular	Unemployed disabled
Total, all claims	467,420	413,590	53,830
Infective and parasitic diseases	10,260	9,160	1,100
Tuberculosis all forms	1,900	1,490	410
Diseases attributable to viruses	5,900	5,440	460
All other infective and parasitic diseases	2,460	2,220	230
Neoplasms	36,180	32,720	3,460
Malignant neoplasms	10,460	9,310	1,150
Benign neoplasms	22,670	20,670	2,000
Neoplasms of an unspecified nature	3,020	2,700	310
Allergic, endocrine system, metabolic, and nutritional diseases	11,390	10,010	1,380
Allergic disorders	2,770	2,500	270
Diseases of the thyroid gland	3 090	2,780	310
Diabetes mellitus	3,520	2,960	560
All other diseases	2,010	1,770	240
Diseases of the blood and blood-forming organs	2,330	2,010	320
Mental, psychoneurotic, and personality disorders	18,930	14,030	4,910
Psychoses	3,140	2,140	1,010
Psychoneurotic disorders	9,810	8,460	1,350
Disorders of character, behavior, and intelligence	5,980	3,430	2,550
Diseases of the nervous system and sense organs	21,900	19,200	2,700
Vascular lesions affecting central nervous system	2,820	2,380	440
Other diseases of central nervous system	2,620	2,220	400
Diseases of nerves and peripheral ganglia	5,570	4,970	600
Diseases of the eye	5,880	5,050	830
Diseases of the ear and mastoid process	5,010	4,580	430

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1—Continued

Number of State Plan Claims Reported Terminated In 1965, by Employment Status And Nature of Disability

Nature of disability	Employment status		
	Total	Regular	Unemployed disabled
Diseases of the circulatory system	55,600	49,160	6,440
Arteriosclerotic and degenerative heart disease	18,900	16 640	2,250
All other heart disease	7 700	6,870	820
Hypertension	7,880	7,230	650
Diseases of arteries	2,380	2,070	310
Diseases of veins and all other circulatory diseases	18,750	16,340	2,400
Diseases of the respiratory system	41,530	38 460	3,070
Acute upper respiratory infection	8,070	7 660	410
Influenza	3 830	3,620	220
Pneumonia	8,540	7,910	630
Bronchitis	7 220	6,650	570
Other diseases of respiratory system	13,840	12,610	1,230
Diseases of the digestive system	76,130	68,430	7,700
Diseases of buccal cavity and esophagus	3,460	3,140	320
Diseases of the stomach and duodenum	22,940	20,800	2,140
Appendicitis	7,200	6,630	570
Hernia of abdominal cavity	16,830	14,810	2,020
Other diseases of intestines and peritoneum	14,510	13,330	1,180
Disease of liver, gallbladder, and pancreas	11,180	9,720	1,460
Diseases of the genitourinary system	41,170	37,760	3,420
Diseases of the urinary system	14,760	13,720	1,040
Diseases of the male genital organs	7,790	6,940	850
Diseases of the breast, ovary, fallopian tube, etc	5,830	5,360	470
Diseases of the uterus and other female genital organs	12,790	11,740	1,050
Deliveries and complications of pregnancy, etc	760	650	110
Diseases of the skin and cellular tissue	9 130	8,100	1,040
Infections of the skin and subcutaneous tissue	3,970	3,510	460
All other diseases	5,160	4,590	570
Diseases of the bones and organs of movement	33 220	29,150	4,060
Arthritis and rheumatism, excluding rheumatic fever	12,600	10,780	1 820
Osteomyelitis and related diseases	11,260	10,010	1,250
Other diseases of the musculoskeletal system	9,360	8,370	980
Congenital malformations	1,910	1,740	170
Symptoms, senility, and ill-defined conditions	16,760	15,020	1,740
Injuries and related conditions	90,220	78,020	12,220
Fractures	31,830	26,830	4,990
Sprains and strains	31,170	27,400	3,770
Head injury	4,010	3,520	480
Lacerations and open wounds	9,440	8,130	1,310
Contusions and crushings	5 030	4 460	580
All other injuries	8,760	7,670	1,090

NOTE Components may not add to totals because of independent rounding
SOURCE Estimated from a 20 percent sample of State Plan claims reported terminated in 1965

State of California
Department of Employment
Report 1200 No 11

Research and Statistics
November 18, 1966

California Disability Insurance Program

Disabilities of State Plan Claimants Who Exhausted Basic Benefits 1964

(Prepared for the Joint Committee on Unemployment Compensation Disability Insurance)

In the attached tables, State Plan claimants who exhausted their benefit entitlement in 1964 are distributed by nature of disability, age and sex Most, but not all, of these claimants received 26 weeks of disability insurance benefits Occasionally, under certain circumstances, a claimant with concurrent temporary workmen's compensation may exhaust disability insurance benefits in less than 26 weeks On the other hand some claimants receive more than 26 weeks of benefits before exhaustion This occurs when concurrent wage continuation results in a reduced weekly basic benefit amount

Age, in this report, is determined by subtracting the year of birth from the year 1964, and for that reason, the age distribution is not exact but approximate

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1

Total State Plan Claimants Who Exhausted Basic Benfits
By Age Within Nature of Disability 1964

Nature of disability	Number of claimants by age			
	Total	Under 45	45-54	55 and over
Total	38,145	12,245	9,645	16,255
Infective and parasitic diseases	1,255	595	280	380
Neoplasms	2,190	535	605	1,050
Allergic, endocrine, and other diseases	1,615	480	365	670
Mental, psychoneurotic, and personality disorders	2,255	1,305	580	370
Diseases of the nervous system and sense organs	3,220	620	800	1,800
Diseases of the circulatory system	8,520	1,070	2,045	5,405
Diseases of the respiratory system	2,145	370	575	1,200
Diseases of the digestive system	2,720	825	745	1,150
Diseases of the genitourinary system	1,100	435	270	395
Diseases of the skin and cellular tissue	420	185	85	150
Diseases of the bones and organs of movement	4,465	1,435	1,260	1,770
Injuries and related conditions	7,165	3,870	1,740	1,555
All other conditions	1,175	520	295	360

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 2

Number of State Plan Men Claimants Who Exhausted Basic Benefits By Age Within Nature of Disability 1964

Nature of disability	Number of claimants by age			
	Total	Under 45	45–54	55 and over
Total	22,710	6,355	5,205	11,150
Infective and parasitic diseases	910	415	185	310
Neoplasms	1,180	200	250	730
Allergic, endocrine, and other diseases	755	145	150	460
Mental, psychoneurotic and personality disorders	1,200	710	310	180
Diseases of the nervous system and sense organs	2,145	320	495	1,330
Diseases of the circulatory system	5,780	500	1,265	3,925
Diseases of the respiratory system	1,470	180	350	940
Diseases of the digestive system	1,470	325	375	770
Diseases of the genitourinary system	365	45	40	280
Diseases of the skin and cellular tissue	210	75	40	95
Diseases of the bones and organs of movement	2,350	695	615	1,040
Injuries and related conditions	4,280	2,445	990	845
All other conditions	595	210	140	245

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 3

Number of State Plan Women Claimants Who Exhausted Basic Benefits By Age Within Nature of Disability 1964

Nature of disability	Number of claimants by age			
	Total	Under 45	45–54	55 and over
Total	15,435	5,890	4,440	5,105
Infective and parasitic diseases	345	180	95	70
Neoplasms	1,010	335	355	320
Allergic, endocrine, and other diseases	760	335	215	210
Mental, psychoneurotic, and personality disorders	1,056	595	270	190
Diseases of the nervous system and sense organs	1,075	300	305	470
Diseases of the circulatory system	2,740	490	750	1,480
Diseases of the respiratory system	675	190	225	260
Diseases of the digestive system	1,250	500	370	380
Diseases of the genitourinary system	735	390	230	115
Diseases of the skin and cellular tissue	210	110	45	55
Diseases of the bones and organs of movement	2,115	740	645	730
Injuries and related conditions	2,885	1,425	750	710
All other conditions	580	310	155	115

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965.

State of California
Department of Employment
Report 1200 No 12

Research and Statistics
November 21, 1966

The California Disability Insurance Program

Average Compensated Duration of Basic Disability Benefits of State Plan Claimants, by Sex and Age Within Employment Status and Base Period Earnings—1964

(Prepared for the Joint Committee on Unemployment Compensation Disability Insurance)

The accompanying 18 tables show average duration of basic disability compensation, number of claims for basic benefits, and total number of weeks of basic benefits by age within nature of disability for the following six groups of State Plan claimants:

1. Employed women with base period earnings of less than $4,000;
2. Employed women with base period earnings of $4,000 or more;
3. Employed men with base period earnings of less than $4,000;
4. Employed men with base period earnings of $4,000 or more;
5. Unemployed women; and
6. Unemployed men

The tables were obtained from an approximate 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965.

Certain averages were calculated from a relatively small sample of claims as can be determined from Tables 7 through 12; consequently, they are subject to a high degree of sampling variation and should be used with caution

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 1

Average Number of Weeks of Basic Disability Benefits Paid to State Plan Employed Women With Base Period Earnings of Less Than $4,000 by Age Within Nature of Disability, 1964

Nature of disability	Weeks per claim by age				
	Total	Under 45	45–54	55–64	65 and over
Total	8 0	7 1	8 6	9 7	12 8
Infective and parasitic diseases	6 5	6 4	6 8	6 3	9 6
Neoplasms	8 3	7 3	9 4	11 3	12 2
Allergic, endocrine system, metabolic, and nutritional diseases	9 3	8 6	9 3	11 1	13 6
Diseases of the blood and blood-forming organs	8 7	8 5	10 0	6 7	10 7
Mental, psychoneurotic, and personality disorders	9 9	9 4	10 1	13 5	14 9
Diseases of the nervous system and sense organs	8 3	7 0	8 7	10 2	14 2
Diseases of the circulatory system	10 8	8 6	10 7	12 1	17 1
Diseases of the respiratory system	4 7	3 9	5 3	5 5	7 4
Diseases of the digestive system	7 7	6 9	8 3	9 5	11 8
Diseases of the genitourinary system	6 1	5 5	7 2	7 3	11 4
Deliveries and complications of pregnancy, childbirth, and puerperium	5 1	5 2	0 6	0 0	0 0
Diseases of the skin and cellular tissue	6 0	5 5	6 3	7 8	5 4
Diseases of the bones and organs of movement	10 1	9 6	10 1	10 6	14 4
Congenital malformations	9 1	9 5	8 8	6 5	8 4
Symptoms, senility, and ill-defined conditions	7 6	7 0	8 3	8 9	16 6
Injuries and related conditions	8 8	8 1	9 2	10 3	11 8

SOURCE Tables 7 and 13.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 2

Average Number of Weeks of Basic Disability Benefits Paid to State Plan Employed Women With Base Period Earnings of $4,000 or More, by Age Within Nature of Disability

Nature of disability	Weeks per claim by age				
	Total	Under 45	45–54	55–64	65 and over
Total	6 9	6 2	7 0	8 2	11 9
Infective and parasitic diseases	5 7	5 2	6 0	7 0	17 2
Neoplasms	7 2	6 7	7 5	8 5	13 5
Allergic, endocrine system, metabolic, and nutritional diseases	7 3	6 0	6 8	9 0	14 4
Diseases of the blood and blood-forming organs	7 5	7 6	6 3	8 9	1 2
Mental, psychoneurotic, and personality disorders	9 3	9 0	9 2	12 2	15 4
Diseases of the nervous system and sense organs	8 7	7 5	9 0	9 8	16 7
Diseases of the circulatory system	9 0	7 0	8 8	11 0	15 9
Diseases of the respiratory system	3 6	3 2	4 0	3 9	4 2
Diseases of the digestive system	6 6	6 2	6 4	7 9	10 3
Diseases of the genitourinary system	5 3	5 0	5 4	6 7	8 1
Deliveries and complications of pregnancy, childbirth, and the puerperium	4 5	4 5	0 0	0 0	0 0
Diseases of the skin and cellular tissue	4 8	4 4	4 2	5 4	16 7
Diseases of the bones and organs of movement	8 5	8 1	7 0	9 8	15 4
Congenital malformations	11 7	9 6	18 8	13 1	0 0
Symptoms, senility, and ill-defined conditions	6 3	6 1	6 8	---	2 3
Injuries and related conditions	7 6	7 0	8 2	8 8	7 8

SOURCE Tables 8 and 14

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 3

Average Number of Weeks of Basic Disability Benefits Paid to State Plan Employed Men With Base Period Earnings of Less Than $4,000, by Age Within Nature of Disability, 1964

Nature of disability	Weeks per claim by age				
	Total	Under 45	45–54	55–64	65 and over
Total	8 1	6 5	8 6	10 9	13 0
Infective and parasitic diseases	9 0	7 1	14 8	15 8	15 6
Neoplasms	9 3	6 7	9 0	12 4	13 0
Allergic, endocrine system, metabolic and nutritional diseases	9 6	6 2	9 0	13 3	16 3
Diseases of the blood and blood-forming organs	7 4	4 6	6 0	14 1	8 4
Mental, psychoneurotic, and personality disorders	9 5	9 3	9 3	10 3	10 4
Diseases of the nervous system and sense organs	10 8	7 5	11 0	12 8	15 6
Diseases of the circulatory system	11 6	8 2	10 9	13 2	16 0
Diseases of the respiratory system	5 1	2 8	6 3	9 1	10 8
Diseases of the digestive system	6 6	5 3	7 0	9 2	9 4
Diseases of the genitourinary system	5 2	3 4	4 2	7 4	9 0
Diseases of the skin and cellular tissue	5 7	4 2	6 4	7 7	17 4
Diseases of the bones and organs of movement	10 8	9 4	10 0	12 1	17 1
Congenital malformations	10 2	8 6	12 4	17 8	11 4
Symptoms, senility, and ill-defined conditions	6 9	4 9	8 2	10 3	13 5
Injuries and related conditions	7 7	7 3	8 6	9 6	9 9

SOURCE Tables 9 and 15

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 4

Average Number of Weeks of Basic Disability Benefits Paid to State Plan Employed Men With Base Period Earnings of $4,000 or More, by Age Within Nature of Disability, 1964

Nature of disability	Weeks per claim by age				
	Total	Under 45	45–54	55–64	65 and over
Total	6 5	5 2	6 7	8 3	11 0
Infective and parasitic diseases	5 5	4 4	7 7	9 0	8 8
Neoplasms	7 5	5 1	7 8	9 8	10 6
Allergic, endocrine system, metabolic, and nutritional diseases	5 4	4 7	5 7	9 1	9 5
Diseases of the blood and blood-forming organs	6 7	6 9	7 6	5 4	5 7
Mental, psychoneurotic, and personality disorders	8 1	7 4	8 6	9 3	12 8
Diseases of the nervous system and sense organs	8 2	5 3	8 1	11 0	14 2
Diseases of the circulatory system	9 2	6 1	8 9	11 2	15 1
Diseases of the respiratory system	3 6	2 5	3 8	5 8	7 9
Diseases of the digestive system	5 5	4 6	5 8	6 7	8 0
Diseases of the genitourinary system	4 1	2 9	3 9	5 6	7 4
Diseases of the skin and cellular tissue	3 8	3 1	3 5	6 1	5 6
Diseases of the bones and organs of movement	8 3	7 2	8 7	9 4	13 2
Congenital malformations	8 7	9 6	5 7	10 0	0 0
Symptoms, senility, and ill-defined conditions	5 4	4 4	5 1	7 9	8 8
Injuries and related conditions	6 9	6 5	0 0	7 5	11 0

SOURCE Tables 10 and 16

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 5

Average Number of Weeks of Basic Disability Benefits Paid to Unemployed Disabled Women, by Age Within Nature of Disability, 1964

Nature of disability	Weeks per claim by age				
	Total	Under 45	45–54	55–64	65 and over
Total	11 5	10 0	11 9	14 0	15 8
Infective and parasitic diseases	12 8	10 3	14 5	18 1	14 6
Neoplasms	10 5	9 5	11 3	11 5	15 2
Allergic, endocrine system, metabolic, and nutritional diseases	14 1	13 9	13 6	15 3	15 7
Diseases of the blood and blood-forming organs	14 6	12 8	19 6	11 8	0 0
Mental, psychoneurotic, and personality disorders	12 3	11 3	13 0	17 4	17 8
Diseases of the nervous system and sense organs	13 8	12 5	12 9	13 9	20 1
Diseases of the circulatory system	14 3	12 1	13 4	16 6	17 2
Diseases of the respiratory system	7 3	5 8	7 9	12 1	7 4
Diseases of the digestive system	10 0	8 6	10 1	12 6	15 3
Diseases of the genitourinary system	8 5	7 7	9 5	10 8	9 7
Deliveries and complications of pregnancy, childbirth, and the puerperium	3 4	3 4	0 0	0 0	0 0
Diseases of the skin and cellular tissue	9 8	10 3	7 8	10 6	15 0
Diseases of the bones and organs of movement	14 4	13 1	14 6	15 2	18 7
Congenital malformations	11 5	8 0	15 1	19 0	7 8
Symptoms, senility, and ill-defined conditions	9 7	9 9	7 6	12 7	13 4
Injuries and related conditions	12 0	10 9	13 3	13 7	15 1

SOURCE Tables 11 and 17

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 6

Average Number of Weeks of Basic Disability Benefits Paid to Unemployed Disabled Men, by Age Within Nature of Disability, 1964

Nature of disability	Weeks per claim by age				
	Total	Under 45	45–54	55–64	65 and over
Total	10 9	9 0	11 1	13 0	14 7
Infective and parasitic diseases	13 1	11 7	13 5	17 3	18 9
Neoplasms	13 0	10 5	11 2	15 5	14 6
Allergic, endocrine system, metabolic, and nutritional diseases	10 1	7 6	8 0	13 6	18 6
Diseases of the blood, and blood-forming organs	11 8	12 3	8 2	16 4	13 3
Mental, psychoneurotic, and personality disorders	11 0	11 1	11 0	10 4	10 9
Diseases of the nervous system and sense organs	13 7	10 6	12 7	16 6	16 5
Diseases of the circulatory system	14 3	9 2	13 4	15 9	18 9
Diseases of the respiratory system	9 9	5 2	11 4	12 6	15 6
Diseases of the digestive system	9 2	7 6	9 7	10 4	12 6
Diseases of the genitourinary system	8 8	5 8	7 5	10 2	11 3
Diseases of the skin and cellular tissue	7 6	6 7	8 3	8 8	7 3
Diseases of the bones and organs of movement	12 9	11 1	13 0	14 8	14 0
Congenital malformations	12 1	11 0	13 2	16 3	0 0
Symptoms, senility, and ill-defined conditions	8 5	6 9	9 9	9 8	13 4
Injuries and related conditions	9 6	8 9	11 0	9 7	13 0

SOURCE Tables 12 and 18

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 7

Number of Claims for Basic Disability Compensation Paid to State Plan Employed Women With Base Period Earnings of Less Than $4,000, by Age Within Nature of Disability, 1964

Nature of disability	Number of claims by age				
	Total	Under 45	45–54	55–64	65 and over
Total	97,955	56,130	25,465	13,470	2,890
Infective and parasitic diseases	1,840	1,325	300	190	25
Neoplasms	10,530	6,740	2,690	930	170
Allergic, endocrine system, metabolic and nutritional diseases	2,795	1,505	845	375	70
Diseases of the blood and blood-forming organs	860	585	180	80	15
Mental, psychoneurotic, and personality disorders	4,760	3,345	975	410	30
Diseases of the nervous system and sense organs	3,970	1,805	1,100	830	235
Diseases of the circulatory system	8,950	3,230	2,700	2,395	625
Diseases of the respiratory system	10,745	5,530	3,020	1,820	375
Diseases of the digestive system	12,625	7,465	3,295	1,570	295
Disease of the genitourinary system	12,275	8,555	2,695	895	130
Deliveries and complications of pregnancy, childbirth, and the puerperium	370	365	5	—	—
Diseases of the skin and cellular tissue	1,970	1,070	620	220	60
Diseases of the bones and organs of movement	7,370	3,270	2,400	1,410	290
Congenital malformations	265	190	55	15	5
Symptoms, senility and ill-defined conditions	3,280	2,120	740	380	40
Injuries and related conditions	13,350	9,030	3,845	1,950	525

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 8

Number of Claims for Basic Disability Compensation Paid to State Plan Employed Women With Base Period Earnings of $4,000, or More, by Age Within Nature of Disability, 1964

Nature of disability	Number of claims by age				
	Total	Under 45	45–54	55–64	65 and over
Total	52,710	28,075	15,765	7,955	915
Infective and parasitic diseases	1,100	710	240	140	10
Neoplasms	7,110	3,895	2,350	785	80
Allergic, endocrine system, metabolic, and nutritional diseases	1,365	710	440	195	20
Diseases of the blood and blood-forming organs	355	285	65	50	5
Mental, psychoneurotic, and personality disorders	2,420	1,615	625	165	15
Diseases of the nervous system and sense organs	2,580	1,155	845	495	85
Diseases of the circulatory system	4,885	1,800	1,640	1,260	185
Diseases of the respiratory system	6,210	3,035	1,570	1,200	105
Diseases of the digestive system	5,990	3,100	1,840	950	80
Diseases of the genitourinary system	6,840	4,210	1,980	595	75
Deliveries and complications of pregnancy, childbirth, and the puerperium	305	305	--	--	--
Diseases of the skin and cellular tissue	990	510	270	175	25
Diseases of the bones and organs of movement	4,320	2,030	1,500	690	100
Congenital malformations	215	160	45	10	--
Symptoms, senility and ill-defined conditions	1,590	960	405	210	15
Injuries and related conditions	6,445	3,615	1,670	1,045	115

SOURCE Expanded from a 20 percent sample of claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 9

Number of Claims for Basic Disability Compensation Paid to State Plan Employed Men With Base Period Earnings of Less Than $4,000, by Age Within Nature of Disability, 1964

Nature of disability	Number of claims by age				
	Total	Under 45	45–54	55–64	65 and over
Total	56,130	31,535	9,860	10,085	3,650
Infective and parasitic diseases	2,105	1,620	205	225	55
Neoplasms	2,335	1,050	415	620	250
Allergic, endocrine system, metabolic and nutritional diseases	1,200	505	250	380	65
Diseases of the blood and blood-forming organs	200	100	30	45	25
Mental, psychoneurotic, and personality disorders	2,590	1,865	550	275	40
Diseases of the nervous system and sense organs	2,480	970	535	600	375
Diseases of the circulatory system	6,285	1,795	1,475	2,060	955
Diseases of the respiratory system	5,360	3,085	970	985	320
Diseases of the digestive system	8,830	4,920	1,700	1,620	590
Diseases of the genitourinary system	2,485	1,095	450	640	300
Diseases of the skin and cellular tissue	1,240	695	285	235	25
Diseases of the bones and organs of movement	3,185	1,415	750	755	265
Congenital malformations	200	140	30	20	10
Symptoms, senility and ill-defined conditions	1,570	915	340	250	65
Injuries and related conditions	15,125	11,535	1,875	1,375	340

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 10

Number of Claims for Basic Disability Compensation Paid to State Plan Employed Men With Base Period Earnings of $4,000 or More, by Age Within Nature of Disability, 1964

Nature of disability	Number of claims by age				
	Total	Under 45	45–54	55–64	65 and over
Total	150,530	71,815	40,885	32,130	5,700
Infective and parasitic diseases	4,085	2,925	575	560	85
Neoplasms	7,025	2,695	1,575	2,030	425
Allergic, endocrine system, metabolic, and nutritional diseases	3,185	1,175	1,010	875	125
Diseases of the blood and blood-forming organs	395	140	135	105	15
Mental, psychoneurotic, and personality disorders	3,360	1,990	980	420	70
Diseases of the nervous system and sense organs	7,465	2,825	2,130	2,040	470
Diseases of the circulatory system	21,725	6,145	6,960	6,815	1,805
Diseases of the respiratory system	16,545	8,025	4,325	3,605	590
Diseases of the digestive system	20,835	12,020	9,050	6,100	865
Diseases of the genitourinary system	9,145	3,910	2,405	2,270	560
Diseases of the skin and cellular tissue	3,090	1,750	545	550	115
Diseases of the bones and organs of movement	10,465	4,035	3,025	2,135	370
Congenital malformations	555	340	140	75	--
Symptoms, senility and ill-defined conditions	4,460	2,385	1,110	835	130
Injuries and related conditions	29,725	18,955	6,520	3,775	475

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 11

Number of Claims for Basic Disability Compensation Paid to Unemployed Disabled Women, by Age Within Nature of Disability, 1964

Nature of disability	Number of claims by age				
	Total	Under 45	45–54	55–64	65 and over
Total	19,270	9,880	5,335	3,090	965
Infective and parasitic diseases	330	165	115	40	10
Neoplasms	1,910	1,080	575	180	75
Allergic, endocrine system, metabolic, and nutritional diseases	630	325	185	85	35
Disease of the blood and blood-forming organs	150	65	35	40	--
Mental, psychoneurotic, and personality disorders	1,435	915	370	125	25
Diseases of the nervous system and sense organs	765	320	205	150	90
Diseases of the circulatory system	1,995	620	555	545	245
Diseases of the respiratory system	1,235	595	335	255	50
Diseases of the digestive system	2,095	1,050	550	405	90
Diseases of the genitourinary system	2,065	1,255	555	195	60
Deliveries and complication of pregnancy, childbirth and the puerperium	150	150	--	--	--
Diseases of the skin and cellular tissue	370	195	105	60	10
Diseases of the bones and organs of movement	1,635	595	530	365	95
Congenital malformations	45	20	15	5	5
Symptoms, senility and ill-defined conditions	565	280	185	75	25
Injuries and related conditions	3,925	2,250	960	565	150

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 12

Number of Claims for Basic Disability Compensation Paid to Unemployed Disabled Men, by Age Within Nature of Disability, 1964

Nature of disability	Base weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	31,295	14,080	7,810	6,825	2,680
Infective and parasitic diseases	850	540	155	115	40
Neoplasms	1,490	380	325	460	265
Allergic, endocrine system, metabolic, and nutritional diseases	780	305	210	215	50
Diseases of the blood and blood-forming organs	135	80	30	10	15
Mental, psychoneurotic, and personality disorders	2,960	2 010	710	205	35
Diseases of the nervous system and sense organs	1,740	520	485	525	210
Diseases of the circulatory system	3,930	750	1,170	1,465	545
Diseases of the respiratory system	2,025	740	495	500	290
Diseases of the digestive system	5,080	2,035	1,495	1,155	395
Diseases of the genitourinary system	1,120	375	265	460	320
Diseases of the skin and cellular tissue	710	325	185	140	60
Diseases of the bones and organs of movement	2 055	725	555	500	275
Congenital malformations	100	65	25	10	-
Symptoms senility and ill-defined conditions	925	455	275	155	40
Injuries and related conditions	7,555	4,775	1,450	850	200

SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 13

Number of Weeks of Basic Disability Compensation Paid to State Plan Employed Women With Base Period Earnings of Less Than $4,000, by Age Within Nature of Disability, 1964

Nature of disability	Base weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	782,466	396,563	217,870	131,034	36,999
Infective and parasitic diseases	11,014	8 444	2 025	1,194	241
Neoplasms	87 400	49,434	25,390	10, 195	2,081
Allergic, endocrine system, metabolic and nutritional diseases	25,863	12,956	7,831	4,156	950
Diseases of the blood and blood-forming organs	7,474	4,985	1,792	536	161
Mental, psychoneurotic, and personality disorders	47,187	31,331	9,884	5,536	447
Diseases of the nervous system and sense organs	33,936	12,546	9,550	8,491	3,339
Diseases of the circulatory system	96,272	27,646	28 948	20,016	10,662
Diseases of the respiratory system	50,407	21,764	15,874	10,001	2,769
Diseases of the digestive system	97,013	51,429	27,215	14,889	3,479
Diseases of the genitourinary system	74,264	47,024	19,296	6,491	1,484
Deliveries and complications of pegnancy, childbirth, and the puerperium	1,896	1,894	3	-	-
Diseases of the skin and cellular tissue	11 875	5,914	3 929	1,708	324
Diseases of the bones and organs of movement	74,644	31,402	24,176	14 887	4,179
Congenital malformations	2,414	1,801	473	98	42
Symptoms, senility and ill-defined conditions	25,020	14,824	6,152	3,381	663
Injuries and related conditions	134,827	73,179	35,314	20,156	6,178

NOTE Components may not add to totals owing to independent rounding
SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 14

Number of Weeks of Basic Disability Compensation Paid to State Plan Employed Women With Base Period Earnings of $4,000 or More, by Age Within Nature of Disability 1964

Nature of disability	Basic weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	361,647	175,177	110,255	65,313	10,902
Infective and parasitic	6,266	3,687	1,431	976	172
Neoplasms	51,280	25,968	17,571	6,653	1,083
Allergic, endocrine system, metabolic and nutritional diseases	9,920	4,881	2,908	1,751	280
Diseases of the blood and blood-forming organs	2,871	2,008	411	446	6
Mental, psychoneurotic, and personality disorders	22,567	14,576	5,742	2,016	231
Diseases of the nervous system and sense organs	22,256	8,700	7,581	4,860	1,417
Diseases of the circulatory system	43,910	12,652	14,437	13,877	2,944
Diseases of the respiratory system	22,389	9,787	7,426	4,734	441
Diseases of the digestive system	39,236	19,142	11,820	7,447	826
Diseases of the genitourinary system	36,169	20,954	10,598	4,006	611
Deliveries and complications of pregnancy, childbirth, and the puerperium	1,362	1,362	--	--	--
Diseases of the skin and cellular tissue	4,710	2,234	1,123	944	417
Diseases of the bones and organs of movement	36,649	16,508	11,849	6,766	1,536
Congenital malformations	2,508	1,531	845	131	--
Symptoms, senility and ill-defined conditions	10,089	5,841	2,745	1,469	34
Injuries and related conditions	49,146	25,333	13,677	9,241	896

NOTE Components may not add to totals owing to independent rounding
SOURCE Expanded from a 20 percent sample of State Plan claims which began during 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 15

Number of Weeks of Basic Disability Compensation Paid to State Plan Employed Men With Base Period Earnings of Less Than $4,000, by Age Within Nature of Disability 1964

Nature of disability	Basic weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	446,934	204,516	84,918	110,056	47,444
Infective and parasitic diseases	19,989	11,554	3,024	3,555	856
Neoplasms	21,726	7,070	3,736	7,666	3,255
Allergic, endocrine system, metabolic and nutritional diseases	11,493	3,138	2,253	5,044	1,059
Diseases of the blood and blood-forming organs	1,479	457	179	634	209
Mental, psychoneurotic, and personality disorders	23,922	15,532	5,142	2,830	418
Diseases of the nervous system and sense organs	26,674	7,279	5,889	7,661	5,845
Diseases of the circulatory system	73,056	14,676	16,032	27,097	15,281
Diseases of the respiratory system	27,124	8,636	6,116	8,929	3,443
Diseases of the digestive system	58,362	26,060	11,906	14,826	5,569
Diseases of the genitourinary system	13,021	3,712	1,904	4,707	2,697
Diseases of the skin and cellular tissue	7,011	2,948	1,821	1,811	434
Diseases of the bones and organs of movement	34,258	13,589	7,534	9,119	4,016
Congenital malformations	2,050	1,207	371	357	114
Symptoms, senility and ill-defined conditions	10,757	4,524	2,791	2,567	876
Injuries and related conditions	116,981	84,136	16,219	13,251	3,374

NOTE Components may not add to totals owing to independent rounding
SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 16

Number of Weeks of Basic Disability Compensation Paid to State Plan Employed Men With Base Period Earnings of $4,000 or More, by Age Within Nature of Disability 1964

Nature of disability	Basic weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	975,823	372,036	273,616	267,184	62,987
Infective and parasitic diseases	22,394	12,749	4,406	4,493	746
Neoplasms	52,787	12,748	14,694	19,841	4,504
Allergic, endocrine system, metabolic and nutritional diseases	20,474	5,549	5,736	8,002	1,187
Diseases of the blood and blood-forming organs	2,646	964	1,026	569	86
Mental psychoneurotic, and personality disorders	27,950	14,627	8,465	3,963	894
Diseases of the nervous system and sense organs	61,136	14,839	17,197	22,449	6,651
Diseases of the circulatory system	190,365	37,286	61,704	76,091	21,284
Diseases of the respiratory system	60,286	20,056	16,513	19,043	4,674
Diseases of the digestive system	162,159	62,274	32,104	40,901	6,880
Diseases of the genitourinary system	37,542	11,294	9,378	12,703	4,171
Diseases of the skin and cellular tissue	11,736	5,439	2,287	3,369	643
Diseases of the bones and organs of movement	86,634	35,320	26,391	20,058	4,874
Congenital malformations	4,806	3,252	804	750	—
Symptoms, senility and ill-defined conditions	33,892	10,534	5,634	6,577	1,146
Injuries and related conditions	204,902	123,945	47,274	28,438	5,246

NOTE Components may not add to totals owing to independent rounding
SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 17

Number of Weeks of Basic Disability Compensation Paid to Unemployed Disabled Women, by Age Within Nature of Disability 1964

Nature of disability	Basic weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	220,946	99,004	63,581	43,159	15,204
Infective and parasitic diseases	4,233	1,701	1,662	723	146
Neoplasms	19,999	10,298	6,495	2,066	1,142
Allergic, endocrine system, metabolic and nutritional diseases	8,005	4,529	2,525	1,390	551
Diseases of the blood and blood-forming organs	2,133	831	832	471	—
Mental, psychoneurotic, and personality disorders	17,720	10,305	4,793	2,176	446
Diseases of the nervous system and sense organs	10,559	4,018	2,644	2,085	1,811
Diseases of the circulatory system	28,192	7,479	7,442	9,054	4,208
Diseases of the respiratory system	9,576	3,469	2,643	3,095	369
Diseases of the digestive system	21,001	8,879	5,546	5,096	1,379
Diseases of the genitourinary system	17,599	9,620	5,295	2,103	581
Deliveries and complications of pregnancy, childbirth, and puerperium	515	515	—	—	—
Diseases of the skin and cellular tissue	3,519	2,014	820	635	150
Diseases of the bones and organs of movement	23,590	7,784	8,471	5,561	1,774
Congenital malformations	519	160	236	95	38
Symptoms, senility and ill-defined conditions	5,464	2,766	1,408	954	336
Injuries and related conditions	47,279	24,636	12,727	7,745	2,271

NOTE Components may not add to totals owing to independent rounding
SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965.

CALIFORNIA DISABILITY INSURANCE PROGRAM

TABLE 18

Number of Weeks of Basic Disability Compensation Paid to Unemployed Disabled Men, by Age Within Nature of Disability 1964

Nature of disability	Basic weeks paid by age				
	Total	Under 45	45–54	55–64	65 and over
Total	341,557	126,405	86,988	88,699	39,465
Infective and parasitic diseases	11,144	6,307	2,086	1,995	756
Neoplasms	18,666	3,981	3,048	7,149	3,858
Allergic, endocrine system, metabolic and nutritional diseases	7,850	2,320	1,681	2,919	930
Diseases of the blood and blood-forming organs	1,593	983	246	164	199
Mental, psychoneurotic, and personality disorders	32,556	22,266	7,780	2,128	382
Diseases of the nervous system and sense organs	23,342	5,520	6,139	8,716	3,466
Diseases of the circulatory system	56,213	6,937	15,659	23,314	10,292
Diseases of the respiratory system	29,119	3,819	5,654	7,049	3,588
Diseases of the digestive system	46,765	15,293	14,499	12,007	4,966
Diseases of the genitourinary system	12,457	2,174	1,986	4,685	3,612
Diseases of the skin and cellular tissue	5,404	2,193	1,544	1,229	438
Diseases of the bones and organs of movement	26,486	8,044	7,199	7,397	3,847
Congenital malformations	1,206	713	331	163	--
Symptoms, senility and ill-defined conditions	7,906	3,127	2,728	1,516	535
Injuries and related conditions	69,389	42,729	15,797	8,267	2,595

NOTE Components may not add to totals owing to independent rounding
SOURCE Expanded from a 20 percent sample of State Plan claims which began in 1964 and were reported terminated by September 1965

State of California
Department of Employment
Report 1012 No 10

Research and Statistics
October 28, 1965

The California Disability Insurance Program

I. INTRODUCTION

The California Unemployment Insurance Code provides two systems of protection against wage losses by involuntarily unemployed wage earners: unemployment compensation to those out of work but able and available for work, and disability compensation to those unemployed because of sickness or injury The basic law, which provided only unemployment insurance, was enacted in 1935; benefits under it were first payable in 1938 In 1946, the disability insurance provisions were added, under which benefits were first payable in December 1946. Disability benefits under the 1946 amendment of the California Unemployment Insurance Act are payable to persons who are unable to perform their usual or customary work because of an illness or injury. Disabilities deemed to be occupational in nature are concurrently covered by workmen's compensation laws.

The disability insurance provisions of the law originally provided for payment of only one type of disability benefit, a weekly indemnity similar to unemployment insurance benefits A 1949 amendment provided additional hospital benefits, starting January 1, 1950, for a disabled individual, otherwise eligible, during his confinement in a hospital pursuant to orders of his physician.

In order to distinguish between the two types of disability benefit payments, the former is commonly referred to as "basic benefits" and the latter as "additional benefits during hospital confinement" or "hospital benefits "

II. COVERAGE

Wage earners insured under the disability provisions of the California Unemployment Insurance Code include all those workers on the payrolls of employing units, except those specifically excluded by the Code, having a payroll in excess of $100 for one or more employees in a calendar quarter. Excluded are. (1) employees of interstate railroads; (2) government employees (except that coverage for employees of housing agencies and non-civil service blind and physically handicapped employees of the California Industries for the Blind is compulsory, and coverage of some state employees and of district, county, and municipal employees on an elective basis is authorized); (3) domestic workers; and (4) employees of some nonprofit agencies and a few others not included in the preceding groups Employees of the federal government are covered for unemployment benefits, but not for disability benefits, by the Federal Unemployment Compensation System and employees of the interstate railroads are covered for both unemployment and disability benefits by the Railroad Retirement Board

The 1961 Legislature extended coverage of disability insurance, but not of unemployment insurance, to domestic agricultural workers effective October 1, 1961 These newly covered workers first became eligible on May 1, 1962 to file claims for disability benefits on the basis of their farm earnings. The 1963 Legislature authorized coverage for disability

insurance only, on an elective basis, for employers and for self-employed entrepreneurs who have no employees The contribution rate for these employers (for both prior and new elections) and self-employed entrepreneurs was set, beginning October 1, 1963, at 1 25 percent of their taxable wages. The 1965 Legislature extended disability insurance, but not unemployment insurance, coverage to employees of nonprofit private hospitals, effective October 1, 1965. Such employees are first eligible for disability benefits on the basis of their hospital wages on May 1, 1966.

Until Public Law 78 expired on December 31, 1964, foreign contract farm workers were excluded from coverage Foreign contract farm workers admitted to California under Public Law 414 and other federal laws are subject to disability coverage These workers, mostly Mexican nationals, will be able to file disability insurance claims from their native countries.

It is estimated that during 1965 nearly seven million California workers will contribute part of their wages for purposes of disability insurance coverage.

The 1946 statute established a State Plan of Unemployment Compensation Disability and a Disability Fund to give disability insurance coverage to all wage earners already covered by unemployment insurance. State Plan coverage is mandatory for individuals in subject employment unless they have elected coverage by a voluntary plan or claim a religious exemption A private plan approved by the Director of the Department of Employment may be substituted for coverage under the State Plan (see Section IV). Such plans are known as "voluntary plans." The number of people who claim a religious exemption is negligible.

III. STATE PLAN

Financing

The State Plan is administered by the California Department of Employment, and financed entirely by California workers through a payroll tax on their earnings[a] From 1946 through July 1965 this tax was a 1-percent levy on taxable wages earned during the year From 1946 through 1957 contributions were collected on the first $3,000 in wages paid in covered employment to each worker during the year. This ceiling was raised to $3,600 for 1958, and continued at that level through 1961 The 1961 Legislature established the taxable ceilings at $4,100 for 1962, $4,600 for 1963, $5,100 for 1964, and $5,600 for 1965. The 1965 Legislature raised the taxable ceiling to $7,400 effective August 1, 1965, and raised the tax rate to 1 1 percent on taxable wages paid from August 1 through December 31, 1965, with credit given for taxable wages paid prior to August On January 1, 1966, the contribution rate will revert to 1 percent of taxable wages under the ceiling of $7,400

Until June 30, 1965, worker contributions have been remitted to the department by the employer quarterly, together with wage data on each worker employed during that time Commencing September 1, 1965, employers who have withheld in excess of $50 for the prior month

[a] See Section V for details on financing benefits to claimants not in covered employment at the onset of disability

are required to remit these premiums monthly, with respect to contributions for the first and second month of each quarter.

Money in the Disability Fund may be used only for the payment of disability benefits and for administration of the program

Eligibility for Benefits

An individual covered by the code who suffers a disability may receive benefits provided he meets certain eligibility requirements A "disability" is defined as any physical or mental illness or injury which prevents an individual from performing his regular or customary work

To receive disability benefits a person must (1) file a claim in accordance with regulations; (2) serve a seven-day waiting period in each uninterrupted period of unemployment and disability, except that the waiting period is waived from the date of confinement in a hospital, (3) have been paid the qualifying amount of wages in his base period, regardless of the type of disability insurance coverage in effect during his base period; (4) submit to a reasonable examination when required by the department, and (5) file a certificate of disability signed by a duly authorized doctor of medicine, osteopath, chiropractor, dentist, optometrist, podiatrist, government hospital official or religious practitioner

Generally speaking, an individual is covered by disability insurance for nonoccupational illnesses and injuries, and by workmen's compensation for illnesses and injuries associated with his employment. However, in at least two cases when an individual has a workmen's compensation claim, he may be eligible for disability insurance benefits: (1) if he has a workmen's compensation claim pending settlement and he will sign a lien allowing the department to recoup the benefits paid, or (2) if his weekly indemnity for temporary workmen's compensation is less than the amount of weekly disability insurance benefits to which he would be entitled. In the latter case he may receive the difference between the two daily benefits Since the weekly benefit amount for temporary workmen's compensation is based on an annual average weekly wage, while the weekly benefit amount of disability insurance is based on high quarter earnings, the workmen's compensation weekly award is often smaller The maximum weekly temporary workmen's compensation payment fixed by statute is also less than the maximum weekly disability insurance payment Most claimants of temporary workmen's compensation benefits whose normal weekly income fluctuates or who are now receiving the maximum workmen's compensation weekly award are eligible for a partial disability insurance payment if they file a claim

Full disability insurance benefits are payable regardless of workmen's compensation cash payments for a permanent disability

Benefit Formula

To have a valid claim a disabled individual must have been paid a minimum of $300 in covered employment during the four consecutive calendar quarters comprising his base period Normally, the beginning of the base period antedates the claim filing date by approximately 1½ years When a disability insurance claim is filed during an existing

unemployment insurance benefit year, however, benefit rights depend on the earnings in this base period, the beginning of which may antedate the disability claim by as much as 31 months A disability benefit period is established for each continuous period of unemployment and disability The maximum amount payable for any continuous period of unemployment because of disability is 26 times the weekly benefit amount, or one-half the base period wages paid the claimant, whichever is less The weekly benefit rate is computed from a schedule based on high quarter earnings For disabilities beginning during 1965 and thereafter, the minimum weekly basic benefit amount is $25 and the maximum is $80 Up to 20 days of hospital confinement for any continuous period of unemployment and disability are also compensable at the rate of an additional $12 per day Thus, the maximum amounts which may be drawn during a disability benefit period vary from $150, which is one-half of the minimum base period earnings necessary for a valid claim, to $2,080 in basic benefits, plus up to $240 of additional hospital benefits

Disqualifications

An individual is disqualified from receiving disability benefits if he willfully makes a false statement of representation or willfully fails to report a material fact to obtain benefits

Under the State Plan a disabled claimant's receipt of (or entitlement to receive) benefits under various related programs may result in the reduction or denial of his disability insurance benefits, depending on the nature and amount of such related benefits The following types of benefit programs fall within this category.

1 Unemployment insurance (state and federal, including unemployment compensation for ex-servicemen, unemployment compensation for federal employees and railroad unemployment or sickness benefits);
2 Workmen's compensation (cash benefits for temporary disability indemnity); and
3 Wages, or regular wages (i e, sick leave).

It should be noted that the program allows for the possibility of a claimant receiving the equivalent of his full salary while disabled, plus additional hospital benefits, as a result of the receipt of some sick leave wages from his employer plus sufficient basic benefits to make up the difference.

A person confined in an institution by court order or certification as a dipsomaniac, drug addict, or sexual psychopath may not be compensated while so confined Under certain conditions, disabilities which began while a trade dispute was in progress may also result in no benefits being payable during the existence of such dispute

Pregnancy-related disabilities are not compensable until 28 days plus any statutory waiting period have elapsed following termination of the pregnancy.

Claims Procedure

The first claim for each uninterrupted period of disability must be supported by a properly completed certificate of disability, stating the

medical facts with respect to the disability and the opinion of the certifying agent as to the probable duration of the disability Those authorized to sign certificates include doctors of medicine, osteopaths, chiropractors, dentists, podiatrists, and optometrists, within the scope of their practice The certificate of a medical officer of a U S. government facility is acceptable for this purpose as is the certificate signed by a registrar of a county hospital or by the registrar or superintendent of a state hospital for the mentally ill Provision is also made for the acceptance of the certificate of an authorized and accredited religious practitioner, for basic benefits but not for hospital benefits, in those cases where the claimant's religious beliefs require dependence for healing entirely on spiritual means Those workers claiming a religious exemption while employed are not eligible for benefits while disabled

Claims are handled principally by mail, through 22 district offices located throughout the state, including an office in Sacramento that handles out-of-state claims Out-of-state claims can be filed by eligible California workers who have become disabled while outside the state Such claims must be signed by a person licensed and authorized to practice in the other state or foreign country

The information entered on the claim by the certifying agent provides lay claims examiners a basis for determining the reasonableness of the estimated duration of the disability

These lay claims examiners, trained by the medical staff of the department, make the determinations with the aid of tables of disability durations developed, and periodically reviewed, by the medical director A disability is verified in some cases by unscheduled visits made by claims examiners to the claimant's homes, or by medical examinations given by doctors chosen from a list of "independent medical examiners" This list contains the names of those licensed doctors who have expressed a willingness to aid in the administration of the disability program The cost of the medical examination is paid by the department All contacts with claimants and with doctors are made by the district office personnel

First claims are mailed by the claimants to the appropriate district office The district office makes all determinations except the monetary computation, which is made in the central office from wage records already on file Checks are written in the district office after proper determination of eligibility

Appeals Procedure

All claimants, both voluntary and State Plan, have a right to appeal determinations or benefit computations to an impartial referee. A further appeal from the referee's decision may be filed with the Appeals Board, or the Appeals Board may set aside the referee's decision on its own motion Decisions of the Appeals Board may be reviewed by the courts

IV. VOLUNTARY PLANS

A voluntary plan, either self-insured or insured by an admitted disability insurer, may be substituted for State Plan coverage if it meets standards fixed by statute The law permits employers, and employee groups with concurrence of the employer to establish voluntary plans if

they prefer and if a majority of the employees consent to the plan The law provides automatic continuation of approval of a voluntary plan when a business with a voluntary plan is purchased by a new owner, unless a written request of cancellation is sent to the Director of Employment. For an employee contribution not exceeding the statutory rate for State Plan coverage, a voluntary plan must provide rights equal to those provided by the State Plan in each particular and greater than the State Plan with respect to at least one significant feature in order to receive the department's approval Voluntary plans are assessed 0 12 percent of the taxable payroll of the employers they insure (the rate was 0.15 percent in 1962 and 0 13 percent in 1963) as their share of the costs of benefits to the unemployed disabled In addition, voluntary plans are assessed for some of the administrative costs incurred by the Disability Fund in supervising voluntary plans (see Section V).

Employees are relieved of the statutory contribution to the State Disability Fund while they are covered under an approved voluntary plan They are also ineligible for benefits from the State Fund for any disability that commences while they are employed by the voluntary plan employer. If an employee works simultaneously for more than one employer, and is covered by and entitled to benefits from one or more voluntary plans and the State Plan, the State Plan must pay part of his benefits. An employee may choose State Plan coverage even though voluntary plan coverage is available at his place of employment

Adverse Selection

An adverse selection provision of the code, to prevent private insurers from insuring only the better risks and leaving the less desirable ones to the Disability Fund, was in effect from 1947 through 1954, was suspended effective in 1955, and was reinstituted by the 1961 Legislature. The 1961 Legislature directed the Director of Employment to implement the provision, by regulation, effective January 1, 1962, to prevent voluntary plan insurers from substantial selection of risks adverse to the Disability Fund The sex, age, and wage composition of insured employees were to be the criteria used in determining whether or not the risk was adverse

The Director implemented the statute by Regulation 3254(i)-2, which was tested in court proceedings The California Supreme Court upheld the validity of Regulation 3254(i)-2 and it was made effective as of January 1, 1963 As a result of the application of the adverse selection regulation to the voluntary plans underwritten by insurance carriers, by January 1963 approximately 550,000 wage earners changed to the State Plan coverage, about 150,000 became covered by self-insured employers to whom the adverse selection regulations does not apply, and about 50,000 remained covered by those voluntary plans which passed the adverse selection test As of August 31, 1965, there were 381 voluntary plans in effect, covering an estimated seven percent of the total disability insurance coverage The majority of voluntary plan coverage is currently furnished by self-insured employers.

Administrative Cost

Prior to July 1, 1955, voluntary plan carriers were liable for an assessment of up to 0.02 percent of the taxable payrolls of employers they insured, to cover the added administrative cost to the state of supervising voluntary plans. This provision was repealed by the 1955 Legislature.

The 1961 Legislature authorized the Director to make assessments for the added administrative work arising out of voluntary plans, such amount to be prorated among the voluntary plans in effect during the fiscal year on the basis of the amount of wages paid in voluntary plan covered employment

V. FINANCING BENEFITS TO UNEMPLOYED DISABLED

Prior to 1959, the cost of disability benefits paid to wage earners who became disabled while unemployed or while employed in uninsured employment was shared between the State Plan and voluntary plan insurers by means of the "extended liability account" All claims by eligible unemployed persons or by eligible employees in exempt employment were processed by the State Plan, and if valid, were paid by the Disability Fund and were charged to the extended liability account (previously a part of the accounting process of the State Disability Fund) Throughout the whole history of the program the one element that has remained unchanged is that all claims to the unemployed disabled have been paid by the Disability Fund

The extended liability account was a device used to determine the amount of voluntary plan assessments and State Disability Fund credits to be applied toward extended liability payments The account was charged with the amount of the extended liability benefit payments and credited with an amount equal to the interest on the total of employee contributions for 1944, 1945, and for the period from May 21, 1946, to December 1, 1946 If a deficit resulted from the balance of the cumulated debits and credits, it was to be made up in whole or in part by credits from the State Disability Fund and by proportionate assessments on voluntary plan insurers Neither the credits from the Disability Fund nor the voluntary plan assessments could, in any year, exceed 0 03 percent of the taxable payroll of the employers covered

The 1959 Legislature suspended the extended liability account for calendar years 1959 through 1961; and established a new procedure for charging the voluntary plans for their share of benefits to the unemployed disabled effective January 1, 1960.

The new procedure became known as the "prorated benefit method" Under this method benefits paid to claimants formerly classified as extended liability were, as before, paid by the State Plan and a portion of the benefits were recouped through an assessment process against voluntary plan insurers The essential element of the new method was a proration of the benefits based on the voluntary plan share of the wages in the claimant's base period The interest credits were continued in similar fashion to those allowed under the extended liability accounting process The prorated benefit method of accounting continued to be in effect with respect to claimants whose disabilities began in 1960 and 1961.

In the 1961 legislative session, the extended liability account was abolished and the prorated benefit procedure was terminated with respect to claims which began prior to January 1, 1962

The "unemployed disabled account" now in effect was established effective January 1, 1962

Financing of the unemployed disabled account began with a general contribution equal to 0 15 percent of the taxable wages paid in 1962. The contribution decreased to 0 13 percent for 1963, and to 0 12 for 1964 and thereafter For the State Plan this is accomplished by a bookkeeping entry crediting a portion of the total receipts of the 1 percent tax to the unemployed disabled account, for the voluntary plans this is accomplished through a quarterly assessment procedure

VI. MAJOR CHANGES IN THE PROGRAM SINCE ENACTMENT

The more significant amendments to provisions of the Unemployment Insurance Code pertaining to disability insurance since enactment of the original provision in 1946 are listed below

1947 The maximum amount of benefits payable in a benefit year was raised to 26 times the weekly benefit rate for disabilities commencing on or after January 1, 1948, but with the limitation that total benefits could not exceed one-half of base period earnings

The $20 maximum weekly benefit rate was raised to $25 for disabilities commencing on and after January 1, 1948

1949 Benefits of $8 per day up to 12 days within a benefit year were provided for those confined in a hospital, effective January 1, 1950

The provisions imposing a limitation on combined unemployment and disability benefits payable within a benefit year to 150 percent of the original award were removed

1951 The maximum weekly benefit rate was raised to $30 for all disabilities commencing January 1, 1952, and thereafter.

Payment of hospital benefits irrespective of receipt of remuneration from the claimant's employer was authorized, effective January 1, 1952

Blanketing-in authority was allowed to voluntary plans with the proviso that any employee could reject the plan upon written notice to the employer

The limitation on combined wage continuance and disability benefit payment was raised from an amount equaling the weekly benefit to 70 percent of the claimant's last weekly wage, effective January 1, 1952

Payment of benefits during a trade dispute was permitted if the disability was disassociated from the dispute, effective January 1, 1952

1953 The "benefit year" concept was removed so that an individual could be paid a maximum benefit amount for each disability benefit period for periods of disability commencing on and after

January 1, 1954 The maximum benefit became 26 times the weekly benefit rate for each disability benefit period

The provision limiting maximum total disability benefits to one-half of base period earnings was removed for disabilities commencing on and after January 1, 1954

The maximum weekly rate was raised to $35 for disabilities beginning on and after January 1, 1954

The hospital daily benefit rate was raised to $10 for disabilities beginning on and after January 1, 1954

The "adverse selection" section of the code was suspended for the calendar years 1954 and 1955

1955 The maximum weekly benefit was raised to $40 for disabilities commencing after December 31, 1955

Daily disability insurance payments were allowed to supplement partial wage continuation from an employer, providing the total of his wages and benefits for a day did not exceed one-seventh of the claimant's weekly earnings in the week immediately preceding his disability.

Claimants whose base period earnings equaled or exceeded $750 were excluded from the provision that a claimant's base period earnings had to be at least 30 times his weekly benefit amount if his high quarter earnings constituted more than 75 percent of his base period earnings

The suspension of the adverse selection provision of the code was extended through December 1957

The administrative assessment against voluntary plans was discontinued for expenses incurred after July 1, 1955

1957 The provision that the claimant had to have total base period earnings of at least $750, if more than 75 percent of his earnings was concentrated in one calendar quarter of the base period, was removed for disabilities commencing on and after January 1, 1958

The maximum weekly basic benefit was raised to $50 for disabilities commencing on and after January 1, 1958

The ceiling on taxable wages was raised from the first $3,000 to the first $3,600 in wages paid to an employee in covered employment during any calendar year, effective January 1, 1958

Protection was extended by allowing claims to be certified to by doctors licensed and practicing in foreign countries, for disabilities beginning on and after January 1, 1958

The amount of hospital benefits was raised to $12 a day, and the maximum compensable hospital duration was increased to 20 days in a single period of disability, for disabilities commencing on and after January 1, 1958

Automatic continuation of approval of a voluntary plan was provided when a business is purchased by a new owner, effective January 1, 1958

The suspension of the adverse selection provision of the code was extended through December 1959

Disability insurance basic benefits were made payable to a claimant otherwise eligible, irrespective of entitlement to, or receipt of, cash payments under a workmen's compensation law, for permanent disability for the same day, effective September 11, 1957.

1959 The maximum weekly basic benefit amount was increased to $65 for disabilities commencing on or after January 1, 1960

A physician's certificate was no longer required in the case of reduced basic benefits which are supplemental to temporary workmen's compensation for disabilities commencing on or after January 1, 1960.

Effective for disabilities commencing on or after January 1, 1960, persons hospitalized pursuant to a court order or health officer's certificate became eligible for hospital benefits; this in effect extends the hospital benefits to mental case commitments The extended liability account was suspended for 1959, 1960, and 1961, and prorated benefits were established effective January 1, 1960.

The suspension of the adverse selection clause was continued for 1960 and 1961.

Coverage of employees of political subdivisions or instrumentalities of the state (city, county, or districts) on an elective basis was authorized.

1961 The maximum weekly basic benefit amount was increased to $70 for disabilities commencing on and after January 1, 1962, with an escalator formula providing for further increases based on wage levels The maximum weekly benefit amount can fluctuate as wage levels change, but ". . . in no event shall the maximum weekly benefit amount be below $70 "

The taxable wage base was raised from $3,600 to $4,100 in 1962, to $4,600 in 1963, to $5,100 in 1964, and to $5,600 in 1965

A total of $70 million was transferred to the Disability Insurance Fund from the Unemployment Insurance Fund "also available" moneys, and the earmark was removed from the balance of these moneys.

The prorated benefits procedure was repealed effective with disability benefit periods beginning after December 31, 1961

The extended liability account was repealed, and effective beginning January 1, 1962, each voluntary plan was to be assessed a percentage of the taxable wages paid to employees covered by the voluntary plan; 0 15 percent for calendar year 1962; 0.13 percent for 1963, 0 12 percent in 1964 and thereafter, to cover benefits to the unemployed disabled

The adverse selection provision of the code was made operative again as of January 1, 1962 The director was required to implement by regulation a restriction on voluntary plan selection of risks adverse to the Disability Fund.

The director was required to make assessments for added administrative work arising out of voluntary plans, prorated among

the approved voluntary plans in effect during that fiscal year. The assessment will be made on the basis of each voluntary plan's share of wages paid in voluntary plan covered employment

Coverage was extended to agricultural workers (foreign contract workers excluded) effective October 1, 1961

Voluntary plan cancellation was restricted to the date when benefits are increased, or to the anniversary date of the plan, effective January 1, 1962.

1963 The minimum weekly benefit amount was increased from $10 to $25 for disabilities commencing on or after January 1, 1964

The operation of the escalator formula resulted in an effective maximum weekly basic benefit amount of $75 for disabilities commencing in 1963.

Elective coverage for employers, and self-employed entrepreneurs who have no employees, was extended (for disability insurance only) at a contribution rate of 1 25 percent of taxable wages The 1 25 percent rate was also applied beginning October 1, 1963, to disability insurance tax liability under existing employer self-coverage elections made under Section 708 for both unemployment and disability insurance.

A voluntary plan insurer was given the right to cancel a voluntary plan when an employing unit covered by the plan is acquired by another employing unit The time elements for making the request for cancellation were liberalized and the cancellation would be effective as of the date of acquisition.

The department was authorized to borrow in order to tide over the Disability Fund during periods of low cash balances in 1964 and 1965.

1964 The operation of the escalator formula increased the maximum weekly basic benefit amount to $77 for disabilities commencing in 1964.

1965 The taxable wage ceiling was raised to $7,400 effective August 1, 1965, with credit given for taxable wages paid in 1965 at the prior ceiling of $5,600

The tax rate was increased to 1 1 percent for all taxable wages paid from August 1, 1965, through December 31, 1965, to revert to 1 0 percent for taxable wages paid in 1966 and thereafter The escalator relating the maximum weekly benefit amount to wage levels was repealed, and a maximum of $80 a week for basic benefits was established effective August 1, 1965, and thereafter. Previously, an $80 maximum had been established commencing January 1, 1965, through the operation of the escalator formula. The maximum basic award payable for each uninterrupted period of disability was limited to 26 times the weekly benefit amount, or one-half of the total base period wages, whichever is less, for periods of disability commencing on or after August 1, 1965

Commencing September 1, 1965, those employers who withhold more than $50 in worker contributions for a prior month are required to remit these contributions to the department monthly rather than quarterly.

Borrowing authority by the department for periods of low cash balances in the Disability Fund was extended from December 31, 1965, to December 31, 1967.

Provision was made to allow voluntary plans to increase their premiums in line with the increased State Plan taxable rate and wage base

Statutory disability insurance coverage was extended to employees of nonprofit private hospitals, commencing with wages paid on and after October 1, 1965 Claims can be filed based on such covered wages beginning May 1, 1966

NOTE This document is for informational purposes only, and does not have the effect of law, rule, or regulation The California Unemployment Insurance Code must be consulted for the full text of the law Rules and regulations, opinions of the Attorney General, and administrative and court decisions contain the official interpretations of the law.

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JOINT LEGISLATIVE RETIREMENT COMMITTEE REPORT

VOLUME 1 1966 NUMBER 2

REPORT OF THE

JOINT LEGISLATIVE RETIREMENT COMMITTEE

to the

1967 GENERAL SESSION OF THE
CALIFORNIA LEGISLATURE

AB 1672, Chapter 1417, 1963

MEMBERS OF THE COMMITTEE

ASSEMBLYMAN DON A. ALLEN, SR., *Chairman*
SENATOR ALAN SHORT, *Vice Chairman*

Assemblymen	*Senators*
E RICHARD BARNES	RANDOLPH COLLIER
HARVEY JOHNSON	ALVIN C. WEINGAND

ROBERTA CHOCK, *Committee Secretary*

Report of the

JOINT LEGISLATIVE RETIREMENT COMMITTEE

Interim Studies

INVESTMENT OF PUBLIC RETIREMENT FUNDS

ACA 57

STATE TEACHERS' RETIREMENT SYSTEM

ACR 54

HR 208

TABLE OF CONTENTS

	Page
Letter of Transmittal	4
Preface	5
Retirement Fund Investment in Common Stocks	6
State Teachers' Retirement System	9
General Conclusions of the Committee	14

COMMITTEE LETTER OF TRANSMITTAL

Sacramento, California, January 2, 1967
STATE CAPITOL BUILDING

Hon. Jesse M. Unruh
Speaker of the Assembly

Hon. Hugh M. Burns
President pro Tem of the Senate

Gentlemen:

We are submitting herewith to you and to the Honorable Members of the California Legislature the second report of the Joint Legislative Retirement Committee.

This committee was established as a permanent, statutory investigative committee by Chapter 1417, Statutes of 1963 Its function is to study the operations of, and all legislative proposals relating to, the various public retirement systems over which the legislature has jurisdiction

During the period since our first report, the committee has concerned itself with two important matters · first, the approval of a constitutional amendment to permit state retirement systems, except the teachers' retirement system, to invest in common stocks, and second, the operations and problems of the State Teachers' Retirement System Public hearings on these matters were held in various parts of the state; four on ACA 57, one on HR 208, and one on ACR 54 Committee actions and recommendations are indicated in the body of this report.

It is the candid opinion of the members of this committee that a standing committee be formed in each house to entertain all pension proposals, due to the fact that many of them are spread between several of the committees and the inherent danger of escalating one pension system above another could have marked and even disastrous results. The chairman and two other senior members could well suffice for the statutorial demands of the joint committee from each house.

It must also be taken into consideration that Proposition No. 1 is permissive legislation only, and that further action by the legislature is necessary to implement these provisions.

Therefore, it is highly essential that a watchdog committee of expertise developed over the past six years by this committee be continued

Respectfully submitted,

DON A. ALLEN, SR., *Chairman*
ALAN SHORT, *Vice Chairman*

E RICHARD BARNES
HARVEY JOHNSON
RANDOLPH COLLIER
ALVIN C WEINGAND

PREFACE

The Joint Legislative Retirement Committee devoted much of its time and effort during the past year to the drafting, passage and securing of voter approval of ACA 57, Proposition No. 1 on the November 1966 general election ballot.

Next in importance on its agendum were the various problems of the State Teachers' Retirement System. The Auditor General published two reports on the system, the latter of which recommended strongly that an independent study be made of the system's operations, fiscal soundness, and ability to meet the needs of a growing school organization adequately Assembly Concurrent Resolution 54 made $75,000 available to the committee to retain a qualified independent firm to make such a study.

Assembly House Resolution 208 further directed the committee to investigate the advisability of contracting for Federal Old Age and Survivors Insurance coverage for teachers, to supplement the State Teachers' Retirement System benefits.

Detailed studies on these subjects were prepared by legislative staff and others concerned. These provided a sound basis for committee consideration of the problems involved Several public hearings held by the committee provided ample opportunity for the various segments of the body politic to express their opinions on these matters, and to give the committee the benefit of their counsel

I

RETIREMENT FUND INVESTMENT IN COMMON STOCKS

Committee action to draft an appropriate constitutional amendment, work for its legislative passage, and convince the voting public that it should be approved, is its most substantial achievement in improvement of financial support for public retirement systems. Permission for such systems to put part of their investment funds in common stock means for them not only opportunity for greater return, but also a share in America's growth capital—a permanent asset, not merely a portion of refundable debt.

Recommendation that such permission be granted antedates the legal establishment of the retirement committee by several years. As early as 1960 the State Employees' Retirement System had retained both Moody's Investors Service and the Trust Department of the First National City Bank of New York to separately study its investment policies and to recommend desirable improvements. Each organization had recommended that the system be authorized to invest a portion of its assets in common stocks.

No action was taken on these recommendations, however, until the 1963 legislature. At that time the now outgoing chairman of this committee, Assemblyman Don A. Allen, Sr , introduced and secured legislative approval of ACA 13 which went on the ballot in the 1964 general election as Proposition No. 7.

This proposition was an enabling act which would have amended the state constitution to permit the state and its subdivisions to invest public retirement funds in common stocks up to 25 percent of assets under rules and regulations set by the legislature The prohibition against such investment had been written into the state constitution in 1849, apparently to prevent state investment in railroad stocks, a practice which had nearly wrecked the finances of some midwestern states.

Proposition No. 7 was rejected by the voters largely because of newspaper opposition whose main argument was that the proposal contained no safeguards against unsound investments, or standards for the legislature to follow in implementing the proposed change.

The fact is that in 1964 many California chartered cities and other independent public retirement systems were investing their retirement funds in common stocks They can do so because they are held exempt from the constitutional limitation. Their experience has been good, and their investment earnings considerably higher than those of funds limited to investment in bonds.

In our first report this committee strongly urged that efforts to secure approval of an appropriate amendment to include common stocks be continued. During the early part of the 1966 special session the committee made a thorough, comprehensive study of the defects in the 1964 Proposition No. 7.

With the aid of interested outside groups, our committee then proceeded to draft a new amendment with enough safeguards written into

it to obviate the previous criticisms and to secure broader public support

Principal among these safeguards were the following: First, a corporation must have at least $100 million in assets before public retirement systems could purchase its common stock. For banks and insurance companies, the minimum requirement was set at $50 million in capital stock.

Second, in order to be considered, any stock must have paid dividends for 8 out of the last 10 years.

Third, not more than 5 percent of the outstanding stock of any corporation may be purchased.

Last, not more than 2 percent of the investment assets of a system may be put into any one stock.

With these provisions, ACA 57 was introduced by Assemblyman Allen and passed both houses of the legislature without difficulty. As soon as the Secretary of State had assigned it to the No. 1 position on the November election ballot, a statewide citizens support committee, "Californians for Yes on Proposition 1," was organized. Mr. Louis B. Lundborg, chairman of the board, Bank of America, consented to serve as chairman of this support committee.

One of the recognized reasons for the failure of Proposition No. 7 in the 1964 election was the complete lack of an organized voter education campaign. The natural distrust of the general public in common stocks was not combated in any way The average voter simply did not understand that our system of common stocks is an essential bulwark of private enterprise. It protects the investor, providing him with a ready market for his equities at all times. It serves to evaluate the worth of the corporations issuing such stocks in market terms. It furnishes the issuing companies a sound method of raising large amounts of capital from many kinds of investors.

Our committee was determined that Proposition No. 1 would not fail because of lack of public understanding of its importance. With the assistance of the citizens committee a series of public hearings was scheduled in both the south and north, and to them were invited investment experts from all kinds of organizations and institutions. These witnesses unanimously voiced their support of the proposition. At no time was any dissent to this measure offered. They gave exhaustive and cogent reasons for its approval by the electorate, and reviewed the probable additional income which would benefit the State Employees' Retirement System, the 375,000 state and local employees it serves, and the more than 30,000 current retired or other beneficiaries The publicity from these hearings proved a very valuable means of educating the voting public about Proposition No 1.

The first of these public hearings was held in Sacramento on September 19, 1966, Chairman Allen presiding The five witnesses, all testifying in strong support of the measure, were Charles Bursik, vice president of Standard and Poor's Corporation in New York; Ernest O. Ellison, investment officer, State Employees' Retirement System; John Bailey of the California State Employees' Association; Walter Kaitz, chief administrative officer and legislative advocate of the League of County Employee Associations; and Wendell Witter, partner of the Dean Witter company.

The second hearing was conducted by Assemblyman E. Richard Barnes of the committee in San Diego on September 26, 1966. Seven witnesses presented testimony and voiced opinions favoring passage of Proposition No 1 They were William G. Maas, vice president and senior investment officer of the First National Bank of San Diego; John Leppert, executive manager of the San Diego County Taxpayers' Association; Richard Langan, vice president of Moody's Investors Service, Inc.; Fred W Lawrence, Auditor and Controller of the City of San Diego; Robin W. Allen, legislative representative of CSEA; Wesley F Jones, vice president and senior investment adviser of the Security First National Bank, and Ernest O Ellison, investment officer, State Employees' Retirement System.

Los Angeles was the location of the next hearing on this proposition, which Assemblyman Harvey Johnson of the committee conducted Louis B Lundborg, chairman of the board of the Bank of America and chairman of the statewide committee for "Yes on Proposition No 1," was first to appear before the committee He was followed by Franklin B. Murphy, Chancellor of the University of California; Harold Ostly, Treasurer and Tax Collector for Los Angeles County; Lue Cramblit of Lionel Eddy and Company, Charles Boothe, partner of Scudder, Stevens and Clark; Joseph L Wyatt, Jr, member of the Board of Administration of the State Employees' Retirement System and president of the State Personnel Board; and William E Payne, executive officer of the State Employees' Retirement System All were unanimous in their approval of the proposition, and each approached the matter from the point of his particular experience

The final hearing on Proposition No 1 was held in San Francisco on October 24, 1966, at which Senator Weingand of the committee presided in the absence of the chairman Witnesses were George Hopiak, vice president and manager of the trust division of Wells Fargo Bank; Louis B Lundborg of the Bank of America, John C Weiner, Jr, executive vice president of Moody's Investors Service, Inc, Dudley Browne, Lockheed Aircraft Corporation; David Rockefeller, president of Chase Manhattan Bank of New York; George Lingua, vice president of First National City Bank of New York; Martin Huff speaking on behalf of Hale Champion, Director of Finance, William E Payne speaking on behalf of Mr Fowler of the Department of General Services; and Owsley Hammond, treasurer of the Regents of the University of California. Once again all concurred in their favorable opinion of the provisions of Proposition No 1.

The Joint Legislative Retirement Committee is sincerely convinced that these hearings were an important factor in the successful passage of this measure Other fortuitous factors may have played some part, but the great value of a well-planned, energetic program to inform the voting public about the facts on a ballot proposition was well demonstrated

Obviously it will be some years before the full impact of Proposition No 1 will become evident, but the committee is firmly convinced that its operation will produce more income for the state retirement system, and thus enable it to keep pace with economic growth Approval of the measure will also strengthen public confidence in our private enterprise system.

II

STATE TEACHERS' RETIREMENT SYSTEM

Assembly Concurrent Resolution No 54, Chapter 85, 1966 First Extraordinary Session, relative to a study of the State Teachers' Retirement System, reads as follows

WHEREAS, The State Teachers' Retirement System has a caseload of upward of 318,000 active members and it administers benefits to upward of 29,000 retired members amounting to nearly 100 million dollars annually; and

WHEREAS, The investigation of the Joint Legislative Retirement Committee, established pursuant to Chapter 1417, Statutes of 1963, has disclosed that while improvements have been made in the system's administration as a result of previous recommendations of the committee, further administrative improvement is needed in regard to (1) the plan of organization and the management structure and (2) the obtaining of information from local districts and the maintenance of members' accounts; and

WHEREAS, The State Teachers' Retirement System has proposed to embark upon an extensive electronic data processing system changing over from annual reporting to monthly reporting by the local districts; and

WHEREAS, Such an extensive new system makes it imperative that the organizational plan and operations of the retirement system be subjected to a thorough management survey so that the converted system will function at the highest possible level of efficiency, and

WHEREAS, Although many procedures and requirements for data collection, recordkeeping, length of service computation, and benefit computation may be outdated and unnecessary, at the present time such procedures are required by law; and

WHEREAS, The magnitude of the task may require that the survey be conducted by a private organization if no state agency has sufficient time and personnel to undertake the survey without disrupting the services required by other state agencies, now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Legislative Retirement Committee is directed to survey the management of the State Teachers' Retirement System in order to determine the steps necessary to provide better and more efficient services to its members and to improve its fiscal and administrative controls, and to report thereon to the Legislature not later than the fifth legislative day of the 1968 Regular Session of the Legislature, and be it further

Resolved, That such study shall include but not be limited to a review of the current statutory provisions governing the administration of the State Teachers' Retirement System, and such study shall also include the feasibility of the joint use of equipment and facilities with the State Employees' Retirement System or other state departments, and be it further

Resolved, That the Joint Legislative Retirement Committee shall contract with, subject to approval by the Joint Committee on Legislative

Organization, and supervise the performance of, a private firm to conduct such a survey; and be it further

Resolved, That the sum of seventy-five thousand dollars ($75,000) or so much thereof as may be necessary, is hereby made available from the Contingent Funds of the Senate and the Assembly for the expenses of the committee and its members and for any charges, expenses and claims it may incur under this resolution, to be paid from the said contingent funds equally and disbursed after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

Further, House Resolution No. 208 of the 1966 First Extraordinary Session, relative to an interim study concerning the integration of the State Teachers' Retirement System with the Federal Social Security Program, reads as follows:

Resolved by the Assembly of the State of California, That the Assembly Committee on Rules assign to the appropriate interim committee for study the subject of the feasibility and merits of integrating the State Teachers' Retirement System with the Federal Social Security Program and to direct such interim committee to report thereon to the Assembly not later than the fifth legislative day of the 1967 Regular Session of the Legislature.

The State Teachers' Retirement System has been a problem to the Legislature since it was first established on January 1, 1914. Despite the fact that the many local school districts and their teachers both contribute to the cost of the system, and thus theoretically pay its full cost, the state itself pays the entire administration cost and absorbs a substantial part of the benefits actually paid.

According to the executive officer of the system, as of November 30, 1966, there are 325,235 individuals now covered by the system, and 32,533 receiving benefits in some form Almost from its beginning the State Teachers' Retirement System had a huge unfunded liability for future benefits. The amount of this liability is now estimated at close to $2 billion, which continues to grow.

The Legislative Auditor General, whose function it is to examine the fiscal affairs of all state agencies and report on them for our guidance, has made two examinations of the teachers' retirement system, and in both has been highly critical of the system. The criticisms may be briefly summarized. First, there are long delays in updating accounts at the end of the fiscal years because of late submission of data from the counties. Second, the necessity of verifying data requires too much correspondence, sometimes with confusing or erroneous results. Third, the time and effort taken to establish prior service credits is excessive. Fourth, management ordinarily performs routine tasks which should be delegated to subordinates

The Auditor General concluded by stating that the accrued costs of benefits earned to date should be recorded as costs of state government. He recommended that a complete study of the operations of the teachers' retirement system should be made by an independent agency. Our committee was also informed that the teachers' retirement system has devoted considerable time and effort in studies of electronic data processing systems.

As a result of this information, Assemblyman Don Allen introduced ACR 54. calling for $75,000 of contingent funds to be made available to the committee to retain the services of a qualified firm to study the teachers' retirement system Proposals were invited from 12 highly respected firms on November 1, 1966 After careful consideration of the 10 proposals received, the contract was awarded to Peat, Marwick, Mitchell and Company. It calls for a preliminary report by April 1, 1967, with a final report to the legislature by May 15, 1967.

One important element in this contract calls for a study of possible use by the teachers' system of the electronic data processing system now used by the state employees' system. The Auditor General's report commented on the complicated bookkeeping system maintained by the teachers' department It pointed out, however, that this is due in part to the complex laws now in effect governing it It is anticipated that electronic data maintenance will help in solving many of these problems

The teachers' association has spent more than a year studying Medicare Plan A—hospital benefits—and what they could do to give benefits to all teachers The California Teachers' Association Retirement Committee has issued several reports on various aspects of the problems involved.

The association studies indicate that at present about 43 percent of active teachers have Social Security coverage, mostly from other "moonlighting" work Another 50 percent are married women who have it through their husbands

The association committee concluded that Social Security coverage would be advantageous to 15 to 30 percent of its membership, who would probably elect this coverage if given the opportunity This conclusion is based on experience of the San Francisco local teachers' retirement system, when 15 percent of the teachers elected coverage State and other employees covered by the state retirement system elected coverage in larger proportion, with 32 percent covered by the combined plan. The teachers' association has under consideration the advisability of duplicating Plan A within the teachers' retirement system, or coordinating with Social Security to the extent of obtaining such coverage.

At CTA request, Senator Ribicoff (coauthors, Senator Kuchel and others) has introduced a bill which would permit retirement systems not now coordinated with Social Security to obtain Medicare Plan A benefits for their members by paying only the hospital tax of $24 10 per year now for worker and employer, later rising to $50 under existing schedules This federal provision, if allowed, would be much less expensive than complete Social Security coverage for the teachers.

The teachers' association studies maintain that the cost of Social Security coverage to teacher and school district would be so high as to be politically prohibitive. With retroactive coverage needed to secure current protection, it could amount to as much as $80 million per year. Under the federal law, Social Security may be obtained for public employees under contract A permissive state law, which California has, is needed. Either one or two elections is necessary among affected employees. Under the first option, they vote on the question of whether they desire coverage. Those who vote yes are covered; the others who

are employed at that time are excluded But all new employees of the political entity are automatically covered.

Under the second plan, the employees first vote on whether they wish to have the opportunity to elect Social Security coverage If a majority vote favorably, a second election is held in which each individual exercises his option.

Since the Social Security law does not provide immediate benefit eligibility, but requires a minimum of five years' coverage for permanent benefits, a contract can provide retroactive coverage for up to five years For example, if California teachers were to vote for coverage in 1967, the contract could extend coverage back to 1962.

This retroactive coverage affects monthly benefits as well as costs. For example, a teacher who reaches age 65 in 1968 would qualify for $118 80 in Social Security benefits with full five-year retroactive coverage, only $94 20 without it

Costs of retroactive coverage are high for both worker and employer. A teacher earning maximum taxable wages would pay back taxes of $1,239 60 to get it, and the school districts a like sum per teacher The teachers' association has estimated that if 25 percent of the teachers elect coverage, the additional cost to the districts (or the state if it financed the extension), would be about $81 million for back taxes. The effect of such a burden on school district property tax rates must not be overlooked

Social Security could be integrated with the existing state system on a number of different bases A teacher who voted against coverage would, of course, receive no additional benefits One plan proposes that Social Security coverage fully supplement the existing retirement benefits. Under this scheme, the individual teacher would continue to pay the same contributions to the retirement system which he currently pays, and in addition would be obliged to pay full contributions to the federal government for Social Security and Medicare His employing district would also be obliged to pay full contributions to both systems A retired teacher under this plan would be entitled to receive benefits in full from both systems, and would be eligible for the entire range of Medicare benefits

Under a second plan retirement benefits from Social Security would be offset against those payable from the teachers' retirement system A teacher's contributions to the retirement system would be reduced by the amount of Social Security contributions for retirement but not for Medicare At retirement a teacher would be entitled to receive his benefit from the retirement system less his primary retirement benefit from Social Security

A variant of this latter plan has been followed in the San Francisco integrated system Retirement benefits from the local system are reduced by one-half the primary benefits payable from Social Security, and the benefits which would have been paid from the contributions which are diverted to Social Security

Another possible plan is that used when the State Employees' Retirement System was permitted to make social security coverage available

to its members in 1961 Retirement benefits under the state system are now computed on what is called the 1/60–1/90 formula. A retired state worker who has not elected Social Security is entitled to receive the benefit of 1/60 of his final average salary, multiplied by the number of years of his service A retired person who has elected Social Security receives 1/90 of his average final salary up to the maximum taxable under the federal law, $550 per month. For the portion of his salary above that amount, he receives 1/60.

III

GENERAL CONCLUSIONS OF THE COMMITTEE

With respect to voter approval of Proposition No. 1 at the November 1966 general election, the Joint Legislative Retirement Committee is firmly convinced that its gradual implementation over the years immediately to come will do much to improve the financial position of the State Employees' Retirement System The committee urges the legislature to act favorably upon necessary legislation to activate the provisions of this permissive measure.

With respect to the State Teachers' Retirement System, the committee feels that no legislative action of any kind affecting the system should be taken until the preliminary report of the independent study of its operations is submitted to the legislature. Based upon the troubled history of the teachers' system, the Auditor General's studies, and the admissions of the system's executive officer, our committee has concluded that major and serious defects exist in the underlying laws as well as in the structure of the system. These defects should receive priority in legislative consideration and action before any attention is given to liberalization.

The committee feels that further study is needed with regard to the question of full or partial integration of the teachers' system with Social Security, since opinions differ widely on the question. The committee members present at the hearing on November 28 received the impression that the individual teachers within the state were generally not well informed on the subject but in many cases were guided in their judgment by the representatives of American Federation of Teachers (who advocate full integration of the two systems) and California Teachers' Association (who oppose it just as vigorously). Because of the actual worth of the Medicare benefits (or equal benefits provided another way) for the teachers, the committee urges that this subject be investigated and generally pursued further in an effort to determine a true factual picture of the relationship between all of the possible alternatives, and then see that the complete and unbiased story is made available to each teacher in California.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1965–67

ASSEMBLY INTERIM COMMITTEE ON INDUSTRIAL RELATIONS

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LETTER OF TRANSMITTAL

ASSEMBLY COMMITTEE ON INDUSTRIAL RELATIONS
January 4, 1967

HONORABLE JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly
State Capitol, Sacramento

Gentlemen

In accordance with the provisions of House Resolution No. 710 of the 1965 Regular Session, the Assembly Interim Committee on Industrial Relations herewith submits a record of committee activities and a report on the subject matter studied by the committee.

Sincerely,

MERVYN M. DYMALLY, *Chairman*

TABLE OF CONTENTS

	Page
RECORD OF COMMITTEE HEARINGS	7
REPORT ON UNEMPLOYMENT	9
Part I: Unemployment Information	11
Summary of Findings and Recommendations	11
How California Collects Unemployment Data	12
What Our Unemployment Data Tell Us and What They Do Not Tell Us	13
The Relevance of What We Do Not Know for Vocational Training	17
The Committee's Proposal on Unemployment Information	18
Part II: Vocational Training	21
Summary of Findings and Recommendations	22
General Policy Conclusions	24
General Proposal	26
General Critique of Our Present Remedial Efforts	28
The First Steps	33
Conclusion	35
REPORT ON LOW INCOME HOUSING DEVELOPMENT	39
Summary of Findings and Recommendations	39
The Problem The Relative Unavailability of Decent Low Income Housing	40
The Present Pattern of Federal and State Law	45
The Committee's Proposal	49
The Proposed Legislation	51
REPORT ON NUCLEAR SAFETY	55
Summary of Findings and Recommendations	57
Nuclear Development	58
State Regulation	61
Federal Regulation	66
The Philosophy of Risk: The Biological Effects of Radiation and a Safe Level of Radiation	76
Summary Consideration of Specific Issues	84
REPORT ON BOILER SAFETY	91
Summary of Findings and Recommendations	92
The Problem of Boiler Hazards	92
The Proposed Solution A Permissive Certification System with Limited Mandatory Provisions	96
The Proposed Legislation	97
REPORT ON THE CONDITIONS OF LABOR IN THE HOSPITAL INDUSTRY	101
The Conditions of Labor in the Hospital Industry	102
The Committee's Perspective	104
The National Labor Relations Act	105
State Labor Relations Acts	106
MINORITY REPORT ON THE CONDITIONS OF LABOR IN THE HOSPITAL INDUSTRY	108

RECORD OF COMMITTEE HEARINGS

September 3, 1965, Eureka, on nuclear safety

September 10–11, 1965, Los Angeles, on the riots in South Central Los Angeles

December 15, 1965, San Francisco, on housing

December 20, 1965, Los Angeles, on economic opportunity

July 18, 1966, San Clemente, on nuclear safety

August 25, 1966, Oakland, on unemployment

September 6, 1966, San Jose, on boiler safety and the conditions of labor in the hospital industry

September 15, 1966, Los Angeles, on apprenticeship training

November 16, 1966, Los Angeles, on housing

December 9, 1966, San Francisco, on unemployment

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LETTER OF TRANSMITTAL

ASSEMBLY COMMITTEE ON INDUSTRIAL RELATIONS
January 2, 1967

HONORABLE JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly

Ladies and Gentlemen:

The undersigned members of the Assembly Interim Committee on Industrial Relations, 1965–1967, respectfully submit their report on unemployment.

MERVYN M. DYMALLY, *Chairman*
ROBERT E. BADHAM (Part I only)
JOHN L BURTON (with reservations)
LOU CUSANOVICH
PAULINE L. DAVIS (with reservations)
EDWARD E. ELLIOTT (with reservations)
RAY E. JOHNSON
WALTER W. POWERS
VICTOR V. VEYSEY

UNEMPLOYMENT

The Assembly Rules Committee assigned this committee the task of studying the problem of unemployment during this past interim period. The committee has approached this task by asking two basic questions: Is the available information on unemployment in California adequate for the purpose of formulating and operating effective remedial programs? And is our major remedial activity—vocational training—effective in eliminating unemployment? The committee held two hearings specifically on this subject, the first on August 15, 1966, in Oakland, and the second on December 9, 1966, in San Francisco. However, several of the committee's other hearings on apprenticeship training, the War on Poverty, and the conditions underlying the 1965 riots in south central Los Angeles were particularly relevant to the subject of unemployment.

The committee wishes to state at the outset of this report that we have been quite dissatisfied with the condition of California's overall policy on unemployment. We do not believe that the state has developed the kind of information about the unemployed which is necessary to rational policymaking, nor do we believe that the present variety of vocational training programs administered by the state are as effective as they should be. This is not entirely self-criticism Most of our vocational training programs are functions of federal legislation. Congress is partially responsible for the deficiencies But Congress has provided for substantial state control over all of these programs. We do not believe that that control has been well exercised. If these programs are to become truly effective tools of full employment, the initiative must be taken by the state.

This report recommends a new way of collecting data on the unemployed which will be geared to the needs of program formulators and administrators and it recommends a comprehensive overhaul of our vocational training programs The committee is not unalterably persuaded that the recommendations made herein embody the optimum programmatic response to the problem of unemployment. But we are convinced that major reform is needed and that it must proceed in the general direction outlined in this report

Two basic concepts are used throughout this report and should be explained at the outset. The committee understands the term unemployment to refer to all those persons who are not employed and who wish to be employed. The "problem of unemployment," however, we understand to be a somewhat narrower category Unemployment becomes a social problem, a matter of governmental concern, at the point at which it causes economic deprivation understood in terms of the maintenance of a moderately decent standard of living. For example, two women may be unemployed; the one who is the sole breadwinner for her family may well pose a social problem while the one who is the wife of a man earning $8,000 a year may not pose a problem with which government should concern itself.

In this report, we are concerned only with the problem of unemployment in this sense. We recognize that defining the problem of unemployment in terms of economic deprivation only may be viewed as somewhat arbitrary. Certainly, unemployment has deleimental consequences for people's lives other than merely the inability to support themselves in a moderately decent manner But we believe that among all of the consequences of unemployment, this is by far the most severe We believe that public policy should be geared in the first instance to solving this problem In our view, other unemployment-connected problems should have a lesser priority.

The major thrust of the first section of this report is that we do not know how many people are unemployed as we understand that term, nor do we know how many among those who are unemployed pose a social problem as we understand that term. Finally, we do not know what causes the unemployment of those who pose a social problem. The point is that we cannot formulate effective remedial programs without this kind of information

PART I

UNEMPLOYMENT INFORMATION

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings:

1. The committee finds that our regularly collected unemployment statistics refer only to those persons who meet the test of eligibility for unemployment insurance The committee believes that the use of this definition produces estimates of unemployment which understate the problem as it is commonly understood
2. The committee finds that we regularly collect data on the characteristics of the unemployed in a very limited set of categories and that this data refers only to unemployment insurance claimants who comprise only about half the unemployed (under our present methods of estimation) We have no regularly collected data on those who are not covered by unemployment insurance even though these people are estimated to comprise half the unemployed and are generally believed to suffer the greatest deprivation because of unemployment
3. The committee finds that almost none of the data which is regularly collected is useful in determining the causes and the consequences of unemployment
4. The committee finds that the inadequacies of our data on unemployment cause us to have an unnecessarily imperfect understanding of the problem of unemployment and render us incapable of formulating and administering effective remedial programs

Recommendations:

1. The committee recommends that the state undertake the collection of data which will yield useful information on the number of persons who are unemployed and on the causes and the consequences of their unemployment This new data-collection function should be geared to the informational needs of the formulators and administrators of our remedial programs
2. The committee recommends that the method of collecting this needed data be a periodic sample survey of California households
3. The committee recommends that, as a first step toward the development of this new function, a task force be established in the Department of Employment to translate the approach recommended above into operational terms, estimate the cost of implementing it, and evaluate its usefulness to program formulators and administrators The task force should report to the 1968 session of the Legislature and its report should be considered at that time together with this report No extraordinary expenditure should be

necessary to enable the task force to comply with the above request and none is recommended

4 It is recommended that the various departments of state government and the various committees of the State Legislature study the multiple uses to which the kind of periodic sample survey of California households recommended above could be put and that an appropriate committee be assigned to oversee this project with a view to determining the total benefits which could be derived from the anticipated additions to our knowledge of conditions in the state

HOW CALIFORNIA COLLECTS UNEMPLOYMENT DATA

Unemployment statistics are collected and published regularly by the State Department of Employment These statistics are based on claims filed by those members of the state's labor force who are eligible for unemployment insurance Approximately two-thirds of the labor force is covered by unemployment insurance.

Approximately one-third of the labor force is not covered by unemployment insurance and therefor cannot file claims.* These people include the self-employed, state and local government employees, employees of most nonprofit institutions, most agricultural employees, most domestic employees, new entrants to the labor force including most migrants to the state, most reentrants to the labor force, and those who have exhausted their unemployment insurance benefits

The basic datum collected by the Department of Employment is the fact of unemployment The level of unemployment is determined for the most part by simply counting the number of claimants who certify to one week or more of unemployment In addition, those covered by the Railroad Retirement Board and unemployed federal employees who file claims through the State Department of Employment can also simply be counted But the level of unemployment among those not covered by one of these forms of social insurance must be estimated by extrapolating from the figures on the covered group That is, reasonable relationships between the level of unemployment in the covered (and therefore countable) group and the uncovered (and therefore uncountable) group have been estimated through research done from time to time over the years and are the basis of this extrapolation. For example, the unemployment rate among nonschool public employees (not covered) has been estimated to be about one-fourth the covered unemployment rate at any given time There is a similar formula for each of the uncovered groups of workers listed above

Our state figure on the total number of unemployed persons is a composite of actually counted cases of unemployment where that is possible, and statistical extrapolations where counting is not possible

This is not the most accurate method of compiling unemployment statistics but it is relatively inexpensive when compared to a periodic sample survey, for example, which is the method used by the U.S. Department of Labor for estimating national unemployment rates. There is no satisfactory way to check the accuracy of the Department

* While two-thirds of the labor force (as we now estimate it) are covered by unemployment insurance, these people account for only half the unemployed (as we now estimate it) The one-third who are not covered account for the other half of total estimated unemployment

of Employment's method of estimating unemployment. We cannot compare our statistics to those collected by the U S. Department of Labor because theirs are not broken down state by state We can compare our statistics to those collected by the U.S. Bureau of the Census state by state, but we can only do this once each 10 years. However, the definition of unemployment used in the census differs somewhat from the one used by the State Department of Employment *

Our state unemployment figures depend upon a strict definition To be counted as unemployed, one must (1) have been out of work for one full week, (2) be able and available for work, and (3) be actively seeking work. This definition was shaped by the requirements of the unemployment insurance program. That is, we define all unemployment in California according to the eligibility requirements for unemployment insurance benefits

This kind of definition excludes many people who are commonly thought of as unemployed. For example, those who were out of work but not actively seeking work for whatever reason are not counted. Neither are those who receive public assistance. Several other categories of people generally considered to be unemployed are not counted in our present system of data collection.

Because of the limitations of this definition, it is often argued that our unemployment figures seriously understate actual unemployment. This argument is, at bottom, the result of differing definitions of unemployment. Clearly, the number of unemployed persons reported will vary with the definition of unemployment used. There is no simple concept which must be called "real" unemployment; there are only differing definitions.

However, this committee believes that the present definition is overselective and that it understates the magnitude of unemployment as that term is commonly understood. A fairer test of unemployment would count all those who are not employed and who want to be employed. As noted in the introduction, not all of those who meet this suggested test pose a problem with which government should be concerned. But counting the unemployed according to this broader definition will give us a better understanding of the labor force and its problems than does our present, artificially narrow definition.

WHAT OUR UNEMPLOYMENT DATA TELL US AND WHAT THEY DO NOT TELL US

First, as discussed in the section above, our regularly collected data tell us about unemployment only in terms of a somewhat narrow definition of what unemployment is Second, our data tell us almost nothing but the fact of unemployment in terms of this definition; they tell us almost nothing about the causes and consequences of unemployment Third, our data provide some, but certainly not sufficient, information on the characteristics of those covered by unemployment insurance And fourth, our data tell us nothing at all about the characteristics of the uncovered unemployed.

* It may be somewhat reassuring that the comparison made with the 1960 census showed our state unemployment figure to be fairly close to theirs.

This fourth point raises a particularly serious problem. Most of those who, it is commonly believed, suffer the greatest deprivation because of unemployment are precisely those who are most likely not to be covered by unemployment insurance. Agricultural employees, domestic servants, new entrants to the labor force, reentrants to the labor force, those who have exhausted their benefits, many of the self-employed—these are the kinds of people most of us believe are living a marginal economic existence. These are the people who pose a serious social problem. Yet these are the people about whom we have no comprehensive and reliable information. And despite this lack of information, these are the people for whom we presumably attempt to formulate remedial programs.

On the third point above, the claims filed by those covered by unemployment insurance require the following information about the individual claimant:

(a) His age.
(b) His sex.
(c) His race.
(d) His last occupation
(e) The industry in which he last worked
(f) His geographical location in the state
(g) The length of time he has been unemployed

These date are useful for some limited purposes. They permit us to describe the covered unemployed, in the aggregate, in terms of these seven characteristics We cannot, of course, describe the uncovered unemployed at all. And even with the covered unemployed, we can describe them *only* in terms of these seven categories.

For example, these data enable us to know that 10 percent of the covered unemployed are Negroes while the Negro proportion of the labor force as a whole is closer to 5 percent; or that 30 percent of the covered unemployed have been unemployed for 15 weeks or longer; and so on.

These data can also be cross-correlated. We can tell, for example, that a very high proportion of Negro youth are unemployed in the Los Angeles-Long Beach labor market by comparing the three sets of data on race, age, and location.

Finally, these data can be compared over time. That is, by comparing the data on unemployment in Los Angeles-Long Beach, for example, between December 1965 and December 1966, we can tell something about trends in covered unemployment in that area Indeed, this is the most important use to which most of our presently collected data is put. The "Monthly Report on Employment and Unemployment" published by the Departments of Employment and Industrial Relations contains information on aggregate unemployment relative to last year and to geographical location.

It should be clear that the data we collect serves primarily as an aggregate economic indicator It does not serve programmatic purposes. These data *cannot* tell us very much about the causes or the consequences of unemployment And this kind of information is most important from a policy formation point of view. The policy-maker is faced with such questions as: Why are people unemployed? Are there different kinds of unemployment? What are the different causes of

unemployment? Does this cause or that cause account for a significant amount of unemployment? Can a remedial program be designed to fit these different causes or sets of causes? Do any of our present programs effectively remedy this cause or that cause? How effective are our present programs, from an overall perspective, in decreasing significant kinds of unemployment? Can our programs be made more effective?

These kinds of questions cannot be satisfactorily answered with the kinds of data we now collect This is not to say that we do not have partial answers. A reasonable man can draw some fairly solid inferences from some of the data For example, most of what is labeled "seasonal" unemployment is an almost indisputable inference from the data collected in these seven categories. After harvest time in an agricultural area, unemployment insurance claims increase. Many claimants list "food processing" for their last occupation. The increase is fairly constant year after year and it occurs in all agricultural areas. It seems to be an inescapable conclusion to the reasonable man that this increase in unemployment is due to the seasonal nature of agricultural, and therefore "food processing," work. The same pattern of increased unemployment during certain seasons and in certain areas can be observed with persons listing their last occupations as "logger," "construction worker," "garment worker," and so on.

The analyst can have a certain amount of confidence in these kinds of inferences. They offer an explanation of the causes of some unemployment, an explanation supported by reliable empirical data. But even these inferences are likely to be distorted because of our lack of information about those not covered by unemployment insurance. And, unfortunately, these kinds of inferences do not account for most of the unemployed.

If analyzing unemployment is conceived of as similar to peeling an onion, layer by layer, then making these kinds of reasonable inferences is like peeling the outer layers off of the onion. As progress is made peeling off the first few layers of the onion, the reasonable inferences become more and more speculative. And soon, with still a large part of the onion left, the reasonable inferences, those in which any confidence can be placed, are exhausted

Beyond these reasonable inferences—which are based on reliable (although limited) data—we have a large number of hypotheses which offer plausible explanations for some unemployment but for which little or no reliable data exist for substantiation. These hypotheses are used in the current literature on unemployment to account for the inner layers of the onion

For example, it is a plausible hypothesis that unskilled workers are likely to have difficulty finding jobs because jobs requiring little skill are fast disappearing and because there are presumably many people in the labor force without any skill to speak of competing for these few jobs But how big a portion of the onion represents those whose unemployment is caused by lack of a skill? Take the laborer who lists his last occupation as ditchdigger for a housing contractor Is he unemployed because of his lack of a marketable skill? If we accept this kind of inference, we may account for another layer or two of the onion. But even so, we cannot account for all of the unemployed

with any confidence in this way because not all of them exhibit the characteristics which are the conditions of our hypotheses and, more to the point, because we do not collect data on all of the characteristics which are the conditions of our hypotheses.

Or, to take another example, some unemployed persons may have an outside source of income or savings which may enable them to be discriminating about the jobs they choose An actor who earned $30,000 in the first six months of the year and who feels that the proper development of his career requires a fine selection of parts and who is therefore unemployed while he waits for the right part would fall into this category. Or perhaps the executive secretary whose husband earns a good salary will be uninterested in any but just the right job. If there is such a group of unemployed persons whose unemployment causes no hardship and who need no public help in finding new employment, none of our present data would enable us to identify them

Some specific questions may help to suggest some of the other common plausible hypotheses for which we lack adequate information. Are some people unemployed because they are functionally illiterate? We do not know; we have no data on functional illiteracy which can be correlated with our data on unemployment. Are some unemployed because they are lazy, shiftless, perhaps even prefer a life of penurious indolence to one of steady employment? We have no data to answer this question. How many are structurally unemployed—for example, how many lost their last jobs because of automation? We have no reliable method of identifying these people. Are many people unemployed because of cultural disadvantages which effectively incapacitate them for the contemporary labor market? Again, we have no way of telling with any confidence. Are many qualified for a variety of available jobs but choose to remain unemployed in order to protect their claim to a specific job from which they have been temporarily laid off or in order to maximize their availability for a certain kind of job? There is no evidence to refer to Do many have sufficient income without employment so that they do not suffer economic deprivation? We have no data on income which can be correlated with out data on unemployment.

As the examples above suggest, there are a vast number of these plausible hypotheses The number is only limited by one's imagination or, perhaps, the range of one's experience. Some of these plausible hypotheses are well accepted; others are not. Some of them are complementary; others conflict There are two fundamental problems with these kinds of hypotheses which, it should be remembered, are supposed to explain the bulk of the cases of unemployment.

First, there has been very little systematic testing of these hypotheses. Rather, they are accepted because they seem plausible This plausibility may, in some instances, be supported by some empirical investigation but it is usually quite partial in scope Without some systematic testing of these various hypotheses, we cannot place much confidence in our explanations as to why people are unemployed. This is particularly applicable to our more sophisticated hypotheses which involve the interrelationships between several causes.

Second, we have no comprehensive data—comparable to the seven categories of data which the Department of Employment now collects

on unemployment insurance claimants—against which these plausible hypotheses can be measured That is, even if we establish that functional illiteracy is primarily responsible for some people's unemployment, there is no way at present to identify those people individually or to count them in the aggregate *

The point of all this is that the state of the art—accounting for the unemployed—is not very well advanced It is a matter of drawing reasonable inferences from a very limited set of reliable data on unemployment insurance claimants only (approximately half of the unemployed) and, beyond that, the highly speculative matter of choosing from among a vast number of plausible hypotheses in support of which there is almost no reliable data available at all. The important point is that this is the kind of knowledge upon which our remedial programs are now based and new programs are urged upon the Legislature.

In conclusion, it is only fair to state that no blame should accrue to the State Department of Employment for this unhappy lack of information except perhaps for a deficiency of initiative, a fault which we all share in this area The department collects the data it is required by law to collect and such other readily available data as budgetary limitations permit.

THE RELEVANCE OF WHAT WE DO NOT KNOW FOR VOCATIONAL TRAINING

It should be clear that the concern expressed in the paragraphs above is related to the normative position that the state's primary responsibility in this area should be to those for whom unemployment causes serious economic hardship—which requires a knowledge of the consequences of unemployment—and that our remedial programs should aim at eliminating the specific causes of unemployment—which requires a rather precise knowledge of what those causes are.

This position is taken because public policy (and the programs derived from it) in response to the problem of unemployment is constrained by the fact of scarce resources We do not have unlimited funds to spend on getting people employed Therefore, we should use those funds which are available for this purpose as efficiently as possible. We believe this means a policy of helping those who clearly need help, those who are suffering economic hardship because of unemployment, and helping them by enabling them to find decent employment as quickly, and cheaply, as possible This policy position we recommend will be discussed at greater length in the last part of this report. But the point here is that this policy cannot be effectuated without better information about the unemployed

* In December 1965, the Department of Employment issued the results of a sample survey of unemployment insurance claimants which had been requested in HR 98 of the 1963 General Session This survey provided some additional comprehensive data on unemployment insurance claimants (not all of the unemployed) which might be useful along these lines Questions were asked, for example, on marital status, number of dependents, other wage earners in family, proportion of family income normally provided by the claimant, education, other occupations the claimant has been employed in, self-assessment of the claimant's need for training and so on But this survey was a one-time effort and its usefulness is therefore limited This report is concerned with the information which we regularly collect on the unemployed and what we do with it

Our information about the unemployed—who they are, why they are unemployed, what effect their unemployment has in terms of economic deprivation—is so grossly inadequate that we cannot even measure the benefits received from a single program, let alone structure our programs so as to achieve the maximum benefits possible. We cannot rationally determine, for example, whether more of our presently available funds should be allocated to basic literacy training or to training in basic work attitudes or to training in specific vocational skills or to something else

Clearly, our major response to the problem of unemployment has been vocational training We have other employment programs, such as the placement service and the social insurance programs (unemployment insurance, disability insurance, workman's compensation), but they are not primarily remedial Our general remedy for the problem of people who cannot find decent jobs is to train them Over $150 million in tax money is spent each year in this state to train people in vocational skills

We believe that the grossly inadequate state of our knowledge about the unemployed makes a strong prima facie case that this $150 million annual expenditure is not used with maximum efficiency. If we cannot even define the problem of unemployment with any precision, how can we hope to create good solutions to the problem? This committee recommends that a new data-collection and analysis function be established which will provide the kind of information necessary to make our vocational training programs efficient. This new function will, of course, require an expenditure. But the ultimate savings in increased efficiency—in vocational training which is really geared to getting the unemployed to work—will be enormous.

THE COMMITTEE'S PROPOSAL ON UNEMPLOYMENT INFORMATION

We propose that a periodic household sample survey be conducted in order to obtain reliable and comprehensive data on those who are unemployed and whose unemployment poses a social problem. This survey will involve fairly extensive face-to-face interviews in order to secure the kind of information needed by program formulators and administrators, particularly information on the causes of unemployment. It will necessitate fairly complex administrative operations but we have been unable to discover any alternative method of obtaining the needed information. The simple proposition is that if we are to have efficient programs to remedy unemployment, we are going to have to go to some trouble to find out about the unemployed

A periodic household survey will require a greater expenditure than our present (and virtually useless) system of data collection A 1-percent sample of households, for example, would involve between 60,000 and 65,000 interviews The survey, to be accurate, need not involve a sample as large as 1-percent But the use of a tiny fraction of our present expenditure of over $150 million per year to gain the knowledge necessary for using that $150 million sensibly seems to us a decision compelled by reason

We conceive this new data-collection function as essentially a continuing research project. Simply counting the unemployed according

to a predetermined definition of unemployment will not be of much assistance to program formulators and administrators As we have tried to point out, we know very little about why people are unemployed, and without this information, we cannot develop very efficient programs to remedy unemployment. The most important purpose of these interviews is to discover the causes of unemployment. But this cannot be easily done.

To discover the causes of any broad class of social phenomena, hypotheses must be developed which seem to adequately account for the phenomena. These hypotheses must then be tested against empirical evidence. In the testing, some hypotheses may not be supported by the evidence (for, prior to testing, they are no more than educated guesses) and may have to be rejected or modified New hypotheses may have to be developed to account for some kinds of unemployment for which none of our present hypotheses adequately account. And as time passes and conditions change, our explanatory hypotheses will have to be adjusted. The point is that finding out about the unemployed, developing programs to remedy their unemployment, and assessing the efficacy of these programs is a continuing project

The interviews for obtaining the precise information needed to test our hypotheses on unemployment need be administered only to those in the sample survey who are unemployed, perhaps 10 percent to 15 percent of the sample That is, the initial sample survey of households will be used to identify a reliable sample of the unemployed, and then these people will be the subject of the extended interviews

This two-step procedure of identification and interview has led us to believe that this statewide sample survey could be used for obtaining the information needed by program formulators and administrators in many fields other than unemployment We suspect that in the fields of education, for example, or public health or transportation, a great deal more precise information is needed in order to maximize the efficiency of their programs The initial survey to identify the unemployed could also be used to identify the kinds of people which their programs are designed to serve Once reliable samples of their "target groups" were identified by the statewide sample survey, they could follow up with specialized interviews designed to obtain the information they need

We recommend, therefore, that an appropriate committee be assigned the task of developing the content of this initial identification survey in cooperation with the various departments of state government and the various committees of the State Legislature with informational needs

We also recommend that a task force be established in the Department of Employment to translate this proposal on unemployment into operational terms, estimate the cost of implementing it, and evaluate its usefulness in terms of maximizing the efficiency of our various remedial programs We have not felt that we had sufficient expertise to design the proposed sample or to design the proposed interview schedule Without these designs the cost of this proposal cannot be estimated And we cannot ask the Legislature to authorize this new data-collection function until we can estimate its cost

In effect, then, we propose that a new data-collection function be established next year. During the present year, two tasks should be performed: first, translating of this proposal into operational terms and costing it out; and second, developing the multiple uses to which a periodic household sample survey could be put.

PART II

VOCATIONAL TRAINING

INTRODUCTION

In Part I of this report, we made the conceptual distinction between unemployment in general—all those who are not employed and who wish to be employed—and "the problem of unemployment"—those who are not employed, who seem unable to find and maintain employment without some form of help, and who suffer significant economic deprivation because of their unemployment At present, this distinction is of little substance; we do not know enough about unemployment in California to tell who is in the one group and who is in the other. But we believe that the conceptual distinction is valid for the purpose of formulating public policy.

We have been concerned during this past interim period with "the problem of unemployment" as we have defined it. We have focused on this exclusively because we believe it is the source of many of our most pressing social problems. Income is simply the necessary condition of effective participation in American life In our mid-20th-century society, the individual without income is virtually out of place, unable to function in terms of the common pattern. Without income, especially income derived from regular employment, the individual is apt to develop patterns of behavior which most of us regard as pathological And when substantial portions of whole communities are without income, they are apt to develop the characteristics of social disorganization which are so frequently described and analyzed in current sociological literature.

We believe that it is the prime responsibility of government to maintain a social order in which individuals are free to develop their capacities to the fullest. Government must respond positively to dislocations which threaten the functioning of the social order. We believe that government's response to many of today's social problems must begin by trying to solve "the problem of unemployment" Our thoughts on this have been informed by the assumption that employed individuals, and communities composed of employed individuals, can generally take care of themselves, can solve most of their other problems on their own We believe that our fundamental response to this range of social problems should aim at enabling those who need to be employed to become employed.

We have been critical of the apparent lack of a consistent state policy on "the problem of unemployment" We are also critical of the failure to gear our several vocational training programs to solving this problem. This report is both a critique of our present efforts and a proposal to remake our vocational training programs into an effective tool of eliminating the kind of unemployment which causes real social problems.

We believe there has not been enough thought given to the problem of unemployment in California We believe that the problem is of manageable proportions and that, given just the money we currently spend on vocational training, the problem can be substantially solved. We have tried to recommend a sensible approach to this problem in this report, one which embodies the single purpose of eliminating the kind of unemployment which we believe is of a critical nature.

We wish to acknowledge at the outset, however, that our considerations have necessarily been at a rather high level of generality. We have sought to explore the possibility of remaking existing programs, most of which involve federal funds and therefore federal law and administrative rules and regulations, as well as a multiplicity of state and local agencies in California We have thought in terms of the unification and redirection of these programs over the course of several years.

In this report, we have attempted to set forth the logic of this proposal and the initial steps which can be taken. That is, we have attempted to describe a generalized model of a sensible and effective state unemployment program. A project of this sort cannot be mapped out in detail in advance In essence, this report recommends that we adopt a consistent policy on "the problem of unemployment" and begin the arduous process of translating this policy into an effective program.

SUMMARY OF FINDINGS AND RECOMMENDATION

Findings:

1. The committee finds that unemployment differs in its consequences from person to person For some, unemployment means severe economic deprivation while for others, it does not. State policy should aim at remedying unemployment which causes hardship before any other purpose.
2. The committee finds that our present vocational training programs do not, viewed in the aggregate, manifest a primary commitment to remedying unemployment which causes hardship.
3. In addition, the committee finds that the present variety of vocational training programs represents substantial waste and inefficiency. There is essentially one task to perform—equipping people to find and maintain decent jobs. But the state administers several independent programs which perform this task in one way or another, each program with its own fund of money and with its own separate administrative apparatus.
4. The committee finds that most of these programs embody eligibility requirements which are irrelevant to the individual need for help in becoming gainfully employed More broadly, the committee finds that many of those with a demonstrable need for help in finding and maintaining decent employment are denied such help by our present vocational training programs
5. The committee finds that most of these programs assume a necessary relationship between vocational training and ultimate employment, a relationship that may not in fact exist. The programs gen-

erally begin by training the individual; some end by placing the trained individual in a job while others do not engage in placement If what the individual needs is immediate employment, a more efficient approach would begin with an attempt at placement and would provide training only in those cases in which there was a demonstrable need for it.

6. The committee finds that, viewed in the aggregate, too great an emphasis is placed on training in whole skills in classrooms. If what the individual needs is immediate employment, and if he needs training in order to find and maintain employment, a more efficient approach would attempt to find a specific available job first, and then provide the training necessary—preferably on-the-job training —to equip the individual to successfully perform that job.
7. In general, the committee finds that a more rational method of remedying the problem of unemployment needs to be imposed upon the present variety of vocational training programs

Recommendations:

1. The committee recommends that the state adopt a policy which commits the public resources available for vocational training to remedying "the problem of unemployment."
2. The committee recommends that the present variety of vocational training programs be consolidated into a single efficient program. The committee realizes that consolidation will take several years to accomplish and much negotiation between the several levels of government and the dozens of government agencies involved. The committee recommends that the Legislature declare its intent to accomplish a single consolidated program at some point in the future and that the Legislature take the first step toward that ultimate objective by immediately consolidating the Division of Apprenticeship Standards (now in the Department of Industrial Relations) and the Manpower Section (now in the Department of Employment). This initial consolidation will bring under one administration three major vocational training programs: Manpower Development and Training Act institutional training; Manpower Development and Training Act on-the-job training, and apprenticeship training Under their present design, these three programs are quite amenable to the kind of employment program we propose in Recommendation No. 3 below. This consolidation will make roughly $50 million (the present expenditure in these three programs) available for equipping the unemployed to find and maintain decent employment.
3. The committee recommends that the consolidated agency administer a single program for all who are eligible according to need, a program embodying three ordered components. first, the attempt to place the unemployed individual in an available job; second, if this proves impossible because the individual lacks the skills necessary to perform adequately in an available job, the attempt to place the individual in a program of training—preferably on-the-job training —for a specific job; and third, if the individual manifests characteristics which make even on-the-job training infeasible, the application of various remedial services. If the individual need is for immediate

employment, the state's employment program should be structured to efficiently enable the individual to find and maintain employment, rather than structured to train on the assumption of a necessary relationship between training and employment.

GENERAL POLICY CONCLUSIONS

In attempting to come to grips with the problem of unemployment, the committee has come to several general conclusions. First, we have concluded that the development of any program which will effectively deal with "the problem of unemployment" requires much better information about the unemployed than that which is presently available. This was the subject of Part I of this report

Second, we have determined that there are two fundamental approaches to unemployment in government policy One is stimulation of the economy to create more jobs The other is helping the unemployed to obtain whatever jobs are available in the labor market, primarily through vocational training Federal policy follows both these approaches simultaneously In addition, there is a third alternative which has so far been more often discussed than practiced Government can create useful jobs in the public sector for the unemployed or it can ignore employment altogether and simply provide a minimum income for those who are unemployed or for those whose income is substandard (whether caused by unemployment or not)

Taking these three alternatives in reverse order, we are skeptical of the practical feasibility of a job-creation program or an income-maintenance program, at least on the state level And we are not convinced that it is necessary We believe a more modest unemployment program can substantially eliminate "the problem of unemployment" We do not reject this alternative out of hand; rather, we view it as a last resort, one that should be avoided until other reasonable alternatives are proved ineffective

On the next alternative, we have concluded that the state, lacking the fiscal and monetary powers of the federal government, cannot engage effectively in any large-scale economic stimulation to create more jobs in the private sector And we are not convinced there is a need for this either There is little evidence that there is a shortage of jobs in California, on the one hand; while there is substantial evidence that the federal government has successfully exercised its power to manipulate the economy so as to maintain a relatively tight labor market over the past five years, on the other hand.

Consequently, we have concluded that the state's efforts to remedy "the problem of unemployment" ought to be focused on helping the unemployed obtain existing jobs We believe the state's effort should capitalize on the relatively tight labor market to get the unemployed to work

Third, although there are a variety of forms which this kind of state help can take, we have confined our attention to vocational training understood in its broadest sense Despite the lack of useful information about the nature of "the problem of unemployment," we believe it most reasonable to assume that training the unemployed to enable them to meet the requirements of existing jobs is the most effective approach to full employment The unemployed to whom we are referring, it must

be remembered, are those who cannot reasonably be expected to find decent employment on their own We believe that in most cases, this inability stems from some deficiency in terms of the demands of the labor market, and we believe that most of these kinds of deficiencies can be cured by an appropriate form of training

Fourth, we have concluded that not all unemployment ought to be conceived as a problem for government solution If we had unlimited resources, we could have special employment programs for every conceivable degree of need But our resources are relatively scarce. Therefore, we believe that public help ought to be restricted to those whose unemployment causes some real hardship, at least until this problem is substantially solved. The most practical index of "hardship" we can propose is the adequacy of family income to maintain a moderately decent standard of living That is, we believe that eligibility for participation in the state unemployment program should be limited to those whose lack of a job has the consequence of substantial economic deprivation.

We have also concluded that the state unemployment program should be limited to those who are unable to find or maintain any decent employment without some outside help Not all of those who are unemployed actually need public help to find employment, but if it is available, they may take advantage of it Indeed, the experience with some of our vocational training programs has been that they deliberately "skim the cream off the top" of the ranks of the unemployed Given our situation of relatively scarce resources, we do not believe our unemployment programs should be made available to those of whom it is reasonable to expect that they could find decent employment on their own

Finally, we have concluded that public help ought to be designed to fit as closely as possible with the existing job market Training whole vocational skills in institutions may not be the most effective way to enable the unemployed to find and maintain decent jobs We believe that training should be tailored to the requirements of specific existing jobs.

In summary, then, our recommendations are informed by the following general policy conclusions that our primary remedial response to "the problem of unemployment" ought to be training for existing jobs in the private sector, training tailored to the requirements of specific jobs, and that it ought to be limited to those who can demonstrate a need for training in order to find and maintain any decent job and who suffer substantial economic deprivation because of their unemployment

This basic policy aims at narrowing the focus of our remedial programs to those who actually need such help. Until our programs adequately remedy the real problem of unemployment—the serious economic deprivation caused by some unemployment—we do not believe it is right to maintain programs which help others who cannot demonstrate any such need In effect, we believe the one kind of help is a necessity while the other is, in this context, a luxury The problem associated with unemployment which so far exceeds all other problems as to render them negligible is loss of income to the extent that one is unable to maintain a moderately decent standard of living Once our remedial programs are properly geared to solving this problem, other

purposes may be defined and programs designed to accomplish them We have no quarrel with providing the "luxuries," so long as the "necessities" are accomplished In our view, this idea of priorities ought to be articulated throughout all of our remedial programs

We believe that, viewed in this perspective, the unemployment problem is manageable According to the way we now estimate the number of persons who are unemployed, there are roughly 400,000 of them. Clearly, not all of these pose a social problem, one with which government should be concerned Approximately 40 percent of them, for example, are unemployed for less than four weeks out of the year If we exclude this 40 percent as not in need of training or some other remedial help, the remainder is approximately 240,000 unemployed persons who may or may not pose a social problem

Just using this figure for purposes of discussion,* the problem may thus be conceived as finding a way to fit 240,000 people into our existing 7 million-man labor force with the $150 million per year we now spend on various vocational training programs That is, we conceive the problem as how to fit an additional 3 percent into the labor force by the better utilization of our existing programs Even if only half of our present expenditure could be devoted to the single purpose of eliminating the real unemployment problem, we simply cannot believe that $75 million per year, over the course of several years—properly spent—could not succeed in fitting most of this additional 3 percent into the labor force.

By defining the problem which state government will focus its efforts on as unemployment which causes substantial economic deprivation, we will find that the problem of unemployment is of manageable proportions By gearing our unemployment efforts to this specific problem, we will find that with no greater expenditure than is presently made on vocational training programs we can solve most of the problem.

GENERAL PROPOSAL

Our first recommendation is to limit eligibility for our remedial programs to those who cannot reasonably be expected to find employment on their own and who suffer economic deprivation because of unemployment. This will require the development of operational tests of eligibility by an appropriate administrative agency We cannot realistically even speculate on the size of the "target group" thus defined—"the real unemployment problem"—but we believe that it will be of manageable proportions Our recommendation is to establish a system of identifying those who are eligible for public help, to create a pool of the unemployed

Our second recommendation is to provide these people with only the help they actually need to find and maintain decent employment We believe that the first task is to enable everyone who needs employment to have employment. The upgrading of skills, while vastly important, comes second in priority to this immediate necessity To accomplish this primary task, we are going to have to reconsider all of our traditional notions about training We believe that this reconsideration should be-

* The use of this figure is somewhat arbitrary, but it is the only figure available As discussed in Part I of this report, we do not believe our present estimates adequately reflect "the problem of unemployment"

gin with the realization that what the unemployed need is jobs Our unemployment program must be geared wholly to enabling people to obtain and keep jobs Training, and all other forms of remedial help, are only means to this end They are not the necessary conditions of employment for all those who are unemployed

We believe that an efficient program for eliminating unemployment would involve three steps. It would begin with a serious individualized attempt at placement We should concentrate much more heavily than we have in the past on trying to place the unemployed person We should not assume as we seem so often to do, that because an individual is unemployed, he needs training If immediate placement in an existing job is not feasible, the second step in an efficient unemployment program should be to place the individual in an on-the-job training position This is the heart of the committee's proposal The most efficient form of training would find the job the individual is to fill at the beginning, and then provide the training required by that specific job

In a situation of scarce resources, it does not seem reasonable to provide training which is not required for employment. Training should be limited by the requirements of specific jobs Our recommendation is that the state pay the employer the cost of any reasonable training which he specifies as necessary to enable someone to fill the job opening he has on the condition that he hire someone from the state's pool of the unemployed to fill that opening The state would contract to pay the reasonable cost of providing a skilled workman in return for the employer's commitment to provide employment for that workman In effect, the state's program would say to any employer If you have a decent job and are willing to hire someone from our pool of the unemployed to fill it, we will guarantee the cost of enabling that employee to become the kind of skilled workman you want We would prefer that you train the employee on the job, but if that is not feasible we will also pay the cost of his training at a public or private training institution The key to this proposal is that we train specific individuals for specific jobs

The third step in an efficient training program, the step taken only after the first two steps prove fruitless, is the provision of a variety of remedial services for those among the unemployed who are believed capable of becoming employable but who are not at present employable, not considered suitable for even on-the-job training These might include the totally illiterate, the severely maladjusted, the chronically unreliable, and other such obvious categories Given our lack of information about the unemployed, we cannot even estimate how many of these there may be but we suspect there are relatively few Most of the unemployed we have had the opportunity to learn about are readily employable Many, however, are not Many may need the kinds of remedial services we are proposing—basic literacy courses, psychotherapy, education in attitudes and behavior appropriate to the job situation, and so on. We are not so optimistic as to believe that all of those who fall into this category can be helped, can eventually find employment in the private sector But we do believe that most can

The thrust of this proposal is to limit the state's unemployment program to those who manifestly need help, and to gear our efforts to getting these people into existing jobs as quickly and efficiently as possi-

ble The primary requirements of this kind of program are identifying the needy unemployed, finding the available jobs, and then doing whatever is necessary to enable the unemployed to fill the jobs This appears very reasonable, but it is not what we do at present The essential difference between this proposal and most of our present efforts consists in getting away from the generality of our present programs and getting down to specifics—specific persons and specific jobs.

It should be clear that our recommendations are based on the assumption that most of the unemployed want to work and could, with minimal help, successfully maintain decent employment We believe that most jobs in our economy are highly specialized and require the ability to perform relatively few operations We believe that most of them can be best learned on the job Unfortunately, there is insufficient reliable information available to fully support this assumption But we make this assumption because it seems a more reasonable way to proceed in the face of insufficient information than the way we now proceed.

Finally, we recommend that the state's various vocational training programs be restructured into a single program administered by a single agency. There is essentially one function to be performed and we can see no reason to maintain the present structure of multiple programs

This is merely an outline of the basics of the committee's proposal. Not all of the details have yet been worked out. Indeed, we foresee a process extending over several years in which the state's remedial programs will be restructured to solve "the problem of unemployment."

GENERAL CRITIQUE OF OUR PRESENT REMEDIAL EFFORTS

The State of California administers several vocational training programs, programs specifically designed to prepare people for employment There are two programs under the Manpower Development and Training Act—institutional training and on-the-job training—and there are vocational education, apprenticeship training, social welfare work experience, unemployment insurance retraining benefits, several programs of vocational rehabilitation, as well as the vocational training provided for the inmates of our correctional and mental health institutions All together, these programs involve an annual public expenditure in excess of $150 million Eight departments of state government, as well as several layers of federal administrative agencies and a multiplicity of local government agencies, are involved in their administration

This committee has several criticisms of the overall vocational training effort these various programs represent But we wish to make it clear that we are not criticizing any given administrator. We object to the policy represented by these programs, not their administration And that policy is the responsibility of legislatures, either Congress or this State Legislature

Our first criticism is that these various programs embody no consistent policy with respect to unemployment We believe that in the face of unemployment which causes substantial hardship, it is neither sensible nor just to commit scarce public resources to vocational training which is not specifically aimed at eliminating this problem. Our

present programs were developed over a long period, each formulated to respond to some need felt at the time Today, they resemble a patchwork quilt We believe these programs should be rationalized to reflect a policy which is responsive to the real and pressing "problem of unemployment "

Our second criticism is that the very fact of several different programs with several different sources of funds and several different administrations amounts to a substantial waste The MDTA "skills centers" often duplicate the facilities of the vocational education courses in our public schools which often duplicate the facilities of employers who provide on-the-job training, and so on And each program has its own independent administration which may consume 5 percent or 10 percent of the total funds available to the program We believe there is essentially one function being performed—equipping people for employment—and that it makes no sense to have eight different departments performing this function We believe that if these programs were consolidated, a great deal more money would be available for the essential task

Our third criticism is that many of our present programs are available to groups defined in ways that are irrelevant to need for help in becoming employed. To receive vocational education, for example, one must merely be enrolled in school. Whether one needs the training one receives in order to find and maintain decent employment is simply not the test of eligibility for this training Yet, in California, we allocate $20 million available through the Federal Vocational Education Act of 1963 to local school districts for this program with no regard for the fact that the act specifically permits us to use this money for training the unemployed and the underemployed In the MDTA programs, which represent over $40 million annually, to take another example, up until this year one need only have been technically unemployed to have received training and a living allowance up to $75 per week The result was that 65 percent of the trainees during the first four years of the institutional program were women The number of female trainees with employed spouses is not known nor is the number who could have been employed without training but who wished to have a different, perhaps better and more salable skill This year, the federal government has added the requirement that 65 percent of the trainees must come from "disadvantaged areas" defined in terms of criteria such as high unemployment, high rate of school dropouts, high rate of Selective Service test failures, and so on This requirement will bring us closer to the real problem but it is still inadequate.

The point is that the availability of our various vocational training programs is hedged about with qualifications which may make sense from some point of view but which do not make sense in terms of providing training to those who need it in order to escape from unemployment which causes serious hardship To receive social welfare work experience training, one must qualify as a welfare recipient according to rather stringent technical eligibility tests This program thus represents approximately $22 million hedged off. To receive the services of our vocational rehabilitation programs, one must in most cases have been disabled Thus, approximately $30 million hedged off And so on We do not argue that these programs do not benefit those who partici-

pate in them Rather, we argue that those who participate in them are not necessarily those who most need public help to become employed, that their availability is often contingent on considerations other than need It would make more sense to treat all those who objectively need help in becoming employed and who suffer economic deprivation because of unemployment as eligible for the state unemployment program, and to discard this variety of eligibility requirements

Our fourth criticism is that most of our present vocational training programs do not seem to be geared efficiently to getting unemployed persons to work Rather, they are geared to training And for almost all of the individuals involved, the relationship between training and ultimate employment is assumed In our various institutional programs, for example, we first seek to train the individual That is, we assume that his ultimate employment depends on his being trained and therefore we subject him to a training curriculum If he successfully completes it, we certify that he is trained and then we seek to place him in some regular employment The objective throughout the first phase of our efforts is a trained individual or one who has successfully completed a curriculum of training Here is where we spend our efforts; the administrative task seems to be training in itself We believe that the emphasis of our programs is wrong in this respect Our programs should be geared as closely as possible to our true objective, which is employment for those who need it. We should not assume the relationship between training and employment; this relationship should be found in fact in every case

Related to this is our criticism of the practice of institutional training This kind of training involves several difficulties First, we must try to predict which kinds of jobs will be available in the near future Then, by examining those jobs, we must attempt to generalize from the kinds of operations performed to "skills," general abilities to perform a range of operations which are thought to be required by the kinds of jobs examined Then, we must attempt to teach those "skills" in classrooms, we must develop curricula which will lead the student step-by-step into the abilities thought necessary to employment And finally, we must attempt to place the finished product—the trained individual—in regular employment.

We have two kinds of criticism of institutional training On the one hand, there is a wide margin for error in such a process Essentially, we are engaged at guessing at the kinds of jobs which will be available and guessing at the kinds of "skills" required and guessing at the best way of transmitting those "skills" to the trainees and so on We do not mean to make too much of this point We recognize that our training program administrators work very hard attempting to make their programs as relevant as possible to the actual job market and its demands But no matter how hard they try, we believe that this kind of system will always contain this imperfection

On the other hand, we train in whole skills, the ability to perform a range of operations For example, we train many persons in this state to be general automobile mechanics We train them to be generalists, to be able to perform all of the operations likely to be needed in the maintenance and repair of automobiles. The job the individual thus

trained ultimately obtains, however, may require of him only one-quarter or one-tenth of his training. He may, for example, be employed by a large automobile dealership with an extensive maintenance department and he may spend all of his time lubricating and changing the oil on one brand of automobile or he may do nothing but repair transmissions. The point is that most of the jobs in our economy are specialized in one degree or another, yet in our institutional programs we train generalists.

We do this for two reasons First, we do not know the specific jobs our trainees will obtain, only the general kinds of jobs we expect them to obtain So we must train them to do the range of operations required by those general kinds of jobs And second, it is only reasonable to think that a man who possesses a general skill will have his choice of many different jobs, whereas the specialist is more limited and therefore more vulnerable to future unemployment

This latter point deserves some attention We do not disagree with its logic. In general, the more marketable skills the individual possesses, the more mobile and versatile a unit of the labor force he is likely to be and the greater his chances of full-time employment whatever the exigencies of the labor market Certainly, the optimal training program would produce generalists But we would call attention to two considerations which may vitiate the importance of this point. First, institutional training in whole skills is quite expensive, relatively few people can be helped in this way. For example, $28.7 million will be spent this year to train roughly 8,000 people in MDTA institutional programs while only half that amount, $14.3 million, will be spent to train twice as many people, roughly 16,000 in MDTA on-the-job training programs If there are substantial numbers of people who need training in order to obtain jobs and who cannot get training, we must think in terms of making the funds available for training go farther.

The second and more important consideration is that institutional training may not be appropriate to many of the people who most need help. For example, if there are a substantial number of school dropouts and otherwise socially disenchanted persons who are unable to obtain employment, a one-year or two-year course in a classroom environment may not be attractive It may not seem to be a rational choice. Indeed, the most common complaint of our vocational training administrators seems to be that those who most need to be helped are "not motivated;" that is, they do not participate in our present programs We think this is understandable Institutional training may be precisely the situation they conceive themselves as once having escaped, the course of action they have once decided was unprofitable to them and rejected Institutional training requires that a good deal of the individual's time be put in and the only reward that it can promise him is a "skill" which should lead to a job But what the individual in question needs is employment The means to this end which vocational training represents may well seem too problematical; it may require more trust in the system than the individual pressed by immediate need can manage

We believe that an effective unemployment program will attempt to adjust itself to the conditions of the unemployed. If our present

vocational training programs do not reach those who most need help, we should restructure those programs as best we can to reach them. We believe the key structural change is to offer the unemployed jobs, real and immediate jobs. To reach the unemployed individual, we should permit him to see where he works, for whom and with whom he works, what the job is like Then, after that crucial link is established, we should gear our efforts to remedying his deficiencies, if there are any, in terms of that job. As we conceive it, the employee-employer relationship is crucial, from both the employee's and the employer's point of view. It is here that "the problem of unemployment" must be solved, not in the abstracted arena of a training institution

In summary, then, we are critical of our present vocational training efforts because they embody no consistent policy toward "the problem of unemployment." We believe that some unemployment—what we have defined as the real problem of unemployment—is the root of some of our most serious social problems—some of our welfare caseload, some of our increasing incidence of crime, some of the social disorganization and despair which mark many California communities We must impose a rational policy aimed at the elimination of "the problem of unemployment" upon our present patchwork quilt of vocational training programs

We are critical of the seemingly needless multiplicity of programs and program administrations We believe that there is essentially one task to be performed and that it can best be performed by a single agency with a single purpose We are critical of the fact that our present programs do not necessarily serve those with the greatest need We believe there should be priorities built into our vocational training effort, that those who most need employment in order to avoid severe economic deprivation should be those to whom our programs are geared. We have been critical of the fact that many of our programs seem to be aimed at providing training, that is the administrative task performed, rather than being aimed at getting people employed And we have been critical of the institutional training offered by several of our programs

We believe that a sensible program would seek to discover the individuals who comprise "the problem of unemployment" and would then seek to get them employed in decent jobs in the private sector in the most direct manner possible These people, by definition, need jobs, they may or may not need the kind of training offered by our established programs

This committee clearly has a preference for on-the-job training provided by the employer He is in the best position to determine what the job requires and to provide whatever training may be necessary to enable a trainee to meet those requirements. And we believe that an on-the-job training situation is most attractive to the potential trainees and most conducive to learning how to do a job. But we are not arguing that this is the only training in which the state should engage. We argue only that if we had a unified rational program for eliminating "the problem of unemployment," the first step should always be to find immediate employment, and if that is impossible because of some labor market deficiency which the unemployed individual exhibits, then the second step should always be to find an on-the-job train-

ing position, and if that is impossible because of some more severe deficiency which the unemployed individual suffers, the final recourse should be the kind of remedial treatment which we now usually begin with. Our proposal is the restructuring of our present efforts to create a program aimed at eliminating "the problem of unemployment," restructuring our efforts to provide only what is needed for those who need it.

A final word concerning the nature of our criticisms should be added because of the many misunderstandings which occurred during the committee's investigation of our present vocational training efforts Our criticisms are all made from the perspective of solving "the problem of unemployment" Our present vocational training efforts do not seem to be geared to solving this problem, we believe they should be. We do not recommend the destruction of our traditional programs of vocational education in the public schools, as has often been charged, or apprenticeship training or any other program which performs a useful purpose Rather, we recommend that our present efforts be wholly or partially restructured in order to bring their services to bear on the real problem

If the local school district finds value in the traditional curricula of vocational training, they will of course continue it. But this is not in itself an argument for capturing for traditional purposes the roughly $20 million in available federal funds which could be used to solve a critical problem The same argument applies to our traditional programs of apprenticeship training If management and labor find these programs useful, they will of course continue them. But this is not in itself an argument for maintaining apprenticeship as the exclusive preoccupation of 190 state employees If our traditional programs have a claim on public funds, that claim must be considered against competing claims This committee has attempted to consider our traditional programs in this light.

THE FIRST STEPS

Our fundamental recommendation is that the state adopt an explicit policy on "the problem of unemployment." This policy should recognize that there are differences in unemployment, that not all unemployment should be considered a problem of government concern The unemployment which should concern government is that which causes serious economic deprivation and which the individuals suffering it seem unable to remedy with their own resources. A policy should be adopted which commits the state to eliminating this kind of unemployment

To carry out this basic policy commitment, we recommend that a state agency be created with the single purpose of eliminating "the problem of unemployment" We believe this can be accomplished with no new expenditure of state funds There are several existing programs which are more or less directed to this purpose We recommend consolidating the administration of these programs in this new state agency and restructuring the content of these programs insofar as possible into a single, sensible program of eliminating "the problem of unemployment."

This latter point—restructuring the content of our present programs into a single, sensible program—cannot be accomplished by the fiat of a State Legislature. Almost all of our present programs are functions of federal law We have examined the purposes of the relevant federal laws and can find no basic inconsistency between federal purpose and ours. We believe that California can establish the kind of unified program we are recommending within the terms of existing federal laws. But the problem is that in almost every case a federal administrator, bound by his own rules and regulations and by his own perception of good, uniform, national programs under the statutes he administers, must approve this state's programs. There is a high degree of discretion committed to these administrators by Congress Therefore, to establish the kind of program we are recommending, we must take the initiative and propose our program, and then spend a good deal of time negotiating with the federal administrators to secure their approval This process may take several years But this is the nature of modern "cooperative federalism "

We believe that the first step must be the assumption of the initiative to create a new program by the state We must adopt an appropriate state policy, create an agency and authorize it to perform the functions implied by our model of a sensible unemployment program Then we will be in a position to approach the federal administrators with the specific proposal that California's share of the funds available through their offices should be spent by this agency in this way.

As for the new agency, we recommend that a new division—the Division of Employment Opportunity—be created within the Department of Employment. This agency should be given the responsibility to aid those unemployed persons who suffer serious economic deprivation because of unemployment and who seem unable to find and maintain decent employment with their own resources through a program of three coordinated components· a special placement component, an employer-oriented training component, and a remedial services component.

The administration of three existing programs can be transferred to this new agency immediately MDTA institutional programs are now jointly administered by the Manpower Section of the Department of Employment and the Department of Education We propose that the Division of Employment Opportunity be made the sole administrator of these programs in California, that the Manpower Section be transferred to the new division, and that this division be authorized to contract with the Department of Education for certain services such as curricula review and approval The Division of Apprenticeship Standards can be shifted from the Department of Industrial Relations to the new division The present promotional activities of the Division of Apprenticeship Standards can be carried on in the new division. Such a shift would put a field staff of over 100 professionals at the disposal of the new division and make it possible to integrate their activities into the context of the unified program proposed in this report. The Division of Apprenticeship Standards now administers two programs. It promotes the establishment of Joint Apprenticeship Committees which, in turn, actually administer training to apprentices And it develops most of the training contracts of the MDTA on-the-job train-

ing program under which on-the-job training is administered by private employers About one-quarter of its 100-man field staff is funded by the federal government under this program

We believe that the transfer of these three programs (MDTA institutional training, MDTA on-the-job training, and apprenticeship training) to the new agency would create the administrative nucleus of the kind of sensible employment program we are recommending The new division would have approximately $50 million in funds committed to existing programs and a field staff of over 100 professionals, at least three-quarters of whom could perform broader responsibilities in the field than promoting apprenticeship training programs

We do not suggest that this new division can effect any radical changes in our present programs immediately This will require a great deal of time and effort by our administrators translating the basic recommendations of this report into the programmatically operational terms necessary for consideration by federal administrators and necessary to the eventual administration of the program as well. An operational definition of eligibility will have to be worked out, a method of identifying the eligible, staff deployment patterns, operational tests of the reasonableness of on-the-job training projects submitted by the participating employers, and so on

The unification of the Manpower Section of the Department of Employment and the Division of Apprenticeship Standards, together with the three programs they administer, will create an agency capable of formulating an operational program, of negotiating with federal administrators for its approval, and of eventually administering it.

Finally, we recommend that the other departments of state government which presently administer vocational training programs be directed to analyze the means by which their present programs may best be integrated into a unified state employment program.

California can get off to this much of a start within one year of the passage of legislation The state can be formally committed to a policy of enabling the needy unemployed to become employed; an administrative agency to accomplish this policy can be created; a general program of effectively accomplishing this policy can be worked out in detail, and plans can be laid for integrating all or most of our present vocational training programs into it.

CONCLUSION

In Part II of this report, we have been concerned with describing the kind of state program we believe will be effective in solving "the problem of unemployment " We recognize that there are many other problems in this general area, notably the problem of underemployment But we have felt that the most serious problem should be approached first This accounts for our somewhat narrow perspective.

Once a program is established which is responsive to "the problem of unemployment," we suggest that a program embodying the same general logic be established to enable the underemployed to achieve the capacity to earn enough to support at least a certain minimum standard of living We believe that the proper role of the state in this area should be helping those least capable of helping themselves.

Our greatest concern is with the waste of human resources, the waste of human lives, which is permitted to occur under our present programs.

We stated earlier in this report that we believe that it is the prime responsibility of government to maintain a social order in which individuals are free to develop their capacities to the fullest We believe the employment program proposed in this report is a necessary instrument in the maintenance of such a social order

LETTER OF TRANSMITTAL

ASSEMBLY COMMITTEE ON INDUSTRIAL RELATIONS
January 2, 1967

HONORABLE JESSE M UNRUH
Speaker of the Assembly, and
Members of the Assembly

Ladies and Gentlemen·

The undersigned members of the Assembly Interim Committee on Industrial Relations, 1965–1967, respectfully submit their report on low income housing development

MERVYN M. DYMALLY, *Chairman*
JOHN L. BURTON
EDWARD E. ELLIOTT
RAY E JOHNSON (with reservations)
WALTER W POWERS
VICTOR V. VEYSEY

LOW INCOME HOUSING DEVELOPMENT

The Assembly Rules Committee assigned this committee the task of investigating housing conditions in California and assessing the need for any legislation in this field. This subject has not been given much attention in previous sessions of the Legislature. In order to narrow the scope of the study to a manageable size, the committee decided to focus on the problem of the housing conditions of people with low incomes Consequently, this report deals with essentially one problem, the relative unavailability of decent low-cost housing The committee held two hearings the first on December 15, 1965, in San Francisco; and the second on November 16, 1966, in Los Angeles

After a summary of the committee's conclusions and recommendations, this report will consider the problem of the relative unavailability of decent low-cost housing in California, the present governmental programs—both federal and state—formulated to remedy this problem, and will conclude with a proposal to facilitate the operation of these remedial efforts.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings

1. The committee has found that it is virtually impossible for the private housing market to provide decent housing at a price within the reach of people with low incomes That is, the objective cost factors of land (particularly land in the central cities where most of the low-income population resides), construction materials, labor, financing, taxes, maintenance, and normal profit add up to a necessary sale or rental price for decent housing greatly in excess of the 20 percent to 25 percent of income that people are generally presumed able to pay for their housing when the people in question have low incomes.
2. The committee has found that because the decent housing on the private market is not within the price range of most people with low incomes, the only housing generally within their price range on the private market is "slums"—dilapidated and deteriorated dwellings, often in violation of even the minimum standards contained in the state's Housing Code
3. The committee has found that because of the apparent inability of the private housing market to provide decent housing at a price those with low incomes can afford, some form of subsidy is necessary to provide a decent alternative to slums
4. The committee has found that the federal government has accepted this basic proposition for the past 30 years and that Congress has enacted a variety of programs which partially subsidize the development of decent low-cost housing.

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5. The committee has found, however, that California has not taken sufficient advantage of these federal programs In effect, the California taxpayer does not get a fair return on part of his federal tax dollar because of this failure to take advantage of existing federal programs
6. The committee has found that a crucial problem is the inability of those public and private agencies which are eligible to take advantage of the federal programs to invest the initial capital required just to make application to the federal agencies administering those programs The programs are available, but for lack of "seed money," California public and private agencies do not take full advantage of them
7. The committee has concluded that the single most effective act which the state could make at this time in order to increase the availability of decent low-cost housing would be to establish a program of supplying this needed "seed money "
8. The committee has also found that because the relevant federal programs reimburse the costs of developing an application for funds, if the application is approved, any "seed money" advanced by the state is recoverable and therefore a state "seed money" fund could be a revolving fund with little ultimate cost to the General Fund.

Recommendations

1. The committee recommends the establishment of a state "seed money" fund to be used for making loans to eligible public and private agencies in California for the purpose of developing applications to various federal programs for the financing necessary to make available decent low-cost housing This state "seed money" fund is to be administered by the Department of Housing and Community Development and each loan is to require the participation of this department in the development of the application for federal financing The participation of the state agency is for the sole purpose of maximizing the likelihood of federal acceptance of the application and thereby maximizing the recoverability of the state loan
2. The committee recommends a $5 million appropriation from the General Fund for this purpose It is estimated that $5 million in "seed money" will generate $100 million in the construction of decent low-cost housing and, because this $5 million will constitute a revolving fund, many hundreds of millions in construction will ultimately be generated

THE PROBLEM: THE RELATIVE UNAVAILABILITY OF DECENT LOW INCOME HOUSING

Statement of the Problem

Basically, the problem is that people with low incomes cannot afford the housing provided by the private housing market which meets a minimum standard of decency in terms of health and safety and comfort The housing which they can afford is slum housing, that which does not meet these minimal standards of health, safety and comfort

Slums are at present a necessary evil, for they supply the housing of people with low incomes

Slums are objectionable from several points of view. In the first place, they create an oppressive environment which contributes significantly to the variety of social pathologies which have been so intensively documented and analyzed in the past few years And these pathologies are ultimately the problems of the entire community—high rates of crime and delinquency, of functional illiteracy and hard-core unemployment, of broken families and illegitimacy, of interracial hostility and all the rest In the second place, slum housing creates whole areas of blight in our central cities, for the most part, and in our rural communities Urban blight not only lowers the value and usefulness of property it also offends the public's sense of decency Public policy—federal, state and local—has for years been almost unanimous in its condemnation of slums and in its explicit intention to eliminate slum areas

The committee's investigation has led it to the conclusion that the major housing problem in California is the persistance of slum housing or, conversely, the relative unavailability of decent low-cost housing The problem is undeniable, but we have found it impossible to define with any precision the magnitude of the problem in California The discussion below will focus on some of the dimensions of this problem

Slums, Poverty, and the Cost of Decent Housing

The proportion of all housing that qualifies as slum housing varies depending on the definition of slum housing one uses There is no generally agreed-upon definition Perhaps the most standard guide is the data on housing quality compiled in the 1960 census This data is based partly on objective factors and partly on the subjective assessment of the census takers In 1960, 13 5% of all housing in California—approximately 735,000 units—was categorized as dilapidated, deteriorating or as having deficient plumbing This is the most precise estimate available of the magnitude of the problem of substandard housing This figure it should be noted, is based upon a relatively conservative standard of decency, one which considers only the soundness of construction and the availability of normal plumbing facilities Other definitions might include such considerations as the adequacy of ventilation, lighting and heating facilities, the existence of fire hazards, overcrowding, or aesthetic factors and the number of units which would qualify as substandard would then, of course, be increased

While the committee is dissatisfied with the quality of the data on the magnitude of the problem in California we do not believe that any reasonable man would deny that slum housing is a problem of serious magnitude A walk through South Central Los Angeles, or East Los Angeles, or East Oakland, or Hunter's Point, or West Fresno, or any other area in which people with low incomes live will convince the skeptic of the seriousness of the problem

It is this committee's thesis that slum housing is virtually the only housing which the private housing market can supply at a price those with low incomes can afford to pay *Poverty in California*, a 1964 publication of the Office of Planning in the Department of Finance,

states that 2.4 million Californians, more than 15 percent of the total population, live in poverty defined in terms of a family of four with less than $3,000 a year income or an unrelated individual with less than $2,000 a year income. If a family of four with an income of less than $3,000 a year is presumed able to pay 20–25 percent of its income for housing (a standard national criterion) they can afford $50–$60 a month for rent.

The problem is the quantity and quality of housing available at this price to these 2 4 million people Decent housing, defined by a minimum standard of health, safety and comfort, is almost completely unavailable at this price. The private housing market, facing relatively inflexible costs, cannot provide decent housing at this price An example of the virtual impossibility of providing decent housing below certain costs was presented to the committee at its 1965 hearing by Mr Edward Eichler, Chairman of the 1961–63 Governor's Advisory Committee on Housing Problems. A typical cost breakdown for a two-bedroom one-bathroom apartment in an urban area such as San Francisco (these are per unit costs), land, $1,500; construction, $9,000; overhead, $1,000; sales expense, $500; profit to the builder, $1,000; for a total of $13,000 per unit. Assuming the owner puts down $3,000 per unit and borrows $10,000 per unit at 6 percent for 25 years (a common financing pattern), he must charge a base rent of $65 per unit per month just to amortize his loan. On top of this base must be added maintenance costs of perhaps $20 per month (for utilities, insurance, upkeep). Taxes will average perhaps $22 per unit per month And the owner may expect some profit, perhaps 10 percent on the $3,000 per unit he put down, or $30 per month. The total rent is now $137 per month. While one may quibble about the appropriateness of certain cost factors in Mr. Eichler's typical case, it can readily be seen that this modestly decent apartment on the private market is far beyond the reach of the family with an annual income of $3,000 or less per year—some 2 4 million Californians

If these 2 4 million persons living on poverty-level incomes, and the many others living on marginally poverty-level incomes of from $3,000 to $5,000 per year (an estimated 2 3 million additional persons), cannot afford the modestly decent housing on the private housing market, where do they live?

Some of them live in public housing There is no up-to-date information on the actual number of persons living in public housing in California, nor on their income levels, but at the most only 120,000 persons could be living in public housing That is, the average population factor per unit of public housing is 3 8 persons and the total number of public housing units in California is 31,939, producing a total probable population of 120,000

The great majority of those who cannot afford the decent housing on the private market probably live in the 735,000 slum units identified by the 1960 census.

Mr Eichler also made the following generalizations at the 1965 hearing, based primarily on data from the 1960 census. First, the poor rent rather than buy their dwellings 55 7 percent of all families in California own their own homes but only 35 percent of those with incomes of $4,000 or less own their own homes while 70 percent of those with

incomes between $7,000 and $10,000 own their own homes. Thus, 65 percent of those with poverty-level incomes rent their housing Second, the poor pay a higher share of their income for housing than do other income groups The FHA and VA criterion for family housing expenditures is 20 percent–25 percent of income This is a fairly widespread national standard. However, a fifth of all renters pay 35 percent or more of their income for housing and a large majority of these are the poor. And, despite the fact that the poor often pay more than 35 percent of their income for housing, the available information indicates they still often inhabit substandard housing Third, the poor often live in overcrowded conditions In California, in 1960, 400,000 units were overcrowded.

It should be noted that the census data used throughout the report does not in itself link up the individual factors contributing to slum conditions—substandard housing, income levels of the tenants, percentage of income paid for rent, and overcrowding Each of these factors is counted separately But it is reasonable to assume that these factors are related Although not conclusively verified, most authorities in the field of housing agree that most of those earning $3,000 a year or less live in the 735,000 substandard units, pay 35 percent or more of their incomes for this substandard housing, and live in overcrowded conditions.

Welfare recipients constitute a special case among the poor Almost all of them have incomes of less than $3,000 per year. There are approximately one million categorical aid recipients in California who constitute 42 percent of our 2 4 million poor Clearly, with incomes under $3,000 annually, welfare recipients are faced with precisely the same housing problems as the other poor in California

This can be illustrated in greater detail by considering the method used for determining income for AFDC recipients (by far the largest category of recipients). Income is determined according to a budget prepared for the eligible family by the State Department of Social Welfare in cooperation with the appropriate county welfare department. The purpose of this budget is to provide just the necessities of life. It is a combination of statutory maximums which set a legal ceiling on the amount of aid that can be given and "maximum participating bases" which are established by budgetary limitations The aid that is actually received is thus often lower than what the professionally prepared family budget indicates is necessary for even minimal support

The allowance given for each of the components in this family budget is established according to market research surveys conducted periodically by the State Department of Social Welfare in cooperation with the county welfare departments—except for the housing component The housing component is priced according to a 1958 standard which was not then and certainly cannot now be relevant to the adequacy or decency of the housing which can be obtained for the price And, as with the other components, the amount actually received is often below this unrealistic component. Housing allowances established for a family of four in the AFDC program range from a high of $88 per month in San Mateo County to a low of $35 per month in Lassen County In a large city such as Los Angeles, the housing allowance for a family of four is $59 per month; in San Francisco, it is $56 per month. These

allowances are obviously too low to permit most recipients to obtain decent housing.

The State Department of Social Welfare annually conducts a survey of rents actually paid by AFDC recipients In 1964, they found that on a statewide basis recipients actually paid 25 percent more for rent than their housing allowances The last survey, conducted in August 1966, showed the following discrepancies for the four counties discussed in the paragraph above in Lassen County, $35 was allowed, but the average rent paid by recipients was $56; in San Mateo, the amount allowed was $88, but the average paid was $102 62, in Los Angeles, the amount allowed was $59, but the average paid was $75.52; in San Francisco, the amount allowed was $56, but the average paid was $76.09.

The point was made earlier that the poor usually pay a higher percentage of their total income for their housing than the 20 percent to 25 percent which most of us pay and which is the generally accepted national criterion Welfare recipients are certainly no exception to this generalization But the more important point is that because the rest of the recipient's income is determined by market research and is based on the cost of just the bare necessities of life, the additional amount recipients have to pay to obtain their housing must be causing severe deprivation elsewhere—in their food or clothing, for example

This situation poses a difficult problem in state policy By providing welfare recipients with housing allowances inadequate to buy decent housing, the state in effect subsidizes slum housing In view of state and widespread local policy against slum housing, this situation places the state in an untenable position. The state opposes slums on the one hand, yet creates a captive clientele for slum landlords on the other. This committee believes that, irrespective of the action taken on our recommendations, the housing allowances of welfare recipients should be based on the prevailing cost of decent housing

Summary

Fundamentally, the problem is that the cost of housing is not a function of family income The cost of housing is a function of more or less objective factors such as the price of land, of labor, of money, and so on. Families with low incomes, whatever the reason for their having low incomes, cannot afford the ultimate cost of decent housing fixed by these more or less objective factors It is not that the free enterprise system has failed to work There is a demand for low-cost housing and there is a supply of low-cost housing But the quality of this supply is generally inadequate in terms of the public's sense of decency and often in terms of legal standards.

Given this situation—the substandard quality of the low-cost housing which the private market can supply—there seem to be only two alternatives: either continued existence of slum housing or some form of public subsidy to eliminate slum housing If the slums are to be eliminated, a supply of decent low-cost housing must be created as an alternative to nondecent low-cost housing, or slums The federal government recognized this more than 30 years ago and has provided several forms of subsidy in an attempt to create a supply of decent low-cost housing.

THE PRESENT PATTERN OF FEDERAL AND STATE LAW

Federal Law

The United States Housing Act of 1937 established the Public Housing Administration and set in operation the Public Housing Program The act has been amended many times throughout the following years The Public Housing Program, in general, operates with federal money through the states and their local agencies; state and local control is maximized by federal law The act authorizes the Secretary of Housing and Urban Development to make loans and grants to agencies designated by the state to be used to provide decent housing at prices which the lowest income group can afford

In general, the financing of a public housing project follows this pattern (1) The only direct federal loans in this program are short-term loans for planning and development of a project (2) Loans for the actual construction of the project are obtained from bonds issued by the local housing authority which are sold in the regular bond market and are backed by the full faith and credit of the United States government These are 40-year term, 3¾ percent interest, tax exempt, revenue bonds (3) Once the project is constructed, the local housing authority is required to set rents high enough to cover all of the operating costs Any revenue left over to the authority after operating costs have been paid go into a reserve to amortize the bonds (4) The federal government will make grants of up to 100 percent of the authority's bond retirement obligation if necessary to enable the authority to keep rents within the range of its tenants In general, tenants pay 20 percent of their incomes for rent The average national rent paid is $44 per month, it is probably somewhat higher in California (5) The federal government also makes a grant equal to 10 percent of their rental revenues of the project to local governments in lieu of property taxes—public housing is tax exempt (6) Finally, an annual federal grant of up to $120 each will be made to maintain elderly tenants and those displaced by urban renewal or a public housing project itself if such a grant is necessary to enable the authority to keep its rent down to the desired level

This program of public housing—publicly owned and operated housing with rents set at 20 percent of tenant income and directly subsidized by the federal government—is the oldest and most widely used of the public housing programs There are 830,081 units of public housing in the nation In California, as mentioned above, there are 31,939 units in 236 different projects operated by 54 different public housing agencies This is approximately 38 percent of California's proper share figured on the basis of population

The United States Housing Act of 1937 has been amended several times Many of these amendments have created significant programs aimed at increasing the supply of decent low-cost housing One of the most important is Section 221(d)(3) which was added in 1961 This section provides a 40-year mortage with an interest rate of 3 percent, which is far below the interest rate available on the private market Those eligible for this mortgage are nonprofit corporations, cooperatives, and limited-dividend corporations which agree to limit the rent charged on the units constructed with this mortgage loan Perhaps the

most significant aspect of this program is that it aims at increasing the supply of decent low-cost housing owned and operated by private parties, in contrast to the basic housing program, which provides for public ownership.

Mortgage loans under Section 221(d)(3) have been utilized in California by various churches and labor unions, for example, to sponsor low-cost housing projects More than 960 units of 221(d)(3) housing have been constructed in California, 916 more units are under construction, and funds have been committed for 464 more units But again, this program is grossly under-utilized in California

The Housing and Urban Development Act of 1965 added two new programs which promised to stimulate an increase in the supply of decent low-cost housing—the "rent supplement" program (Sec. 101) and the "leased housing" program (Sec. 23). Under the "rent supplement" program, the federal government will supplement a low-income family's ability to pay rent (based on 20 percent of their income) with the balance necessary to make up a fair rent for certain kinds of decent housing Only housing owned and operated by nonprofit corporations, cooperatives, and limited-dividend corporations is eligible for the rent supplement program Thus, a somewhat hidden purpose of the act is to encourage these kinds of organizations to better utilize the programs made available through Section 221(d)(3) by, in effect, guaranteeing full occupancy through the "rent supplement" program

The "leased housing" program enables local housing authorities to lease or purchase existing housing on the private market and use it as if it were public housing That is, the local housing authority may acquire existing housing on the private market and rent it to those normally eligible for public housing at 20 percent of family income, the balance being made up by federal subsidy This program has the virtue of providing needed public housing quickly while at the same time utilizing vacancies in the private housing market

Congress has enacted several other programs to encourage nonprofit sponsors to construct decent low-cost housing Sections 202 and 231 of the United States Housing Act, for example, provide assistance for housing projects for the elderly Sections 514 and 516 of the act, administered by the Farmers Home Administration, provide loans and grants for farm labor housing projects Section 515, also administered by the Farmers Home Administration, provides below market interest rate loans for rural housing for the elderly

The basic conclusion to which this committee's analysis has led is that the federal government has provided a variety of programs available to public and private agencies for the construction of decent low-cost housing But these programs are seriously under-utilized in California We have simply not made maximum, or even adequate, use of these programs And we believe that the major reason is that the state has not provided any leadership, any encouragement, in this area until quite recently.

State Law

The Public Housing Authorities Law of 1938 is the state enabling legislation passed in response to the United States Housing Act of 1937. It designates local public housing authorities as the only state

agencies eligible to cooperate with the federal government in public housing. The situation created by the law is complete home rule—the law creates a housing authority in every city and county of the state but requires a positive act of the local council or board of supervisors to make it a functioning reality. If such action is taken locally, as it has been in 54 cities and counties, the authority can initiate public housing projects as described above Article XXXIV of the California State Constitution, passed in 1950, requires a majority of those voting in a county or city election (whichever is appropriate) to permit a local housing authority to develop, construct or acquire in any manner a low-rent public housing project This amendment has impeded the development of public housing in California. In roughly one-third of the elections held (33 out of a total of 107), the voters have rejected the proposed project But beyond actual voter disapproval, the requirement for an election has probably discouraged even the proposal of several housing projects because of the expense involved in preparing a proposal and the unpredictability of the electorate.

California has for decades had legislatively enacted minimum housing standards of statewide applicability Local communities have been able to enact housing standards also, but they have been prohibited from providing a standard lower than the statewide minimum standard The Housing and Community Development Act of 1965 created the Commission on Housing and Community Development and authorized the commission to issue rules and regulations which are, in effect, statewide minimum housing standards Thus, in 1965, the Legislature delegated a good deal of its power to enact standards to the commission

Over the years the scope of housing regulated by the standards and the stringency of the standards themselves have increased However, enforcement machinery at the state level is seriously inadequate and, at the local level, it is highly variable and generally quite inadequate.

There is a difficult problem involved in the enforcement of minimum housing standards. As discussed above, slum housing, which is often in violation of state and/or local law, is the only housing available to persons with low incomes Rigorous enforcement of state and local minimum housing standards would work a serious hardship on the poor unless there existed an alternative supply of decent housing within their price range Enforcement would cause the landlord to spend a substantial amount of money to bring his housing up to the minimum standards and he could only recover that expenditure by raising rents Or rigorous enforcement might cause the landlord to transfer the use of his property from low-cost housing (albeit slum housing) to some more profitable use Either way, the supply of housing which people with low incomes can afford is decreased This committee clearly has mixed feelings about a more rigorous enforcement of the state's minimum housing standards

The Housing and Community Development Act of 1965 also created the Department of Housing and Community Development This department contains two divisions The Division of Building and Housing Standards has the sole function of enforcing the statewide housing standards adopted by the commission The Division of Housing and Community Development, which has a small staff of seven professionals,

has the function of assisting local governments in a wide variety of community development projects, including low-cost housing projects. Many local communities desire to engage in such projects but cannot afford the full-time professional staff to do so The Division of Housing and Community Development attempts to fill this gap. The creation of this new state function is the only positive step, however indirect, the state has ever taken to increase the supply of decent low-cost housing

Summary

In summary, the federal government has created a variety of programs to directly increase the availability of decent low-cost housing through subsidization Federal subsidies take two general forms: assistance to lower the cost of constructing and operating low-cost housing by outright grants, below market interest rate loans, and a guaranteed market for permanent financing, and assistance to low-income tenants to make rent a function of family income rather than a function of the market These programs, if properly utilized at the local level, have the capacity to create a decent alternative to slum housing.

The federal government has also enacted many programs which have an indirect effect upon the availability of decent low-cost housing G I. loans and F H A mortgage insurance, for example, are supposed to increase the supply of decent low-cost housing by stimulating new housing construction and enabling great numbers of middle-income persons to improve their housing conditions There is a sort of "trickle down" theory at work· as more middle-income persons move to better housing with public help in the form of G I loans or F H A. mortgage insurance, they leave their old housing behind for those with lower incomes and as the volume of available housing increases, the price of the older and less desirable housing falls The committee does not doubt that this "trickle down" process does work, but its operation cannot be entirely satisfactory—the 1960 census identified 735,000 substandard housing units in California Other federal programs such as slum clearance, urban renewal and redevelopment also have an effect on the availability of decent low-cost housing They usually eliminate slum housing, and replace it all too often with units far beyond the reach of those with low incomes

California law, as we have seen, is basically of a permissive nature and strongly, perhaps too strongly, embodies the ideal of home rule. The state does nothing to directly provide low-cost housing The state, and its local agencies, have established minimum housing standards but their enforcement is generally inadequate, often for quite humanitarian reasons Indirectly, the state's Cal-Vet housing program can also be seen in terms of the "trickle down" theory discussed above.

The Division of Housing and Community Development lends assistance to local governments in the development of a variety of community improvement projects, but on a very small scale Aside from this recently established technical assistance, the state does nothing at all to encourage an increase in the supply of decent low-cost housing

Finally, it should be noted that property taxation practices in this state have the effect of discouraging the rehabilitation of slum housing. If a landlord rehabilitates his property in an effort to provide decent

housing for his tenants and to comply with state and local housing regulations, his taxes are increased We strongly suggest that when property taxes are reformed during the next few years, serious consideration be given to provisions to encourage, rather than discourage the rehabilitation of low-cost housing

THE COMMITTEE'S PROPOSAL

The problem to which this committee has addressed itself is the relative unavailability of decent low-cost housing, measured in terms of a minimum standard of health, safety and comfort The normal operations of the private housing market have priced most decent housing out of the reach of the lowest income groups The only alternative to nondecent housing, or slums, seems to be some form of publicly subsidized housing Over the past three decades, the federal government has created a number of subsidizing programs for this purpose

Public and private agencies in California have not taken adequate advantage of these programs The federal taxpayer who is a California citizen has not received a fair return on his tax dollar from these federal programs Indeed, he has received only about 38 cents in housing programs for each $1 of taxes paid towards such programs (assuming that a fair share is proportionate to population) The array of federal low-cost housing programs is grossly underutilized in California and state leadership to rectify this underutilization has been sadly lacking

In its investigation of this subject, the committee has found that a major reason for the underutilization of these housing programs has been the financial inability of the public and private groups who are most likely to be interested in participating in them All of these federal programs necessitate a certain expenditure just to prepare an application for assistance from the federal administering agency It takes money just to plant the seed usually between 3 percent and 5 percent of the total project cost But the eligible public agencies—local housing authorities—and the eligible private agencies often lack this initial "seed money" and consequently cannot even apply for federal assistance

The witnesses at the committee's last hearing, including several state and local housing agency officials and the representatives of several private groups interested in participating in these federal programs were almost unanimous in identifying this lack of "seed money" as a major problem

The representatives of half a dozen local housing authorities indicated a particularly difficult problem in using the Section 23 "leased housing" programs This is perhaps the best of all the federal low-cost housing programs It was supported in Congress by organizations ranging from the California Real Estate Association to fair housing groups and community action agencies Several county boards of supervisors and city councils in California have activated their local housing authorities for the first time for the specific purpose of using the "leased housing" program But these local housing authorities often lack the initial capital required to support a Section 23 program until the federal reimbursements can support it If this widely supported

program is to be used adequately, some means of providing "seed money" must be found

Private nonprofit groups face similar problems. The neighborhood church, the local of a labor union, the chamber of commerce, the downtown businessmen's service club, the community action group are the kinds of organizations most likely to be interested in helping their communities eliminate slums by creating a supply of decent, low-cost housing But assuming a desired $1 million project, for example, most such groups do not have the necessary $30,000 to $50,000 to invest in the development of an application It is difficult to borrow the necessary "seed money" from private sources of capital because of high interest rates and because private sources have no assurance that the application will ultimately be approved, that the project will be a success, and that the loan will be repaid.

We believe this is the crucial point in the federal subsidy process at which the State of California could provide some badly needed assistance All of these federal programs include provisions to reimburse successful applicants for their development expenses The ultimate cost to successful applicants is nothing; the "seed money" is fully recoverable if the application is approved

This committee proposes that a state "seed money" loan fund be created to lend eligible public and private groups interested in low-cost housing projects the initial capital needed to make application to the federal government The loan will require the return of the state loan as soon as federal financing practices permit so that the state "seed money" loan fund can be a revolving fund requiring only a single state expenditure. According to generally agreed-upon industry guidelines, a $5 million state "seed money" loan fund will generate $100 million worth of low-cost housing construction Because it is a revolving fund, this one-time expenditure of $5 million could produce many hundreds of millions of dollars worth of low-cost housing construction over the years And because it is a revolving fund, that original $5 million can ultimately be returned to the General Fund

The only difficulty encountered in this proposal is the possibility that the applications prepared with state-loaned "seed money" might not be accepted by the federal funding agencies We propose to obviate this difficulty by making the Division of Housing and Community Development in the Department of Housing and Community Development an active participant in the development of any application involving state "seed money" The professional housing consultants in the Division of Housing and Community Development are experts in the field and are in daily contact with the federal funding agencies We propose giving them the statutory responsibility for assuring insofar as possible the ultimate acceptability of any application made with state "seed money." Any loan made from the state "seed money" loan fund would require the approval of this agency prior to submission to federal funding agencies In this way, we believe the recoverability of the proposed state loans will be maximized

In short, the committee recommends the establishment of a state "seed money" loan fund of $5 million to be administered by the State Department of Housing and Community Development The agency will be authorized to make loans to public and private agencies interested

in developing applications for federal assistance for low-cost housing projects The department will be required to participate in the development of all such applications to assure their acceptability according to federal standards and thus assure the ultimate recoverability of the state loans.

We believe that such a program of state loans will greatly stimulate the utilization of the various federal low-cost housing programs in California. Almost all of the witnesses at the committee's hearing agreed with this assessment Almost unanimously, they emphasized their need for "seed money" and approved the committee's proposal for a state loan fund

More generally, we believe the state has a responsibility to provide some positive leadership in encouraging the development of an adequate supply of decent low-cost housing We now find ourselves in the untenable position of having established legal minimum housing standards which we cannot enforce without working a serious hardship on those with low incomes, of having state and local policy generally against slums but laws which provide welfare recipients with housing allowances which are inadequate to buy any but slum housing, of having Californians contribute almost three times as much in federal tax dollars for low-cost housing development as they actually receive in such development We believe that this proposal, if enacted, will constitute a great step forward in terms of increasing the availability of decent low-cost housing, of eliminating slums, and in terms of ending the present contradictions in state policy.

THE PROPOSED LEGISLATION

The addition of Sections 37200–37205 to the Health and Safety Code:

SECTION 1. The Legislature finds that there is an inadequate supply of decent, low-cost housing in this state. The only housing usually available to the lowest income groups falls below a generally accepted standard of decency and is often in violation of the legal standards found in this division and in local housing regulations Congress, this Legislature, and most local legislative bodies have adopted policies to eliminate this substandard housing.

The Legislature also finds that while Congress has provided a variety of programs to aid in the elimination of substandard housing, these programs have been seriously underutilized by the public and private organizations in this state eligible to participate in them A major reason for this underutilization is the inability of many of these organizations to finance even the preparation of an application to the relevant programs.

It is the purpose of this act to encourage the participation of eligible public and private organizations in those federal programs established to increase the supply of decent housing for the lowest income groups.

SEC. 2 Section 37111 of the Health and Safety Code is repealed.

~~37111 This part does not authorize any state funds for subsidized housing of any kind The department shall not engage in direct loan or grant programs with funds appropriated by the Legislature or obtained by the issuance of state revenue or general obligation bonds, nor shall any local governmental agency or agency of state government be re-~~

~~quired to submit applications to the federal government for federal assistance or to negotiate with the federal government with respect to federal assistance, through the department~~

SEC 3 Chapter 6 (commencing with Section 37200) is added to Part 8 of Division 24 of the Health and Safety Code, to read:

CHAPTER 6 LOW-COST HOUSING DEVELOPMENT FUND

37200 There is in the State Treasury a special fund known as the State Low-Cost Housing Development Fund The money in the State Low-Cost Housing Development Fund shall be used only for the purpose of making loans to those public and private organizations which are eligible for assistance under any federal program established to promote the development of low-cost housing and which provides for recoverable preapplication costs

37201 The State Low-Cost Housing Development Fund shall be administered under rules and regulations established by the Commission of Housing and Community Development as provided in Section 37039, provided, however, that the commission shall endeavor through its rules and regulations to maximize the quantity of decent, low-cost housing available to the lowest income groups in the state

37202 The State Low-Cost Housing Development Fund shall be administered by the Director of Housing and Community Development pursuant to the provisions of this chapter and the rules and regulations adopted by the commission

37203 The director is authorized to make loans from the State Low-Cost Housing Development Fund to public and private organizations; provided, that he determine in writing prior to making such loans that

(a) The applicant organization is technically eligible under federal law and administrative rules and regulations for assistance under a program to increase the availability of decent, low-cost housing,

(b) The state loan is legally recoverable under federal law and administrative rules and regulations,

(c) The housing proposal of the applicant organization will satisfy a demonstrable need for decent, low-cost housing, and

(d) The applicant organization is responsible and capable of successfully carrying out a federally and state-assisted low-cost housing project

37204 As a condition of receiving a state loan under this chapter, a private organization must agree to the participation of the Department of Housing and Community Development in the preparation of their application to the federal housing program As a further condition, the private organization must agree to obtain the department's approval prior to submitting the application to the relevant federal program Any loan made under this chapter may be cancelled by the department for good cause The purpose of this participation shall be solely to assure insofar as possible the ultimate acceptability of the application by the relevant federal agency and thus, the ultimate recoverability of the state loan

37205 All loans repaid under this chapter shall be returned to the State Low-Cost Housing Development Fund and shall be immediately available for relending

LETTER OF TRANSMITTAL

ASSEMBLY COMMITTEE ON INDUSTRIAL RELATIONS
January 2, 1967

HONORABLE JESSE M UNRUH
Speaker of the Assembly, and
Members of the Assembly

Ladies and Gentlemen

The undersigned members of the Assembly Interim Committee on Industrial Relations, 1965–1967, respectfully submit their report on nuclear safety

ROBERT E BADHAM
LOU CUSANOVICH
PAULINE L DAVIS (with reservations)
EDWARD E ELLIOTT (with reservations)
RAY E JOHNSON
WALTER W POWERS
VICTOR V VEYSEY

March 10, 1967

HON JESSE M UNRUH
Speaker of the Assembly, and
Members of the Assembly

Ladies and Gentlemen

We dissent from the general conclusion of the report on nuclear safety of the Interim Committee on Industrial Relations

A majority of the committee felt that present public regulation of commercial nuclear power plants renders them "superlatively safe" We do not believe that the committee's investigation warrants this conclusion Several very complex questions of reactor technology and of the biological effects of radiation require a more thorough study than the committee was able to give them We believe that the whole question of nuclear safety should be given further study

MERVYN M DYMALLY, Chairman
JOHN L BURTON

NUCLEAR SAFETY

The Assembly Rules Committee has assigned this committee the task of investigating the safety of employees, and of the public, in connection with the operation of commercial nuclear powerplants. This study was undertaken because of the apparent public concern over the safety of these plants in general, and because of the issues of safety raised in connection with the proposed plants at Bodega Head and at Corral Canyon in particular

The committee's primary task has been to assess the potential dangers of commercial nuclear powerplants and the safety precautions taken against them in order to determine whether plant employees, and the public, are adequately protected It should be noted at the outset that neither this committee nor its staff is composed of technical experts in the field of nuclear safety While the committee has considered the views of many technically competent persons in the course of its investigation, this report represents the judgment of laymen.

The committee's study included the review of a large selection of technical literature as well as numerous staff-level discussions with a variety of persons involved on both sides of the issues in nuclear safety Information on the possible dangers of nuclear powerplants was solicited through over 60 letters to public agencies, professional associations, and known critics of the existing standards of nuclear safety The study also included a field trip by the committee to an operating nuclear powerplant and two public hearings, held on September 3, 1965, at Eureka and July 18, 1966, at San Clemente at which approximately 20 witnesses discussed the issues of nuclear safety

Several points need special mention First, there are in this field extraordinary problems of governmental jurisdiction While the state, under its general police powers, has a traditional responsibility for the safety of its citizens, in this field Congress appears to have preempted the area of protection against radiation hazards This point is discussed at greater length in Part I The result, however, is that the federal government regulates safety with respect to radiation problems in commercial nuclear powerplants, the state and local governments regulate all other safety problems at these plants, and the state also regulates some radiation problems under a delegation of authority from the federal government, but these are not connected with the operation of commercial nuclear powerplants

Second, the problems of greatest concern in this field are the problems of radiation hazards Consequently, while this committee has felt compelled by the force of public concern to investigate this subject, it should be clear that we have been investigating a federal responsibility performed by a federal agency While we have not felt that this situation caused any particular crises, or even indelicacy, in intergovernmental relations, we have recognized it as an unusual situation. It is a rare occurrence when a state legislative committee passes judgment on a federal agency.

Third, because of this jurisdictional problem, we have been faced throughout this investigation with the question of what action the State Legislature could take if we were to find conditions involving radiation hazards which we considered dangerous It would seem that the practical extent of our formal power would be to pass a joint resolution requesting that Congress correct these conditions

We do not believe this consideration has inhibited the rigor of our investigation The essential question we have faced is whether the protection against radiation hazards afforded by federal regulation was good enough for the citizens of California We have concluded, in general, that it is If we had found otherwise, despite our limited formal powers, we would have sought corrective action in the most forceful ways possible

Fourth, we have discovered that the subjects of nuclear power production and radiation protection are extremely complex There are many more particular areas of inquiry than this committee could possibly have gone into in any depth We have attempted to investigate the major questions relevant to the safety of employees and the public We realize we have excluded some aspects but we believe these aspects are not crucial to an informed judgment on safety

But more important, because the entire structure of federal and state regulation is based upon systematic empirical knowledge—science—we have faced the problems posed by the imperfections of such knowledge—the impossibility of absolute statements, the gaps in the availability of verifiable data, the variety of plausible interpretations of the data that is available, and all the rest This does not mean that we do not believe we have sufficient reliable information to come to certain basic conclusions Rather, it means that our conclusions represent only the best judgment we have felt confident in making based upon the kind of information available

We have sought, throughout this investigation, the general statements which the overwhelming weight of available information would support This report is written in those terms The point is that every general statement made in this report is subject to numerous qualifications and almost endless elaboration due to the nature of scientific knowledge and the complexity of the subject matter Although many of our generalizations may appear oversimplified, we wish to affirm that we believe all of our conclusions are supported by the overwhelming weight of the available evidence

And finally, it should be emphasized that our investigation has been limited to commercial nuclear powerplants There are many other kinds of nuclear installations, such as nuclear weapons production facilities and basic research facilities, which we have largely ignored This choice was dictated by the focus of public concern on commercial nuclear powerplants and by our own need to limit the scope of our investigation to a subject we could adequately handle in one interim period

Part I of this report contains general background information on the nuclear industry and an explanation of the jurisdictional problem Part II describes the pattern of state safety regulation of commercial nuclear powerplants in California Part III describes the pattern of federal regulation of radiation hazards in commercial nuclear power-

plants Part IV examines three subjects this committee believes are central to an evaluation of the AEC's regulatory activity—the philosophy of risk, the concept of a safe level of radiation, and the quality of present scientific knowledge of the biological effects of radiation Finally, Part V examines in summary fashion the kinds of issues raised by critics of the AEC's regulatory system and poses the single problem which we believe calls for congressional action and which gives rise to our single recommendation

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings

1 This committee has found that the only issue of safety to have aroused significant public concern in connection with commercial nuclear powerplants is the danger of exposure to radiation

2 This committee has concluded that the regulatory activities of the state in connection with this issue (radiation protection) are important but essentially dependent on and supplemental to federal regulation, which is determinative We have found no substantial inadequacy in state law relevant to this issue or in the performance by the various state agencies of those responsibilities which are relevant to this issue

3 This committee has found that the regulatory process of the Atomic Energy Commission, and the substance of their safety standards, are crucial to this issue

4 This committee has concluded that the AEC's regulatory process focuses on the issuance of a license which effectively controls all of the activities in a commercial nuclear powerplant which could conceivably result in the exposure of living organisms to excessive radiation The process leading up to the issuance of the license is complex and exhaustive, the license itself is comprehensive and detailed—and it has the force of law, and the enforcement process is rigorous, involves several independent participants—federal, state, and private—and has been demonstrably successful

5 This committee has concluded that the substance of federal safety standards in connection with this issue provide a very high degree of safety We have inferred from our examination of these substantive standards that the AEC manifests a philosophy of risk which seeks to preclude any credible risk While no regulatory process can guarantee absolute safety, the extraordinary conservatism of the AEC's substantive standards maximizes safety insofar as is reasonably possible

6 This committee has determined that its essential task has been to judge whether the very high degree of safety provided by federal regulation is safe enough for the citizens of California Our examination of present scientific knowledge of the biological effects of radiation—that is, of the possible dangers—and of the substantive standards which safeguard against these dangers has led us to the conclusion that federal regulation provides California citizens with better than reasonably adequate protection In our judgment, it is safe enough

7. An examination of the safety record of commercial nuclear powerplants since the startup of the first one in 1957—and this we consider the acid test of our judgment—shows that no radiation accident of any significance has occurred, no radiation injury has occurred to any employee; and no radiation injury to anyone outside these plants has occurred, nor has the maximum permissible annual exposure limit for the public ever been exceeded due to the operation of commercial nuclear powerplants
8 This committee has examined all of the issues of safety which arose in the course of our investigation, and particularly those issues posed by the critics of AEC regulation, and find no significant substance in them At best, these issues seem to embody a certain plausibility, but it has been the absence of reliable evidence to support the contention that unsafe conditions exist that has determined our conclusions In attempting to render a responsible and honest judgment, we have had to rely on the best information we could obtain.
9. Finally, we have identified one issue which we believe calls for congressional action This is not strictly speaking a safety issue Rather, it concerns the future development of nuclear power in California. The AEC's criteria for siting and design with respect to earthquakes seems to be inadequate to guide an applicant in the development of an acceptable application Both of the major controversies over commercial nuclear powerplants in California this decade focused on this issue We have concluded that the future development of nuclear power in this state requires more adequate federal guidelines on siting and design with respect to earthquakes

Recommendations

1. This committee recommends that a joint resolution be passed requesting that Congress fund a special study by the AEC of the problem of plant siting and design with respect to earthquakes; that this study be performed in California which is the nation's best natural laboratory for the study of earthquakes; and that this study be aimed at producing operationally precise criteria for siting and design with respect to earthquakes

PART I—NUCLEAR DEVELOPMENT

Brief History of Nuclear Development

The initial theories on nuclear power and the initial research date back to the 19th century The fission process by which nuclear power is produced was discovered in 1939 This, in effect, first proved the theory In 1942, Enrico Fermi and his associates successfully demonstrated the world's first nuclear reactor at the University of Chicago. At this time, the harnessing of the fission process for a variety of uses became a practical possibility Thus, nuclear power development has taken place wholly within the past 25 years

The greatest effort toward using the fission process in these early years, however, was directed to the development of the atomic bomb

during World War II This early effort, known as the Manhattan Project, was governmentally organized and controlled After the war, Congress passed the Atomic Energy Act of 1946 which created the Atomic Energy Commission and transferred all responsibility for nuclear development, both military and nonmilitary, to the commission. The law established a virtual governmental monopoly over manmade nuclear energy and charged the commission with promoting scientific progress in the use of nuclear power

This law was replaced by the Atomic Energy Act of 1954, which, as amended from time to time, is still the law today The 1954 act maintains effective governmental control over nuclear development while permitting private ownership and operation of nuclear facilities. The important point in this brief historical summary is that nuclear development, almost from the very beginning, has been controlled by the federal government.

Since 1954, the AEC has worked with private industry to promote the development of nuclear power The first commercial nuclear powerplant to transmit electric power on a regular basis was the Shippingport plant in Pennsylvania which began operation in 1957. (More powerful reactors, used for producing nuclear materials for weapons, had been in operation since 1944) Since 1957, 14 other commercial nuclear powerplants have been started up, 10 are under construction, and more than two dozen are in the planning stages

As of August 1966 these plants had a generating capacity of 1,889,-200 kw This is a small output compared to the annual electrical generating capacity of all types of U S plants of about 250,000,000 kw It is forecast, however, that total electrical power generated by commercial nuclear powerplants in the U S will reach 10,000,000 kw by 1970 and between 80,000,000 and 110,000,000 kw by 1980, as compared with a projected total electrical generating capacity of 520,000,-000 kw at that time This will represent an increase of from less than 1 percent of total electrical capacity at present to as much as 21 percent by 1980. The point is that the production of electricity from nuclear reactors is a growing industry which is expected to produce an increasingly greater share of this nation's output of electricity.

In California, there is one operating commercial nuclear powerplant, at Eureka Another, at San Onofre will start up in early 1967 Several others are in the planning stages, such as the Metropolitan Water District's proposed power-producing and sea water-desalinization plant at Bolsa Chica, PG & E's proposed powerplant at Diablo Canyon, and the Sacramento Municipal Utility District's proposed powerplant in the Sierra foothills Unfortunately, California has been the scene of two drawn-out public controversies over the siting of nuclear plants, the first at Bodega Bay in the early 1960's and the second at Corral Canyon in the mid-1960's Both controversies focused on the issue of safety in connection with earthquake-resistant plant design and served to heighten public sensitivity to the development of nuclear power

Brief Description of Nuclear Power

In essence, nuclear power is energy which is produced by the splitting of the nucleus of the atoms making up certain kinds of elements. This process of nucleus-splitting is known as fission and can be caused

to occur under certain controlled conditions When the splitting occurs, energy is released in the form of heat The purpose of a nuclear powerplant is to transform this heat energy into electrical power

In principle, the process is the same as transforming the energy released by the burning of fossil fuels such as natural gas or oil or coal into electricity in a conventional powerplant That is, fission produces the heat which is used in the conventional way to produce steam which drives a turbine which, in turn, drives a generator which produces electricity Only the source of heat—the initial source of energy—differs

However, in addition to heat energy, the fission process also causes radioactivity This is when the nucleus of the atom is split, particles and rays are emitted These radiations—alpha, beta, particles and gamma radiation—*differ in their ability to penetrate material and their* power to alter molecular structures It is the power of gamma radiation to alter the molecular structure of the human cell which most concerns us In addition, one kind of particle released by the fission process—the radioisotope—also concerns us because it continues to emit radiation This radiation, because of its potentially harmful effect on living organisms, must be controlled But it is important to note that radiation is not necessarily harmful, science has discovered many beneficial uses of radiation In this sense, it can be compared to fire The problem lies in knowing its dangers and in learning to control it

There are thus two kinds of safety problems involved in nuclear power production· those associated with radiation and the more conventional problems associated with the production of heat, pressure, and high-voltage electricity Needless to say, public concern has focused on the former

The major consideration in the design and operation of nuclear powerplants is the containment and control of the hazards of radiation And the major function of the AEC is the definition of safety standards and the enforcement of them After a discussion of the jurisdiction and functions of the AEC and the state in this area, this report will consider the specific safety precautions now in effect and the issues of safety which have been brought to the committee's attention

Governmental Jurisdiction

As mentioned above, the development of nuclear power has been controlled by the federal government almost since its discovery The Atomic Energy Act of 1954 declares that one of its purposes is "a program for government control of the possession, use, and production of atomic energy and special nuclear material whether owned by the government or others, so directed as to make the maximum contribution to the common defense and security and the national welfare . ." The act authorizes the commission to license private producing-facilities—such as commercial nuclear powerplants—if the commission finds that the licensee is willing and able to "observe such safety standards to protect health and to minimize dangers to life or property as the commission may by rule establish " The commission is thus given broad rulemaking power to regulate the safety of all nuclear facilities including commercial nuclear powerplants

This rulemaking power on the subject of safety creates a difficult problem of jurisdiction The states have always borne the primary responsibility for the safety of their citizens Under their general police powers, the states have always exercised almost complete discretionary power to regulate anything affecting public safety Yet this declaration of purpose seems to provide for unrestricted federal safety regulation in connection with nuclear facilities Is safety protection a concurrent power or has it been preempted by the federal government?

The California Supreme Court, in *Bodega Head and Harbor, Inc. v Public Utilities Commission* (1964), has answered this question in its interpretation of Section 2021(k) of the act which reads

> Nothing in this section shall be construed to affect the authority of any state or local agency to regulate activities for purposes other than protection against radiation hazards

The court interprets this section to mean that Congress has preempted only the area of protection against radiation hazards There are many issues of safety in connection with nuclear powerplants over which the state has jurisdiction, but the state does not have jurisdiction over the issue of greatest concern to the public—radiation hazards

PART II—STATE REGULATION

The federal government, through the AEC, regulates nuclear facilities in order to achieve safety in connection with radiation hazards All other safety hazards are regulated by the state However, the AEC has delegated limited regulatory responsibilities in connection with radiation hazards to the states, in some cases, but these delegated regulatory responsibilities do not concern commercial nuclear powerplants In California, several state agencies are responsible for regulating the conventional safety problems of commercial nuclear powerplants

Department of Industrial Relations

This department, through its Division of Industrial Safety, is responsible for the major share of all industrial safety regulation. The State Labor Code gives this division the general responsibility to ensure safe conditions of work in all places of employment This, of course, includes commercial nuclear powerplants

Safety is achieved through a basic framework of statutes, the administrative promulgation of "safety orders" having the effect of law, periodic inspections by professional safety engineers, and enforcement through court action in the rare cases in which compliance is not voluntary Both the statutes and the "safety orders" have a long history of application and are the subject of continual review and readjustment They represent a well-established system of regulation of the conventional problems of safety with which this committee is reasonably satisfied.

One particular area of safety regulation administered by the division is of importance in connection with commercial nuclear powerplants This is the regulation of pressure vessels One of the major dangers in a powerplant is the possibility of explosions due to pressure The division enforces an extensive set of regulations to ensure against this possibility. In the commercial nuclear powerplants of California, the

reactor vessel itself and all other vessels and pipes which contain anything under pressure are maintained under code requirements All pressure vessels require an operating permit from the division, are subject to periodic inspection by the division, and the permit is revocable upon the finding of any code violation, as well as subject to a specific safety order if any unsafe condition is found which is not covered by the code This regulation is in addition to the AEC's requirements for pressure vessels.

This dual system of control of reactor vessels and associated pressure vessels raises no problem in connection with the federal preemption of protection against radiation hazards because the state's purpose is an overall scheme of regulation to protect against the dangers of pressure vessel explosion irrespective of radioactivity

However, the division also has statutory authority to require employers to use safety devices and safeguards, specifically including those which protect against radiation hazards The division has apparently not exercised this authority to conflict with the AEC's regulation of this field. And it is unlikely they will do so, for this statutory authority on its face violates the federal preemption

There is one area in which the division is legitimately involved in protection against radiation hazards This is in connection with the delegated authority exercised by the state under the terms of the federal-state agreement (discussed in the section on the State Department of Public Health). The State Radiation Control Law, passed pursuant to this agreement, requires the Department of Public Health to contract with the Division of Industrial Safety for technical evaluations of prospective uses of materials which are sources of radiation These evaluations are made by the safety engineers of the Division's Environmental Engineering Section The Department of Public Health also contracts with the division for part of its inspection responsibilities under the agreement However, since these responsibilities stemming from the agreement do not concern safety in commercial nuclear powerplants, they lie outside the scope of the report.

Public Utilities Commission

The Public Utilities Commission has the general responsibility for the "supervision and regulation" of public utilities, such as commercial nuclear powerplants. This is a plenary grant of power in the State Constitution It includes regulation for the purposes of achieving safety in connection with conventional hazards. Employee safety in public utilities is, by statute, generally the responsibility of the Division of Industrial Safety but their regulations may be suspended by the Public Utilities Commission Public safety, apart from employee safety, is a concern of the PUC The commission has a long-established framework of regulation for this purpose which includes such subjects as the fencing of high-voltage equipment and specifications concerning overhead electrical lines.

Under its plenary power, the PUC can concern itself with any issue of safety except those in connection with radiation hazards which have been preempted by federal law. This was the decision in the *Bodega Head and Harbor* case cited above However, it would seem that in practice, safety is not of paramount interest to the commission, al-

though it has wide jurisdiction over this subject. The primary concern of the commission is the "public convenience and necessity" of utility operations and all that phrase implies with respect to the quality of services and rate regulation and so on Safety is apparently a more settled issue, after years of liability decisions, legislative enactments, and the activities of the Division of Industrial Safety.

In conclusion, the conventional hazards of commercial nuclear powerplants seem well provided for by the regular processes of the Division of Industrial Safety and, to a lesser extent, the Public Utilities Commission.

The Department of Public Health

Although there is the general federal preemption of protection against radiation hazards, the State of California is involved in certain aspects of this activity None of this state activity concerns the operation of commercial nuclear powerplants or even the operation of reactors; rather, it is limited to the control of some radioactive materials Most of the state's regulation in California is performed by the Department of Public Health.

Section 274 of the Atomic Energy Act of 1954 authorizes the AEC to transfer regulatory power over "(1) byproduct materials; (2) source materials; (3) special nuclear materials in quantities not sufficient to form a critical mass" to individual states by a formal agreement. Such an agreement was signed between the AEC and Governor Brown and ratified by the State Legislature in 1962 This agreement is the source of the radiation protection in which the state engages.

The agreement provides that "the state will use its best efforts to maintain continuing compatibility between its program and the program of the commission for the regulation of like materials" That is, in its regulatory activites, the state need not adopt AEC regulations verbatim but must adopt regulations which are compatible with AEC regulations. Most of the safety regulations of the Department of Public Health are quite compatible, both in language and effect The AEC conducts an annual review of the state's regulations and enforcement programs to ensure "compatibility." Therefore, a discussion of the safety standards embodied in state regulation pursuant to this agreement can be subsumed within the discussion of AEC regulation.

The Department of Public Health authorizes by the issuance of a license the use of the three kinds of nuclear materials cited A review of the prospective user's facilities, personnel and procedures is performed prior to the issuance of the license to ensure his capability of meeting safety regulations Periodic inspections are performed after the issuance of the license to ensure that the user is complying with safety regulations. Violations are punishable as misdemeanors as well as being cause for revocation of the license

The three kinds of nuclear materials over which the Department of Public Health has jurisdiction, by the agreement, are used in limited quantities primarily for medical and industrial purposes Medically, they are used under the supervision of professionals, as well as under state regulation, for both diagnostic and therapeutic purposes Industrially, they are used for such purposes as gauging the thickness of

materials, detecting flaws in materials, radiography, and fire or smoke detection.

In addition to these responsibilities in connection with the 1962 agreement, the Department of Public Health performs other functions in connection with radiation protection Environmental monitoring is a major function. Each nuclear installation in the state is required by the AEC to maintain a monitoring program to measure the level of radioactivity in the general environment and to measure the exposure to radioactivity of each employee Records of this monitoring must be kept and are inspected periodically by the department (and by the AEC, independently) Any overexposure of an employee must be reported to the department and is investigated

The department also operates its own separate program of environmental monitoring for radioactivity The department maintains air sampling devices at 14 fixed locations around the state Rain, snow, water supplies and wildlife are also sampled as well as food Both the department and the National Public Helath Service are particularly concerned with the radioactive content of food and operate extensive research programs in this area Through these various techniques, the department maintains a continual history of radioactivity in California This program of environmental monitoring has been in operation since 1960.

It should be noted at this point that the permissible level of radiation in the general environment, which is established in AEC regulations and followed in state regulations, has not been exceeded since the beginning of the program, except during brief periods, usually following the atmospheric testing of nuclear weapons In fact, this monitoring program was established because of radioactive fallout from weapons testing It serves to check the radioactive output of peaceful nuclear installations, such as commercial nuclear powerplants, but this is not its prime purpose

The department is responsible for regulating the conditions of transporting radioactive materials The department has adopted regulations in this area, and they are enforced not only by the department, but by the PUC, the Department of Industrial Relations, local health departments and all state and local traffic officers

Finally, the department regulates certain sources of radiation, such as X-ray machines and radium, which the federal government has never regulated X-ray machines, in particular, require extensive regulation because there are so many of them, because they are used for such a variety of purposes, and because they are a significant source of radiation All X-ray equipment must be registered with the department and must meet legal specifications They are regularly inspected The law requires safe procedures for technicians, and in situations where exposure to large amounts of radiation is possible, a monitoring program is required X-ray technicians, like the employees of commercial nuclear powerplants, may not receive more than the permissible level of radiation established by law

This committee has discovered no inadequacy in the performance of these responsibilities by the Department of Public Health Neither has the committee learned of any complaints about the performance of these responsibilities.

Water Quality Control Boards

Regional Water Quality Control Boards have the general responsibility to prevent the pollution of water supplies within the state This includes the control of radioactive contaminants in the water effluent from commercial nuclear powerplants Both the North Coast Regional Board and the San Diego Regional Board—the only two regions in which commercial nuclear powerplants are located—have adopted regulations which keep radioactive effluent at close to the level of natural background radiation These regulations are in addition to, and wholly compatible with, AEC regulations on the same subject

The boards are assisted in this by the State Department of Public Health and the State Coordinator of Atomic Energy Development and Radiation Protection The Department of Public Health samples water supplies in the vicinity of commercial nuclear powerplants, as well as the fishlife in those water supplies, as part of its extensive program of environmental monitoring The department, and the coordinator, act as technical consultants to the boards in adopting permissible levels of radioactive contaminants in water effluents

Apparently, a more difficult problem for the board than radioactivity has been the relatively high temperature of the water effluent This is not a problem peculiar to nuclear plants All powerplants, nuclear and conventional, use water for cooling purposes This is a longstanding problem

The State Coordinator of Atomic Energy Development and Radiation Protection

This office was created in 1959 and, as the title implies, its function is primarily coordination The state coordinator is responsible for liaison between the state and the AEC, for advising the executive and legislative branches on nuclear activities, and for disseminating public information on nuclear developments He is responsible for coordinating the programs and the rules and regulations of the various state departments, as well as local governments, relevant to nuclear activities Except in cases of emergency, all departments must file any new regulation, or any change in an existing regulation, concerning nuclear activities with him 30 days prior to their effective date This is the only formal power he has to accomplish the task of coordination

State law also creates an Advisory Council on Atomic Energy Development and Radiation Protection and a Departmental Coordinating Committee The council meets about three times each year to discuss various issues of nuclear development, including safety, and makes recommendations to the Governor The Departmental Coordinating Committee is moribund

Conclusion

This is the pattern of state regulation of commercial nuclear powerplants The state regulates all of the conventional, or nonradiation, safety problems in these plants There has been no complaint about these conventional problems and this committee finds no inadequacy in the regulatory process In addition the state participates to a limited extent in the regulation of radiation safety problems which is the subject of complaint However, this state regulation is essentially unrelated

to the radiation hazards of commercial nuclear powerplants And complaint is directed at federal, not state, regulation

Given the fact of the general federal preemption of protection from radiation hazards, and the plenary control of all reactor construction and operation by the AEC, the committee finds that the supplemental activities of the state are quite adequate in terms of its responsibility The state seems to have considered the various problems of safety in connection with nuclear activities over which it has jurisdiction in a timely manner and has enacted adequate protective legislation The administration of this legislation has evidenced no unreasonable deficiencies The committee makes no recommendation with respect to state regulation of safety in commercial nuclear powerplants

PART III—FEDERAL REGULATION

Introduction

As indicated throughout this report, federal regulation is by far the most important element in promoting the safety of commercial nuclear powerplants While the state plays an important role in the regulation of conventional safety problems in this industry, its role is supplemental to and dependent on the primary role played by the AEC in connection to radiation hazards That is, while there are many issues of safety involved in the operation of a commercial nuclear powerplant, the issue of the adequacy of protection against radiation hazards is of greatest public concern. And this issue is under the preemptive jurisdiction of the federal government Thus, when this committee examines the general question of safety in these plants, we are in large part judging the adequacy of regulation by the AEC

The Atomic Energy Act of 1954 gives the AEC effective control over all aspects of these plants It gives the commission the general power to establish rules which have the force of law, in order to ensure the safety both of plant employees and the public at large The commission has adopted a lengthy and detailed set of regulations which flesh out the regulatory system described in the act and which is contained in Title 10 of the Code of Federal Regulations The act and this set of regulations focus the commission's safety functions on the licensing procedure That is, any user of nuclear materials—such as a commercial nuclear powerplant operator—must have a license from the AEC The licensing procedure is the mechanism through which the commission regulates safety in connection with radiation hazards

The AEC Licensing Procedure

In the licensing procedure, the focus of the whole regulatory process is upon the application for a license from a prospective commercial nuclear powerplant operator, usually a public or private utility This application is submitted in great detail and is accompanied by various kinds of supporting information Ultimately, the commission will act upon this application—will either approve it and grant a license or will deny it. But in between the original submission of the application and the final action of the commission lies the heart of the regulatory process It is during this in-between period that the decisions are made which effectively ensure the safety of a commercial nuclear powerplant.

The AEC is a five-man body appointed by the President to five-year terms, by and with the advice and consent of the Senate The commission is responsible for nuclear development in the United States, including nuclear weapons systems, domestic power development, the many other medical and industrial uses of nuclear energy, as well as being responsible for safety The commission acts by majority vote. In performing its comprehensive responsibilities, the commission relies on its own staff as well as the staffs of many other government agencies The staff organization with which this report is concerned is the regulatory staff of the AEC and in particular its Division of Reactor Licensing Their general responsibility is the evaluation of the application for a license to operate a commercial nuclear powerplant and the recommendation of a course of action to the commission Clearly, given the manifold responsibilities of the commission itself, the work of the regulatory staff is crucial to the safety of these plants

The license to operate a commercial nuclear powerplant is the key to safety Each individual license granted by the commission sets out in great detail the technical specifications of the plant—its physical location, its architectural characteristics, its reactor system, all associated mechanical systems and its containment system—as well as the operating procedures which must be followed—operation of the reactor system and the associated systems, the control of radioactive effluents, accident procedures, even the training, examination and certification of plant operatives. In effect, each license is a comprehensive prescription for the safe operation of a specific nuclear powerplant at a specific site The detailed prescription of the license is binding on the plant operator Deviation is cause for suspension or revocation of the license, and is, in addition, a federal crime The commission retains at all times the power to control plant activities

The enforcement of the provisions of the license is the responsibility of another part of the regulatory staff, the Division of Compliance Their activities will be discussed after the discussion of licensing It is important to note here that the enforcement activities of the Division of Compliance are supplemented by the State Department of Public Health and the State Department of Industrial Relations, which make frequent inspections, as well as by labor unions involved in plant operations which have traditionally demonstrated great interest in matters of safety, and by the licensee himself whose interest in maintaining his license—without which he cannot operate—is paramount

But the heart of safety protection is the licensing procedure because each individual license is, in effect, the law. When the AEC's Division of Reactor Licensing receives an application for a license from a prospective plant operator, a long and complex process begins in which the division's technical experts seek to gether all of the relevant information and to scrutinize the details of the proposed plant in preparation for their recommendation to the commission This process often takes several months, or even years, during which special studies are performed, other agencies and outside experts are called in for information and advice, modifications in the application are requested, and so on.

While the responsibility of the division is to make a recommendation to the commission on the application, it seems more accurate to

describe their actual activity in terms of working with the applicant to ensure that his application will meet the commission's standards of safety The lengthy process leading up to the final action of the commission seems to be characterized by the amassing of all of the data necessary for an evaluation of the application with frequent suggestions made by the division, based on this data, for modifications in the application.

This system, of course, depends upon cooperation between the AEC's staff and the applicant It has been suggested to this committee that the very nature of this process, the fact of cooperation between the AEC's staff and the applicant, vitiates the guarantee of safety which the license is supposed to represent We have considered this suggestion and must reject it The staff is responsible to the commission, not the applicant, and the excellence of their performance depends upon their being able to satisfy the commission that their recommendation for approval of an application is based upon the objective finding that the proposed plant is safe We can find no evidence that any commercial nuclear powerplant licensed through this procedure is unsafe We can find no evidence in the actions of the AEC's staff that it is responsive to any interest other than the development of applications which ensure the maximum reasonable safety of the prospective plant

Part of the genesis of this issue lies in the fact that the AEC is responsible for encouraging the development of a healthy, competitive, domestic nuclear industry as well as ensuring the safety of that industry But it is important that the promotional and the safety staffs are separate and report to the commission independently. And it is certainly true that both the Joint Committee on Atomic Energy in Congress and the AEC have been concerned about the relatively slow rate of growth in this industry during the past decade. But it does not follow that the safety of this industry is sacrificed in the interest of encouraging its growth The standards of safety required by the commission would seem to be among the least decisive factors inhibiting the growth of the industry It is difficult to conceive how a relaxation of safety standards could possibly induce increased growth of this industry when, on the one hand, factors other than safety account for most of the cost of plant construction, and on the other hand, such a relaxation of safety standards would increase the probability of an accident, an event which would surely retard the growth of the industry. This consideration, plus the lack of any evidence that unsafe conditions exist, lead us to the conclusion that the present regulatory process, involving close cooperation between the AEC's staff and the applicant, is not inimical to maximum safety in nuclear power plants.

Furthermore, it is difficult to conceive how the licensing process—focusing, as it does, on the final production of a license which specifies in detail the conditions under which a particular commercial nuclear powerplant is to be operated—could be structured to obviate this necessary cooperation We believe the present structure of the process is necessitated by the nature of the AEC's responsibility to ensure safety The Joint Committee on Atomic Energy has several times considered this specific issue and has also concluded that the present process is necessary and that it maximizes safety.

This conclusion does not deny that there is any substance to the charge that in attempting to meet one responsibility—the promotion of the domestic nuclear industry—the performance of another responsibility—ensuring the safety of that industry—is affected Even without any evidence to support it, this charge appeals to our knowledge of human nature But our investigation of this issue leads us to the conclusion that if the one responsibility affects the other in practice, this effect is negligible. And it is the sheer weight of plausibility, rather than the existence of any evidence, that leads us to concede even this negligible effect.

To return to our consideration of the licensing procedure itself, there are actually two licenses involved First, a "construction permit," and then after the construction of the plant, an "operating license." The several formal steps involved in approval or rejection are identical for both kinds of licenses Most attention, however, is focused on the "construction permit" simply because it occurs first in time When the focus shifts to the "operating license," most of the major issues have been settled

There are several steps involved in the formal process When the Division of Reactor Licensing receives the initial application for a "construction permit," the staff begins to collect the relevant data, analyze the specifications of the proposed plant, seek greater detail from the applicant, suggest changes in the specifications to ensure safety, and so on When the application is sufficiently well developed, the division issues a formal analysis of the safety aspects of the proposed plant.

This analysis is presented to the Advisory Committee on Reactor Safeguards (ACRS) which is an independent body of technical experts who also advise the commission The members of the ACRS are university professors, industry experts, and others who are not employees of the commission but work on a per diem basis ACRS evaluates both the application and the division's analysis of it They then prepare their own analysis for the commission

If the division's analysis and the ACRS's analysis are both favorable, public hearings are held Both analyses are made public in advance of the hearings and any person whose interests may be affected by the proposed plant may testify as an intervenor The hearings are conducted by a three-man Atomic Safety and Licensing Board which prepares still another analysis for the commission, and renders a formal decision. The hearings can last for several weeks. They focus on issues of safety almost exclusively Those who may oppose the construction of the plant for reasons other than safety normally must present those arguments to the county board of supervisors, the city council, or the State Public Utilities Commission, which agencies may also license the plant.

The commission, informed by all of these different reports, then makes the decision as to whether or not a "construction permit" shall be granted It may simply accept the recommendation of the Atomic Safety and Licensing Board to grant or deny the application or it may conduct a full-scale review before it makes a decision This same procedure is followed in reviewing the second license—the "operating license"

The commission's approval of the license completes the first and most important half of the safety regulation process. The second half is the enforcement of the license's provisions But it is the provisions of the license itself which ensure the safety of any given plant

It should be pointed out that there is built into the licensing procedure the opportunity for differences of opinion, or differences of expert judgment. The independence of the division, the ACRS, and the Atomic Safety and Licensing Board, is illustrated by the fact that in analyzing the safety of PG&E's proposed plant at Bodega Head in 1964, the ACRS's analysis concluded that the plant design was adequately safe while the division's analysis concluded that, because the design could not be "proof-tested," they could not certify to its safety. The applicant thereupon withdrew his application There are several other cases in which this review process has resulted in the rejection of an application or the demand that extensive modification be done before approval would be granted

The point is that insofar as it is possible to institutionalize opposition within an administrative structure, this multistage procedure seems to have done so.

The licensing procedure focuses on the sole question of safety and attempts to combine technical expertise from various sources in a multistage process which calls for independent consideration and decisionmaking and which provides for public access in the hearing stage. This is an administrative process which does not provide for direct democratic decisionmaking, but this has no bearing on the issue of safety, and is another issue altogether It may be a more important issue, but this committee's task is limited to evaluating the present safety regulation of commercial nuclear powerplants

The Enforcement Procedure

Enforcement is primarily the responsibility of the AEC's Division of Compliance The major activity of the division is inspection; it is the "eyes, ears, and nose" of the regulatory staff. Its inspections begin before construction and continue throughout the life of the plant

The sanctions available to the AEC in case of a license violation are suspension or revocation of the license, and criminal action. Compliance is normally an easy matter to achieve It is important to remember that the AEC has a virtual legal monopoly over nuclear activities in the United States. It retains ultimate control at all times. The plant operator's license is not a contract, the AEC can unilaterally modify it or cancel it at any time Normally, the AEC obtains full cooperation from its licensees And its sanctions are not merely theoretical; licenses have been both suspended and revoked for reasons of safety although criminal action has never yet been brought for a license violation.

Inspection by the Division of Compliance varies according to the stage of development of the plant. During the construction stage, the division's inspectors may be at the plant monthly. During the startup period, when the equipment is installed and tested, the inspectors may work almost continually at the plant. When the plant has been thoroughly checked out and is operating routinely, inspections—both

announced and unannounced—may be cut to four or six per year. But when any nonroutine operation is performed—the shutdown of the reactor, the replacing of the fuel rods, the startup of the reactor, any modification in the reactor system—the inspectors are there

In practice, the division's activity is determined by the plant If safety problems or unusual circumstances arise, the license requires the licensee to inform the division Or if the inspector finds any unusual circumstance on a routine inspection, the plant may be shut down and special studies conducted until the matter is explained and its consequences for safety are evaluated. Checking the licensee's compliance with the license provisions is relatively easy The crucial aspect of the inspector's task is seeking out problems and trends which might develop into dangerous situations.

While the licensee is legally responsible for the safe operation of the plant, the inspector is accountable to the AEC for the plant's safety His job is to make sure that nothing goes wrong If he is not satisfied with all of the circumstances relating to plant safety, he can within minutes obtain a shutdown order from headquarters Inspectors are periodically transferred from plant to plant to ensure objectivity

The Substance of Federal Safety Regulation

The regulatory staff of the AEC has developed a set of regulations (10 CFR, especially Part 20) which define the substantive safety standards These are published criteria to guide an applicant in the formulation of his initial application They are subject to continual review and modification. They are important to this committee's investigation because they represent, in a general and systematic fashion, the AEC's standard of safety.

However, it is the reflection of the standards contained in the "regulations" in the details of the individual license which is important The regulations provide the standard; the license is the law and is controlling. This committee has reviewed the basics of the regulations and the basics of some specific licenses in an attempt to judge the adequacy of federal regulation

The substance of the federal regulations is based on scientific knowledge of the behavior of nuclear materials in the fission process—that is, on man's ability to control fission—and on scientific knowledge of the biological effects of radiation—that is, on an assessment of the potential danger The substance of the federal regulations also involves a philosophy of risk. That is, absolute safety being an impossibility, a judgment must be made on the practical degree of safety which shall inform the regulations or, conversely, the practical degree of risk which shall be permitted.

These important subjects—the nature of the fission process, the biological effects of radiation, the philosophy of risk—are the foundation of the safety standards.

This committee has considered these subjects as well as the safety standards themselves in attempting to determine the adequacy of the AEC's regulation of safety. Knowledge of the behavior of nuclear materials in fission is discussed below and the other subjects are discussed in Part IV.

This committee has been impressed by the extensiveness and detail of federal regulation, covering all aspects of the development of a commercial nuclear powerplant from the selection of the site of the nuclear powerplant, the design and construction of the plant, the manufacture of nuclear fuel, the design and operation of the reactor system itself and all of its associated mechanical systems, the procedures under which the reactor is operated, and the training and examination of the plant operators, to the multistage radiation containment system, the control of the release of radioactive effluents into the environment, and the continuous monitoring of the level of radiation inside and outside the plant.

This committee has also been impressed with the basic conservatism of the substantive safety standards The conservatism takes two forms First, when scientific knowledge indicates a certain level of safety as reasonably adequate, a more stringent level is required. Second, in all operations in the plant which are considered vital, redundancy—the provision for "fail-safe" operations—is required. These two aspects of the conservatism of the federal safety standards will be evident throughout the following discussion.

There are two basic safety problems posed by nuclear powerplants—control of the fission process and containment of radiation In attempting to solve these problems, the AEC has considered both the routine operation of the plant and the possibility of nonroutine, or accident, situations

The Control Problem

Controlling the fission process, which is the creation of heat energy by the "burning" of nuclear fuel, is decidedly the lesser of the two problems Nuclear fuel is similar to other kinds of fuels such as gas or oil or coal in that it is transformed into heat energy in a regular predictable manner It is not a mystery Present scientific knowledge of the behavior of the nuclear materials used in the fission process of any commercial nuclear powerplant is fully adequate to control that process.

The fission process depends on the interaction of two elements—neutrons and uranium 235 nuclides or some other of a limited number of fissionable nuclides * Nuclear fuel is composed primarily of uranium enriched with uranium 235 The fission process is begun by firing a neutron into the fuel mass This creates a chain reaction. That is, the neutron splits a uranium 235 nucleus and an average of $2\frac{1}{2}$ neutrons is the result These neutrons go on to split other uranium 235 nuclei During the process, the neutrons in effect multiply so that progressively more interactions occur.

The important point is that this chain reaction does not occur naturally It has to be created by man And therein lies man's ability to control the process.

If a chain reaction is created by bringing neutrons and certain kinds of fissionable material together, it can be stopped by removing one of these necessary elements, and the number of fissions taking place at any given time can be controlled by increasing or decreasing the availability of one of these two necessary elements And this is pre-

* Examples of other fissionable nuclides used in power reactors and plutonium 239 and uranium 233

cisely the way the chain reaction is controlled in a nuclear reactor Materials which absorb neutrons, such as cadmium and boron. are placed in the chain reaction, and, by absorbing the neutrons necessary to the process, shut it off

Nuclear fuel is commonly manufactured in the form of pellets which are stacked in a column inside a metal tube This is called a fuel rod In the reactor, the fuel rods are grouped closely together to create a critical mass—the precondition of a chain reaction Other rods containing the neutron-absorbing material—called control rods or safety rods—are installed in the midst of the fuel rods These control rods must be withdrawn and the initial neutrons fired into the mass to start the chain reaction. The intensity of the chain reaction—the number of fissions occurring at any one moment—can be finely controlled by the insertion of the control rods In similar fashion, the process can be entirely shut off by inserting many of the control rods at once

This is an oversimplified description of the fission process and how it is controlled but the point should be clear—fission is basically a simple process and the method of controlling this process is likewise basically simple

The substantive safety standards of the AEC aim at maximizing control of the fission process Nuclear fuel, the reactor, all of the mechanical systems associated with the reactor—such as the cooling system, the water pumps, the air compressors, and so on—are manufactured to specifications approved by the AEC And redundancy, or "fail-safe" provisions are required

For example, the AEC requires that the reactor have instruments built into it to continuously measure the number of neutrons produced by the fission process, the temperature and the pressure in the reactor, and so on The AEC requires that several "backup" measuring devices be built into the reactor independent of their counterparts so that if one should fail, the others will continue in operation

The measuring devices are linked directly to the automatic shutdown system That is, if the number of neutrons exceeds a predetermined safe level, or if the temperature or the pressure in the reactor exceeds the safe level, the reactor is automatically shut down

If all the measuring devices should fail simultaneously, this too triggers the automatic shutdown system The human operators of the reactor cannot accidentally make the reactor exceed these safety levels

The automatic shutdown system is designed so that upon the reception of an electronic signal from one of the various measuring devices, the control rods containing the neutron-absorbing material are rapidly inserted into the core to stop the fission process The AEC requires that this system be so designed that even in the event of a failure of electric power, the control rods would be released and would enter the core Any malfunction in any part of the reactor system which could affect the control of the fission process automatically causes a shutdown

Despite this kind of "fail-safe" automatic shutdown system, there is a secondary shutdown system required In a typical secondary shutdown system, if all of the steps outlined above failed somehow, the reactor core would automatically be flooded with a boric acid solution (boron is an effective neutron-absorber) to stop the fissioning These kinds of "fail-safe" requirements are replicated throughout the reac-

tor system and illustrate the lengths to which the AEC has gone to ensure safety. One coolant system is not enough; it could conceivably fail and so a "backup" coolant system is required One source of electrical power is not enough, an emergency diesel generator is required. And so on throughout all of the vital parts of the reactor system

The substance of the AEC's safety requirements produces a high degree of safety in connection with the control of the fission process But the essential question remains: How high a degree of safety is high enough? This question will be considered in Part IV

The Containment Problem

This is decidedly the more difficult problem Radiation, and radioactive materials which emit radiation, are produced by the fission process Radiation can be viewed as the movement of energy through space or matter Gamma radiation, in particular, has a strong capacity to penetrate matter It can be harmful to living organisms if they are exposed to a sufficient intensity of it It acts on the tissue of the body at the molecular level and can result in changes in the organization of the molecular system of the cells of the tissue The effects of a sizable dose of radiation can range from a mild and transient kind of sickness characterized by nausea and fatigue to the death of the organism Our knowledge of the biological effects of radiation are discussed in Part IV.

The point is that because radiation in large amounts is produced by the fission process and because it can be harmful, special care must be taken to contain it, to keep it from coming into contact with living organisms The AEC's safety standards attempt to eliminate the possibility of the escape of radiation

The major effect of the regulations is to require that almost all of the radiation produced by the fission process be contained within the reactor This involves several steps. barriers to the escape of radiation First, the AEC's specifications for the manufacture of nuclear fuel are predicated in part on maximizing the containment of the fission products within the fuel as it "burns" This is important to the fission process itself as it lives off its own products, so to speak—it must be able to retain its basic elements to sustain the process Thus, a nuclear fuel capable of sustaining fission is also one that retains most of its radioactive materials.

Second, the fuel is clad in metal tubes—the fuel rods These tubes are made of metals which have a strong capacity for retaining radiation As with the fuel this is important both to the sustenance of the fission process and to the containment of fission products Most of the radiation produced by the fission process never escapes the fuel rods The fuel rods are always in the reactor core except before being initially placed there or when removed after having been used

The third step in containment is the reactor vessel This is a heavy-walled steel pressure vessel which presents an integral barrier to any fission products which may escape the fuel rods This is the most important containment stage for normally no radioactive material escapes the reactor vessel

Fourth, the reactor is shielded by special materials such as iron and concrete which also present a barrier to radiation At PG&E's Eureka plant, for example, the steel-walled reactor vessel is buried in an under-

ground chamber with concrete walls several feet thick capped by a five-foot-thick, 75-ton steel plate which can only be moved by a crane

Finally, the containment shell is a fifth barrier This is the steel vessel or sphere which contains the reactor system It is a further barrier to radiation At the Eureka plant, for example, it is airtight, can only be entered through an air pressure lock, and is kept under negative pressure so that the weight of the outside air pressure adds to the containment of the air inside the sphere, or containment shell

This series of containment barriers is another example of the conservatism of the AEC regulations It can be seen as the application of the "box within a box within a box" concept of containment. Nothing should escape the first box, but if something should, there is the second box, and beyond that, the third. The redundancy of these multiple stages of containment is illustrative of the high degree of safety which is the substantive effect of the AEC's safety standards But, again, the essential question is How high a degree of safety is high enough?

Another part of the containment problem is effluent control The air inside the containment shell may have a higher level of radiation than is permitted by AEC standards for discharge outside the plant. The important question here is the adequacy of the AEC's standards—the concept of a "safe level of radiation" which is discussed in Part IV. But in connection with the containment problem, the point is that the air inside the containment shell is continuously monitored for radioactivity and can only be discharged through a ventilation system which filters out all but a fraction of the radioactive particles. The plant's license strictly limits the amount of radioactivity which may be discharged and this limit (the stack release rate) is predicated on the safe level of exposure established for the population in general.

The same is true of radioactivity in the other effluents—liquids and gases In the coolant system, the radioactive liquids and gases are purified through a complex system of evaporators, demineralizers, and absolute filters These effluents are monitored and cannot be discharged unless they contain only an amount of radiation within the safe level established by the AEC.

The monitoring of all effluents is performed within the plant by the licensee so that only a safe level may be discharged It is also performed outside the plant by the licensee and an independent agency—this is the environmental monitoring performed by the State Department of Public Health But the important point is that the level of radioactivity in effluents from the plant and the level of radiation in the environment are directly related

A third aspect of the containment problem is the disposal of solid waste materials These wastes are the radioactive materials filtered out of the effluents from the plant and the spent fuel within the reactor core These wastes are often highly radioactive and must be carefully disposed of This is particularly important because some kinds of radioactive materials remain potent for incredible lengths of time—thousands of years Nuclear wastes, other than spent fuel, are stored at the plant temporarily and from time to time are transported to burial sites in remote areas under AEC control They are buried under conditions which seem to eliminate the possibility of the escape of radioactivity

Spent fuel is sent periodically to AEC-licensed reprocessing plants for the recovery of still valuable compounds

Conclusion: The "Credible Accident" Concept

The substance of the AEC's safety regulations is to require, and enforce, an exceptionally high degree of safety in the operation of nuclear powerplants The regulations cover all aspects of the plant's operation and demonstrate a rigorous conservatism The essential question left is: Is this exceptionally high level of safety high enough?

Before considering this question, one final aspect of the regulatory process should be noted In considering an application for a license, the Division of Reactor Licensing attempts to postulate the range of accidents which could conceivably occur at the proposed plant. These include accidents stemming from the ineptitude of the human operators and the malfunctioning of the various mechanical systems, as well as acts of God The proposed plant must be designed so that the occurrence of all credible accidents are specifically guarded against, usually involving redundancy, and designed so that even if the maximum credible accident did somehow occur, no harm to the public would result. This basic standard of evaluation—the "credible accident" concept—is a general guide for the regulatory staff in the performance of its responsibilities.

The committee has been impressed not only with the basic conservatism of the AEC's substantive safety requirements as exemplified by the insistence on redundancy, or "fail-safe," provisions, but also by the application of this "credible accident" concept. We know of no other regulatory program which deliberately incorporates speculation on all of the occurrences which could conceivably cause harm and sets out to eliminate the possibility of all those occurrences in advance.

PART IV—THE PHILOSOPHY OF RISK—THE BIOLOGICAL EFFECTS OF RADIATION AND A SAFE LEVEL OF RADIATION

The Philosophy of Risk: An Inference

This committee has reviewed the structure of the AEC safety process and how it operates, and the substance of their safety standards. We have found that the safety process seems to cover all of the possible sources of danger from radiation in commercial nuclear powerplants. We have found that it is a long, complex process which focuses on the question of whether a specific proposed plant is safe enough to be permitted to operate And, with regard to the "safe enough," we have found that the substantive safety standards applied by the AEC require very safe plants But the essential question facing this committee is whether in our judgment "very safe" is "safe enough" for the citizens of California

It should be noted that in considering this question, this committee is engaging in the same philosophical inquiry which is the focus of the AEC's safety process Because we have had no arbitrary standard of safety in mind as we engaged in this inquiry, because we could not judge in advance what degree of safety we would accept as "safe enough," we have sought to understand the standard developed by the AEC—what considerations it is based on and what guarantee of

safety it provides to employees and the public—and to judge whether this standard seems reasonable and adequate

There is a certain amount of risk to employees and to the public in the operation of commercial nuclear powerplants No responsible person could devise a system of regulating any industrial process which he would pronounce absolutely safe As in any scientific enterprise, it is always a question of probability; there is no such thing as absolute safety. The philosophical question facing the AEC is defining an acceptable degree of risk

Since this committee has not seen a comprehensive statement by the AEC on their philosophy of risk, we can only infer from the substance of their safety standards that such a philosophy is operative From all that we have seen and heard and read, we infer that the AEC's philosophy of risk is that the only acceptable risks shall be purely conjectural ones That is, when scientific knowledge of the effects of radiation and of the fission process which produces this radiation indicates that there is a danger that someone might be injured by radiation—a known and demonstrable danger—then that danger constitutes an unacceptable risk That danger must be eliminated, which is to say that some method must be developed which guarantees a very high probability that that danger is eliminated

Thus, the philosophy of risk which seems to guide the AEC in its decisionmaking and which seems to inform the activity of its regulatory staff is that no risk is acceptable which the present state of our scientific knowledge indicates is a real risk; the only acceptable risks are those which are conceivable, but which the present state of our scientific knowledge does not indicate could occur within the realm of practical possibility.

It should be clear that the adequacy of the safety standard thus depends upon the quality of scientific knowledge. And judging the quality of this knowledge is a difficult task But the point to be made here is that, given the present state of our scientific knowledge, the AEC's philosophy of risk seems to have assumed absolute terms No known and demonstrable probability of injury from radiation is acceptable, if that probability is of such magnitude as to create a credible, or real, possibility of injury.

Empirical science cannot create absolutes; there is no escaping the necessity of a human judgment as to what magnitude of probability creates a practical possibility Our investigation leads us to the conclusion that the AEC exercises a very demanding judgment. The discussion below should clarify the considerations which led us to this conclusion.

In attempting to articulate this philosophy of risk in its safety standards, the AEC faces two sets of problems First, in the normal operations of a commercial nuclear powerplant, to what amounts of radiation is it safe to expose plant employees and the public? That is, what amounts of radiation cause no known and demonstrable probability of injury such that it can be considered a credible, or real, possibility? This is the problem with which this part of the report is concerned The second set of problems is how to avoid the accidents which might expose the employees and the public to excessive amounts of radiation This set of problems was discussed in Part III

It is impossible to operate a commercial nuclear powerplant without exposing plant employees and the public to some small degree of radiation. The nuclear fuel, even when not in the fission process, is slightly radioactive. The reactor, which contains some radioactivity from past fission, must be opened from time to time for inspections, repair work, and to remove spent fuel and replace it with new fuel. During the fission process, the liquid coolant picks up some radioactivity, and there are radioactive gasses produced by the reactor system, both of which must be purified and discharged from the plant. It seems that designing a system in which no one is ever exposed to any radiation is a practical impossibility. And, it seems that it is unnecessary.

A Safe Level of Radiation

Not all radiation is harmful, within the common understanding of that term We are all exposed to some radiation every day from natural sources Some of this radiation comes through our atmosphere from space. More of it is a natural product of common, everyday material with which we all come in contact. Our city streets, our buildings, shoes, desks, our own bodies give off some radiation As far as our scientific knowledge permits us to understand, this amount of radiation—this "natural background radiation"—causes no significant harm to living organisms.

This is a point which requires some elaboration Even the very low level of natural background radiation has some effect on living organisms—it causes changes in the molecular structure of the cell This occurs to all of us naturally and, as far as we know, it has occurred to man as long as he has been on earth The medical question is whether these changes which occur because of the natural background radiation are harmful. And this is a difficult question. The physical system of the human being, and of other living organisms, undergoes constant change Our knowledge of the human system is not yet sophisticated enough to identify all of the changes which occur and their causes and consequences, let alone to determine whether these changes are helpful or harmful or neither—that is, functional for the system, dysfunctional, or neutral and irrelevant This, in general, is a gray area in our knowledge.

Some would say that any change—if we do not know that it is helpful, or functional—must be considered harmful Others would say that unless our knowledge permits us to positively identify some harm, we should consider the change harmless This is an important distinction for if the first view were adopted, we should attempt to reduce natural background radiation to a minimum—we should not use concrete, for example—and all manmade radiation should be prohibited. This would, of course, mean foregoing the benefits of electricity from commercial nuclear powerplants, the diagnostic uses of X-ray machines, concrete and a host of other things in order to protect ourselves against the conjectural harm of some small amounts of radiation

Clearly, the AEC has adopted the second view—that unless some harm can be positively identified in the biological changes caused by radiation, we should consider the changes harmless But even this view has been adopted with strong reservations.

The subject of this discussion has been low-level natural background radiation As far as our medical knowledge permits us to understand, no real harm is caused by this amount of radiation. It is naturally higher, by four or five times, in some places (like Denver) than it is in others (like Los Angeles). Yet there is no discernible difference in the health of the one population against that of the other On the other hand, we know that large amounts of radiation can cause serious harm, even death This kind of knowledge suggests that there is a safe level of radiation below which no harm occurs and above harm increasingly occurs

In articulating its philosophy of risk in the safety standards governing the amount of exposure to radiation to be permitted for plant employees and the public, the AEC has adopted this basic criteria—the concept of a safe level of radiation And, characteristically, they have been conservative in this also The cutting edge of this criterion is the point at which radiation first produces some identifiable harm Then a factor of 5 at the very least, is applied to attempt to compensate for what we do not know about the human system, for the conjectural harm. This is a manifestation of the AEC's conservatism in safety matters and represents a kind of compromise between the two views of the biological effects of radiation discussed above The AEC's basic safety standard is that no one shall ever receive at any given moment or over the course of his entire life more than one-fifth the amount of radiation which it takes to produce the first kind of biological change which can be positively identified as harmful.

Radiation, while it cannot be detected by the human senses, is readily detectable with various kinds of instruments These instruments can count individual units of radiation which gives scientists the ability to make very precise measurements Radiation-detection instruments are used inside and outside all commercial nuclear powerplants, are used by the State Department of Public Health in its environmental monitoring, and are even worn by all plant employees so that a cumulative record of their exposure can be kept But more to the point, these instruments have been used extensively in medical research involving humans and a variety of nonhuman organisms; that is, in studying the biological effects of radiation

The Biological Effects of Radiation

In measuring radiation, the common unit of radiation exposure is the "rem " The first point at which some positively identifiable biological effect occurs in man due to radiation is 25 rems This requires that a man be exposed to a total of 25 rems in a very short period of time—a few minutes ("acute exposure") In that case, medical science has clinically identified a slight transient decrease in his white blood corpuscle count Because it is slight and because it is transient, it is a moot question whether it is actually harmful But the point is that in an acute exposure below 25 rems, no biological effects are detectable This level, then may be said to represent the cutting edge of the safe level concept. In general, the maximum exposure to radiation which the employee of a commercial nuclear power plant is permitted is 5 rems per year This represents the safety factor of 5 mentioned above; that is, the employee can receive only one-fifth the exposure at which the

first biological effect can be positively identified. In practice, however, the safety factor is much greater than 5 because to produce that first effect required a total of 25 rems in a very brief period, whereas the employee of the nuclear power plant accumulates his exposures over the course of a whole year, in very small increments, up to the total permissible level of 5 rems Normally, his total annual exposure is 1 or 2 rems But if he is somehow exposed to the limit of 5 rems, the AEC requires that he be reassigned to another job in which he cannot be further exposed

In general, the maximum exposure to radiation which the public—all those outside the plant—is permitted is one-tenth that which plant employees are permitted, or 0 5 rem per year Here, the safety factor is 50. And, again, this understates the safety factor because the public is exposed to the maximum permissible 0 5 rem over the course of a year rather than in one dose, whereas the first biological effect which could be considered harmful requires a 25 rem exposure in a single dose.

It should be noted that the AEC's permissible limits of radioactivity in the discharge of effluents from nuclear power plants, which were discussed in Part III, are directly tied to this maximum permissible public exposure limit of 0 5 rem per year That is, the limit on effluents is such that no one may be exposed to more than 0 5 rem per year. The major purpose of all the environmental monitoring is to keep a continual check on the validity of the relationship between effluent release and the maximum permissible level of public exposure.

At amounts above this cutting edge of 25 rems of acute exposure, a variety of harmful biological effects is identifiable For example, an acute exposure of 100–200 rems often produces the nausea and fatigue known as "radiation sickness" The sickness usually passes after a while and it has been estimated that this level of radiation might shorten life expectancy on the order of 1 percent At higher levels of exposure the symptoms are more severe. An exposure of 200–300 rems, for example, may cause severe sickness but full recovery is expected after about three months, unless the exposed individual was in poor health previous to this level of exposure At over 300 rems of acute exposure eventual death is increasingly likely An almost immediate death is probable for acute exposures of over 1,000 rems.

There is, of course, the great difficulty in developing medical knowledge of this sort that experiments can rarely be carried on with human beings Several natural experimental situations have occurred when men in nuclear laboratories were accidentally exposed to very high levels of radiation. While these "natural experiments" have proved useful in medical research, there are too few of them to permit conclusions in which one can place much confidence The fact that several nuclear scientists have received acute exposures of 350 or 400 rems in accidents in laboratories, and have fully recovered—that is, today there is no clinical evidence of any permanent damage—is insufficient evidence to conclude that exposures of this magnitude are safe

There is a great deal of scientific knowledge about the biological effects of relatively low-level radiation from direct observation of humans who have received low-level exposures from working in nuclear laboratories, from medical X-rays, and so on. But there is not very

much scientific knowledge about the biological effects of relatively high-level radiation from direct observation because humans are rarely exposed to high-level radiation Therefore, much more is known about the lack of identifiable harm from low-level radiation than is known about the harm from high-level radiation

Most of the scientific knowledge of the biological effects of high-level radiation is derived from experiments on nonhuman organisms—fruit flies and mice and swine, for example Medical science makes inferences from these experiments about the probable biological effects on man This is not the most satisfactory procedure but it is the only one available

However, the most significant general conclusion which emerges from the mass of all research performed on human and nonhuman organisms is that harm—some biological effect of radiation that can be positively identified as damaging—occurs only at relatively high levels of radiation, levels many times greater than the AEC's "safe level" And, permanent damage, as distinguished from the transient kinds of effects from which the exposed individuals fully recover, cannot be demonstrated to occur at levels below acute exposure to several hundred rems

The cutting edge of the safe level concept is 25 rems—the point at which potentially occurs the first biological change which might be called harmful. But this change is so slight that the exposed individual is unaware of it. And the effects are so transient that they are clinically undetectable after a few hours. The first point at which sickness may occur is about 100 rems This may definitely be termed harmful These findings are for acute radiation only, that which is received all in one brief and intense exposure This is the kind of exposure that might occur in a nuclear accident. There is no positive evidence of any kind of harm occuring from even relatively high levels of exposure received over a long period of time Certainly, there is no positive evidence of any harm occurring to one exposed to 100 rems, for example, over the course of one year. And this should be compared to the AEC's maximum permissible exposure rate of 5 rems over the course of one year for the employees of commercial nuclear power plants and 0 5 rems over the course of one year for the public

Most of the kinds or research referred to above concern the "somatic" effects of radiation This term includes all of the effects which manifest themselves during the exposed individual's lifetime. But there is also the possibility of "genetic" effects, those which manifest themselves in the offspring of the exposed individual The possibility arises due to the fact that chromosomes, which are biologically responsible for the transmission of hereditary traits, are part of the molecular structure of the cell and are thus capable of being changed by radiation.

Much of the research into the biological effects of radiation has been directed at genetic effects Again, the general conclusion which emerges is that identifiable genetic effects occur only after relatively high levels of acute radiation. A massive and continuing research project has been directed at the victims of the Hiroshima and Nagasaki nuclear bombings during World War II, who received high levels of acute radiation. In a large sample of 82,000 Japanese, half of whom

were exposed and half of whom were not, the only significant genetic effect which might be linked to radiation which has been discovered is that the ratio of male to female births is 105–100 in the control group while it is 103–100 in the group exposed to a high level of acute radiation.

The point of this discussion is that in order for this committee to evaluate the adequacy of the AEC's safety standards, we have had to investigate the concept of a safe level of radiation and the scientific knowledge of the biological effects of radiation upon which this concept is based. In this investigation, we have been impressed with the great amount of research that has been done and the relative sophistication of scientific knowledge in this area. Apparently, much more is known about the biological effects of radiation than is known about any of the other environmental hazards. For example, compared to radiation, we know almost nothing about the biological effects of smog. Yet a large proportion of us are daily subjected to large amounts of smog.

In Part III of this report, we found that the substantive effect of the AEC's safety standards was a guarantee of very safe commercial nuclear powerplants. But the essential question was whether "very safe" was "safe enough." In Part IV we have discussed the AEC's philosophy of risk, the concept of a safe level of radiation, and the scientific knowledge upon which this safe level concept is based in an attempt to determine what "safe enough" is.

We must conclude that the level of safety provided by AEC regulation is "safe enough." After as thorough an investigation as was possible, including an examination of literally dozens of issues raised by those who criticize that AEC regulation is not "safe enough", we can find nothing substantial upon which those criticisms are based. It should be repeated that our investigation was limited to the safety of commercial nuclear powerplants and that we are not ourselves technically competent in nuclear physics or radiological medicine. The committee's conclusion is the honest appraisal of laymen. In addition to the considerations discussed above, our judgment is supported by the AEC's safety record.

The Safety Record

Industrial safety is usually measured by industrywide frequency rates—the rate of time lost due to injuries on the job per million man-hours worked in the industry over the course of one year. This standard method of measurement is useful in comparing the safety of one industry against another, in gross terms. Unfortunately, the frequency rate for the limited subject which we are considering—commercial nuclear powerplants—is not available. The data on accidents in these plants is subsumed within the much larger category of all electric generating plants. Given the relatively small proportion of total electrical generating capacity from nuclear plants (less than 1 percent) at the present time, we do not believe this overall industry rate is particularly relevant to judging safety in commercial nuclear powerplants.

We do believe that the accident rate data on the general nuclear industry category is useful. This includes those operations under direct AEC control and those controlled by the AEC's contractors (weapons production, fuel production, experimental laboratories, development facilities, and so on). It excludes operations licensed by the AEC, such

as commercial nuclear powerplants. While this data excludes the subject of specific concern to us, we believe it is relevant because the major safety problem—the containment of radiation—is a common factor.

For the AEC and its contractors, then, over the 23-year period between 1943 and 1965, the accident frequency rate was 3 34 (lost-time injuries per million man-hours worked). This compares favorably with the National Safety Council's "all industry" accident rate during the same period of 8 17 This is, of course, the rate for all kinds of accidents. If the accidents which occurred during construction are separated out, and only the accidents which occurred during the actual operation of nuclear facilities are counted, the nuclear industry's accident rate drops to 2 46 By this very broad standard, the nuclear industry is among the safest industries in the nation.

However, this committee is most particularly concerned with radiation accidents. The 23-year frequency rate—3 34 lost-time accidents per million man-hours worked—represents a total of 16,227 accidents of all kinds in the AEC and its contractors' activities 38 of those, or 0 2+ percent of all accidents and 0 5 percent of just the accidents during operations were radiation accidents which caused the individual involved to lose time from work.

These 38 radiation injuries comprise the total of all radiation injuries over this 23-year period However, there have been no radiation injuries at commercial nuclear powerplants. Most of these accidents have occurred at experimental nuclear installations Three men were killed, for example, at the SL-1 accident at Arco, Idaho. None of these accidents caused any public injury, nor did they cause anyone outside the installation to exceed his maximum permissible annual exposure limit of 0 5 rem.

Accidents are usually defined in terms of loss of time from work. But this committee has also been concerned with the substance of the AEC's regulation of normal operations The AEC has established a general safe level of radiation for plant employees of 5 rems maximum permissible exposure over a year period 99 8 percent of all employees in the nuclear industry have received less than their yearly maximum permissible exposure limit during the 19-year period from 1947–1965. 94 6 percent of them received less than 1 rem per year during this period Conversely, 0 2 percent exceeded their maximum permissible limit but almost all of these received only slightly over this limit. Only 0.004 percent received more than 15 rems in one year. And it should be recalled that the point at which the first positively identifiable biological effect of radiation occurs in man is 25 rems and that the first point at which some effect commonly understood to be an injury occurs is 100 rems, and finally that both of these points require the full exposure all at once whereas most of these 0.2 percent cases represent exposure over the course of a year.

On the public's exposure, as mentioned in Part II, there has never been an exposure exceeding the AEC's maximum permissible limit of 0 5 rem per year in California, nor has there been in the rest of the nation. And, as mentioned above, none of the accidents which have occured in any nuclear installation has caused any injury to the public.

For the general nuclear industry (excluding commercial nuclear power plants), the 23-year safety record is excellent The frequency rate for all kinds of accidents is well below the "all-industry" average. Indeed, the nuclear industry is among the safest in the nation There have been 38 radiation accidents, most in the kinds of experimental situations in which accidents are likely to occur, rather than in normal operations. Only 0 2 percent of all employees have exceeded their maximum permissible exposure limit. The public has never been exposed to more than the maximum permissible limit.

If accident frequency rates were available for just commercial nuclear powerplants, we would expect them to be much better than the general nuclear industry rates Commercial plants engage only in normal operations, they do not engage in the kind of experiments which have led to most radiation accidents. The AEC and its contractors' activities are, by their very nature, more dangerous than the operation of a commercial nuclear power plant.

Specifically on commercial nuclear powerplants, this information is available:

1 If radiation injury is defined as some clinically detectable harm from radiation, no commercial nuclear powerplant operation has ever caused any radiation injury to its employees or anyone else
2. No commercial nuclear powerplant operation has ever caused anyone outside the plant to receive more than his maximum permissible annual exposure limit of 0 5 rem
3. No radiation accident of any significance has occurred in a commercial nuclear powerplant

Conclusion

The safety record of the commercial nuclear powerplants in the United States is extremely persuasive. It is more persuasive when laid aside the more comprehensive safety record of the general nuclear industry This record is not conclusive, of course Indeed, none of the evidence this committee has examined during its investigation is absolutely conclusive. But the overwhelming weight of the evidence makes the conclusion inescapable that commercial nuclear powerplants are not only safe, but that they are superlatively safe Contrasted with this is the absence of any substantial evidence that commercial nuclear powerplants are unsafe This committee has examined many issues of safety in this investigation and can find in the AEC regulatory process, in its safety standards, and in the history of nuclear powerplant operation nothing that would lead a reasonable man to doubt that nuclear powerplants are "safe enough"

PART V—SUMMARY CONSIDERATION OF SPECIFIC ISSUES

Some Specific Issues

Many specific issues of safety in connection with nuclear powerplants have been raised before this committee Most of them have been spoken to in the discussion above. However, we would like to state the most commonly raised issues and to comment on them briefly

1. Many critics raise the issue that not enough is known about the biological effects of low-level radiation on man and other living or-

ganisms This general topic is discussed on pages 78–82 above. In general, these critics reject the concept of a safe level of radiation and hold that just because medical science has not been able to positively identify any harm resulting from low-level radiation does not necessarily mean that there is no harm.

This is true. There is disagreement among responsible authorities on the validity of the concept of a safe level of radiation. It is also true, however, that a great deal of research has been done on the biological effects of low-level radiation And it is true that no harmful effect can be clinically identified at the levels of exposure permitted by AEC regulations. The choice in viewpoints seem to lie between the demonstrable failure of establishing an empirical correlation between low-level radiation and any clinically detectable biological effect, on the one hand, and the theoretical possibility that such a correlation exists and might be verified if the proper hypotheses could be discovered and if the proper techniques of verification were available, on the other The AEC, and the several national and international radiation protection organizations to whom it looks for advice, have chosen the first viewpoint Given our knowledge of the biological effects of radiation and given the vast amount of research that has been done in this field, we cannot judge this choice to be unreasonable

2. Many critics also point to the problem of the disposal of radioactive wastes They point out that these wastes are often highly concentrated and highly radioactive and that some of this radioactivity lasts for thousands of years As the nuclear industry develops, these wastes will accumulate They are, in this sense, an increasing permanent problem.

It is true that the handling, transportation, reprocessing, and permanent storage (burial) of radioactive wastes presents many problems of control But we have seen no evidence that these problems are not adequately handled by present AEC regulation The safety record with regard to waste disposal is excellent The AEC's research program into this subject is massive, new techniques for permanently immobilizing radioactive wastes are being developed. This committee cannot accept the proposition that because a set of problems is of a great magnitude, they must be impossible of adequate solution The AEC's waste disposal program seems to be based on sound empirical knowledge and to provide a high degree of safety. In the absence of any substantial, as opposed to merely suggestive, evidence to the contrary, we cannot judge this program to be dangerous.

3. Several critics have pointed to the finding in an official AEC study (the "WASH-740" Report, also known as the "Brookhaven" Report) that the worst hypothetical nuclear accident considered in the report could cause 3,400 deaths and 43,000 injuries These critics usually conclude that the possibility of an accident of this magnitude should condemn the nuclear industry, or at least dictate that nuclear installations be constructed far from population centers or be severely limited in size.

The "WASH-740" study is of hypothetical accidents The accident referred to postulated that half the radioactive materials in the reactor were released into the atmosphere. But given the series of redundant safeguards discussed in Part III, a reasonable man must conclude

that this hypothetical accident is extremely improbable In fact, one is hard put to imagine how such an accident could occur (the authors of the "WASH-740" Report did not discuss this, but limited themselves to the consequences if such an accident did somehow occur).

The problem is basically a philosophical one · at what point does a very high improbability become a credible possibility? We know of no good answer to this question There is no absolute standard of credibility Those who are responsible must make an act of judgment. The best substitute for an absolute standard of credibility that men can manage is to state their premises explicitly and to reason publicly about them The AEC has done this; the effect of their rulemaking and licensing process is to ensure this

The following quotation is taken from the cover letter attached to the "WASH-740" Report ·

> As to the probabilities of major reactor accidents, some experts held that numerical estimates of a quantity so vague and uncertain as the likelihood of occurrence of major reactor accidents have no meaning They declined to express their feeling about this probability in numbers Others, though admitting similar uncertainty, nevertheless ventured to express their opinions in numerical terms Estimations so expressed of the probability of reactor accidents having major effects on the public ranged from a chance of one in 100,000 to one in a billion per year for each large reactor However, whether numerically expressed or not, there was no disagreement in the opinion that the probability of major reactor accidents is exceedingly low.

In reading the AEC's judgments on the possibilities of major accidents at proposed commercial nuclear power plants, we cannot find substantial ground upon which to anchor a criticism of their exercise of judgment

4 Some critics assert that the AEC suppresses information on radiation hazards, that it conducts its work in secrecy, that there is inadequate public knowledge of radiation hazards

We have no reason to believe that the AEC suppresses information or that it works secretly We have received all the information and cooperation we asked during the course of this investigation But this point is not directly relevant to the subject of our study. We have been concerned about whether the AEC so regulates commercial nuclear powerplants that they are safe enough for California citizens The availability of public information is irrelevant to this concern in the absence of any demonstration of relevance

We agree that the public should be better informed on radiation hazards They should be better informed on a host of subjects But we cannot agree with the implicit suggestion of some critics who assume that the lack of general public opposition to commercial nuclear power plants is due to ignorance Our own study, and the conclusions we have reached, contradict that assumption

5 Many critics argue that one agency cannot successfully embody the two functions of promoting the development of the nuclear industry and guaranteeing the safety of that industry. We have discussed this issue on pages 68–69 above

It may be a wise principle in general to separate functions which might conflict. But in the absence of any evidence that safety has been vitiated under the present AEC structure, we do not feel we have any reasonable justification for recommending a restructuring of the AEC to Congress.

6. Some critics of commercial nuclear development point to the fact that only $560 million of insurance is available nationwide, from public and private sources, for damage caused by nuclear accidents. Privately, there is an insurance industry pool of $74 million; publicly, the Price-Anderson Act provides $486 million for such purposes In addition, Congress has limited the liability of the operators of nuclear installations This limited liability and the limited amount of insurance is often cited as evidence of the lack of confidence of private insurors and Congress in the safety of nuclear installations

We cannot accept this issue as a safety issue, we cannot agree that it is appropriate to reason from the amount of insurance available to the existence of unsafe conditions It may well be argued that Congress should provide greater insurance coverage but this is not a subject within our purview.

7. Some critics point to the unreliability of power reactors, the fact that they are often shut down for long periods for adjustment, repair, fuel replacement, and so on This too is cited as evidence of unsafe conditions

We cannot agree that it is appropriate to reason from the fact of "downtime" to the fact of unsafe conditions In view of the AEC's stringent safety requirements, in view of the lack of positive evidence of unsafe conditions, in view of the safety record, this kind of issue does not seem reasonable

8. Some critics point to the lack of an explicit, overall plan to control the development of nuclear power, or of all electrical power, as inherently dangerous. These critics seem to be less concerned with safety as a specific issue than with the absence of "rational planning."

This does not seem to be a safety problem We cannot agree that an industry cannot be developed safely without being developed according to a long-term, nation-wide plan We believe that nuclear power has been developed safely thus far and see no reason that it should not develop safely in the future under the present pattern of regulation.

The specific issues raised before the committee fall into two categories In the one, the critics point to some situation—such as the inadequacy of public education, the limitation of insurance, the lack of a long-term development plan—as evidence of unsafe conditions In general, we believe these issues not to be substantial evidence of unsafe conditions They are, at best, tangentially related to safety and they are suggestive rather than substantial They may be valid issues on other grounds but we do not see how they can be viewed as vitiating the safety of nuclear powerplants

The other category of issues seems to represent the major source of legitimate doubt—the difference of opinion as to the validity of the concept of a safe level of radiation. This committee's assessment is that the overwhelming weight of scientific knowledge of the biological

effects of low-level radiation supports the position taken by the AEC. We have no reasonable grounds upon which to base a doubt of the propriety of their judgment. There is always some risk; the theoretically possible could occur despite the most painstaking research and calculation

9. Finally, one issue which has been raised seems to call for congressional action. This is not, properly speaking, a safety issue; rather, it is an issue concerning the future development of nuclear power in California. Apparently, there is insufficient scientific knowledge about the incidence and effects of earthquakes to permit the AEC to formulate adequate guidelines on the siting and the design of plants in the proximity of active faults, adequate to guide prospective applicants in developing plans for nuclear plants which will ultimately be found safe enough to warrant the issuance of a license.

Both of the major public battles over proposed nuclear powerplants have focused on the problem of siting and design in the proximity of a fault. AEC regulations do not prohibit siting in the proximity of a fault Rather, if the fault is believed to be an active fault, the applicant must show to the AEC's satisfaction that the proposed plant is so designed as to be safe in the event of an earthquake At both Bodega Head and Corral Canyon, the applicants—large, well-funded, business organizations who committed great effort and professional expertise to the development of applications which they were confident would be found acceptable under the AEC's standards of safety—were proved wrong. In both cases, the central issue of controversy was the adequacy of the design of the plant with regard to earthquakes.

The history of these two controversies leads us to believe that the AEC's design criteria with respect to earthquakes is deficient And this is a serious problem for nuclear development in California. The San Andreas Fault, with all its subsystems of faults, runs the length of California Many prospective sites for nuclear power plants are likely to be in the proximity of faults Without an operationally precise criteria for siting and design with regard to possible earthquakes, the California nuclear industry is at a severe disadvantage

Recommendation

This committee recommends that a joint resolution be passed requesting that Congress fund a special study by the AEC of these problems of siting and design for earthquakes This study should be aimed at the development of criteria adequate to guide prospective applicants This study should be performed in California because this state is the best natural laboratory in the nation for the study of earthquakes and because of the difficult problems which have arisen here with respect to siting and design

LETTER OF TRANSMITTAL

ASSEMBLY COMMITTEE ON INDUSTRIAL RELATIONS
January 2, 1967

HONORABLE JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly

Ladies and Gentlemen:

The undersigned members of the Assembly Interim Committee on Industrial Relations, 1965–1967, respectfully submit their report on boiler safety.

MERVYN M. DYMALLY, Chairman
JOHN L. BURTON
LOU CUSANOVICH (with reservations)
PAULINE L DAVIS (with reservations)
EDWARD E. ELLIOTT
RAY E. JOHNSON (with reservations)
WALTER W. POWERS
VICTOR V. VEYSEY

BOILER SAFETY

The Assembly Rules Committee assigned the subject of boiler safety to this committee for interim study One hearing was held on September 6, 1966, in San Jose This subject has been studied extensively by this committee in past interim periods There is a large body of published material, including past committee reports, on boiler safety. Consequently, this report will deal only cursorily with the general subject area and will focus on a specific problem

The general problem is that boilers are potentially hazardous They create pressure and are designed to contain it If they fail, a catastrophic explosion can occur California has a long-established system of regulation to ensure the safe operation of boilers This system of regulation, a function of the Industrial Safety Board and the Division of Industrial Safety in the Department of Industrial Relations, is generally adequate But it is not fully adequate The specific inadequacy which the committee has investigated is the lack of a licensing procedure to certify the competence of the personnel installing, maintaining, and operating boilers.

Proposals for a licensing procedure to ensure competence are not new. In the past, such proposals have encountered a host of problems. A brief review of the historical background of the present study may be helpful in understanding the issue

In 1963, legislation was introduced to bring under state jursidiction most of the boilers which were statutorily exempt (AB 2896, Foran) This proposed legislation was referred to this committee for study during the 1963–1965 interim period After recommending certain substantive amendments, the committee reported favorably and the amended version of the legislation was reintroduced at the 1965 session (AB 586, Foran). It failed of passage Its basic defects were an additional cost to the state of approximately $3 million (for inspection and certification of boilers) and an extension of criminal penalties for boiler accidents to certain categories of persons not previously subject to prosecution

Also in 1963, legislation was introduced to require the operation of most boilers by personnel licensed by the Division of Industrial Safety (AB 2364, Alquist) This, too, was referred to this committee for interim study The committee was unable to report favorably on this proposed legislation. Its basic defect was that no demonstration could be made that many of the boilers which would be required to have a licensed operator actually needed competent operation in order to be safe The committee suggested a permissive system of licensing as a public service in lieu of the mandatory system embodied in AB 2364.

At the 1965 session, the mandatory licensing legislation was reintroduced (AB 88, Alquist) as well as legislation embodying the committee's suggestion for a permissive licensing system (AB 2362, Alquist). Both measures raised problems. The mandatory one made

requirements which could not be shown to be necessary while the permissive one, while it did provide a needed public service, did not solve the problem of requiring competence where it could be shown that the interests of safety merited it. Both measures were consequently referred to study in the 1965–1967 interim period.

Thus, during this past interim, the committee has limited its sudy to the advisability of establishing a licensing system which would cure the inadequacy of the present regulatory process yet impose no unnecessary hardships.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings

1. The committee has found that present law thrusts the burden of the safe installation, maintenance, and operation of boilers on employers without providing them with a means for adequately performing their responsibility.
2. The committee finds that a permissive system for examining and certifying the competence of boiler maintenance engineers and boiler operators would provide them with such a means
3. The committee also finds that in those cases in which the Industrial Safety Board finds that the safety of employees (and the public) necessitates the expert installation, maintenance, or operation of a boiler, or a class of boilers, within their jurisdiction, they should be able to require such installation, maintenance, or operation through their regular safety order process
4. The committee finds that to effectively authorize the Industrial Safety Board to do this requires that there should exist a system of examination and certification of boiler maintenance engineers and operators.

Recommendations

1. The committee recommends that a basically permissive system of examining and certifying the competence of boiler maintenance engineers and boiler operators be established as a needed service to employers in California. In addition, the committee recommends that the Industrial Safety Board be authorized to require the use of certified personnel in those cases in which the safety of employees (and the public) necessitates it

THE PROBLEM OF BOILER HAZARDS

The major hazard to the safety of persons and property in connection with boilers is the possibility of an explosion Over the 6-year period from 1960–1965, 150 dangerous boiler accidents were reported to the Division of Industrial Safety This includes only those accidents which actually involved an explosion or a structural failure sufficient to have caused an explosion These accidents caused 180 injuries and 7 deaths

DANGEROUS BOILER ACCIDENTS
1960–1965

	Accidents	*Injuries*	*Deaths*
1960	16	12	0
1961	23	20	0
1962	24	14	0
1963	34	102 *	7 *
1964	29	20	0
1965	24	12	0
Total	150	180	7

* It should be noted that 72 of these 102 injuries and all 7 death occurred in a single accident, a catastrophic boiler explosion in San Jose

On average, then, 25 boiler accidents occur each year which injure 30 persons (excluding the San Jose catastrophe brings the average injuries down to 18 per year) While the magnitude of this problem is not great when laid against the estimated 320,000 boilers in California, it is clear that a problem does exist Investigation of these accidents by the Division of Industrial Safety indicates that the cause of most of them was improper installation, maintenance, and operation of boilers, **particularly improper installation** A solution to this problem must seek to correct this condition

This is, however, a relatively good safety record Part of the reason for this relatively good safety record is the technological advances which have been made over the past several years The coil-type boiler, automatic pressure regulation systems, automatic shutdown systems, all contribute to safer boiler operation Another part of the reason for this relatively good record is regulation At the national level, various expert groups such as the American Society of Mechanical Engineers have formulated specifications for the construction of boilers which provide for a high degree of safety These specifications are embodied in the laws of most states, including California's This has the effect of forcing boiler manufacturers to produce superlatively safe boilers At the state level, in addition to these manufacturing criteria, there is a well-developed system of regulation administered by the Division of Industrial Safety.

Safety regulation of boilers is an exceptionally complex matter There are a vast number of boilers in California It is estimated that there are over 20,000 high-pressure boilers and over 300,000 low-pressure boilers in the state While there are relatively few basic types of boilers, there are dozens of different designs Each difference in design has **variable consequences for safety.** And there are literally hundreds of uses to which boilers are put Use, also, has variable consequences for safety The large number of boilers, the variety of designs and uses, and rapid technological change which characterizes this field—all this poses a complex pattern which renders any attempt at regulation very difficult

The established method of regulation involves predominately administrative legislation Most of the law defining the safe operation of boilers is in the form of safety orders promulgated by the Industrial Safety Board in the Department of Industrial Relations The great advantage of this method is that the five-man board, aided by the professional safety engineers of the Division of Industrial Safety, is

able to keep well abreast of developments in boiler technology and to change the law as change seems desirable.

The formal process by which this administrative law is created embodies technical expertise, the representation of interested parties, and expedition—the relative ease with which the law can be adjusted The Pressure Vessel Section of the Division of Industrial Safety is continually engaged in the techniques of boiler safety Research, routine inspection of boilers, and investigation of boiler accidents are continual activities When the need arises for a new safety order, or the revision of old safety orders—both kinds of need usually arise due to technological innovations—the formal review process is begun "Technical committees" are formed representing the division, labor, management, boiler manufacturers, and other interested parties to propose the new or revised orders These "technical committees" attempt to follow national recommended standards of regulation adopted by groups such as the American Society of Mechanical Engineers although it is not always possible to follow these recommended standards completely When the proposals of the "technical committees" are complete, a public hearing (advertised throughout the state 30 days in advance) is held by the Industrial Safety Board at which any interested party may be heard If, at the conclusion of this process, the board adopts the proposed order by majority vote, it becomes law.

The basic framework of regulation in the Labor Code and the detailed regulation of the safety orders are enforced by the Pressure Vessels Section's 50 full-time professional safety engineers located in the field They are assisted in their primary task—the routine inspection and certification of boilers—by some 265 insurance company inspectors who are licensed for this purpose by the division This frees the time of the pressure vessels section's engineers for the inspection of uninsured boilers, accident investigation, inspections in response to complaints of unsafe conditions and other nonroutine tasks.

This process of administrative legislation and specialized professional enforcement functions as well as can be reasonably expected The problem we have investigated concerns the lack of a legal device which is logically concomitant to the optimum regulation of boiler safety by the Industrial Safety Board and the division's pressure vessel section.

The Labor Code makes the employer responsible for the safety of the employment in which his employees are engaged and for maintaining a safe place of employment The statutes on safety and the safety orders adopted by the Industrial Safety Board constitute a minimum standard of safety applicable throughout the state Failure or refusal to comply with a safety order is prima facie evidence of violation of the law and carries a misdemeanor penalty in most cases, and more extreme penalties in a few cases

The point is that the Labor Code throws the full burden of safety in connection with boilers on the employer He is responsible for their safe installation, maintenance, and operation How is he to discharge this responsibility? The applicable safety orders provide a certain guideline but it is a minimum guideline necessarily inadequate in parts

For example, Section 781* requires that boilers have a competent attendant and subsection 781(c) spells out a minimum standard of competence, a test which the employer is in effect required to give to his boiler attendant. Section 781 also requires that boilers be properly maintained but there is no standard of maintenance indicated here Section 763(k) requires that boilers be properly installed and checked out before being placed in operation but again there is no standard of proper installation indicated

The safety orders require proper installation, maintenance, and operation but they provide no standard of competence in the case of installation and maintenance, and only a minimum test of competence for operation which the employer himself must administer. If there were a publicly recognized test of competence in these areas, it would relieve the employer of a great deal of the ambiguity of his responsibility.

This ambiguity creates a severe problem for some employers and little problem at all for others If the employer purchases a boiler from a large manufacturer with local service departments, he can have his boiler installed and checked out by a factory-trained engineer He can have it regularly maintained by the manufacturer's personnel. If on the other hand, he purchases his boiler from a small manufacturer or an out-of-state manufacturer without local service personnel, how can he perform his responsibility under the law? The problem is more difficult if his boiler system is made of components from different manufacturers—the pressure vessel from one, the various control devices from others. The large concern with an extensive boiler system may well be able to afford a full-time professional engineer to supervise the installation of boilers, check them out, maintain them regularly, and operate them safely. The small concern is in a different position.

The point is that it is virtually impossible for many employers to discharge their responsibility under the law. If there existed persons certified to be competent in boiler installation, maintenance, and operation, a good deal of this difficulty could be removed. Those employers who face these problems would have a means of solving them And this is a real problem. While not all employers with boilers suffer from the ambiguity of their legal burden, many do. The division's pressure vessel section reports that many employers, particularly those of smaller concerns, request that the division's safety engineers supervise the installation of a boiler or check it out prior to its being started up or perform various maintenance tasks or administer a test of competence to the boiler operator and so on But the safety engineers cannot, of course, oblige them. To fully check out a boiler system, for example, can easily take more than a day The safety engineers have time only to check the structural integrity of the vessel itself and the primary safety controls.

A permissive system of examining and certifying the competence of boiler personnel would clearly be a useful service for the state to provide. But solving the problem of the employer is not solving the whole problem. The interests of safety necessitate that in some situations, the use of competent personnel be legally required.

* References are to "Boiler and Fired Pressure Vessel Safety Orders", *Cal Admin Code*, Title 8, Chapter 4, subchapter 2

For example, the division's pressure vessel section reports that the greatest single source of boiler accidents is improper installation. As mentioned above, Section 763(k) of the safety orders requires that a competent person check out the boiler system before it is placed in operation. But for many boiler systems, competent persons are not available. If there existed such a thing as a certified boiler maintenance engineer, it might be wise to require that such a publicly recognized competent person check out those boiler systems for which otherwise competent personnel (such as the manufacturer's factory-trained service staff) are not available. Or, another example, certain boiler systems may require regular maintenance because of age or some peculiar design characteristic

The defect of most previous proposals for a licensing process in this field is that they included more than was demonstrably needed. We believe that our proposal cures that defect. We believe that it is responsive both to the need for a permissive system of examining and certifying boiler personnel, which employers may use at their discretion in performing their legal obligations, and to the need for requiring competent personnel in those situations in which the interests of safety clearly demand it.

THE PROPOSED SOLUTION: A PERMISSIVE CERTIFICATION SYSTEM WITH LIMITED MANDATORY PROVISIONS

The committee proposes the creation of a basically permissive system of examining and certifying the competence of boiler maintenance engineers (for both installation and maintenance) and boiler operators The tests of competence will be formulated through the regular safety order process described above The tests will be administered by the Division of Industrial Safety at regular intervals A fee adequate to cover the costs of the examination will be charged. The fee may range from $5 to $20 per applicant per examination There will be no additional cost to the state

This will be a service offered by the state. As indicated throughout this report, without some publicly recognized test of competence, the only recourse open to the Legislature and the Industrial Safety Board has been to throw the ambiguous burden of determining competence on the employer. California law demands competence in connection with boilers but in certain significant aspects the law fails to indicate a standard of competence. The permissive system of examination and certification of competence will cure this defect in the law.

The committee anticipates that persons wishing to secure employment as a boiler maintenance engineer or a boiler operator will find it advantageous to hold a state certificate More important, employers bearing the legal responsibility to safely install, maintain and operate their boilers will find this service useful. We also anticipate that insurance companies, which normally bear the expense of boiler accidents, will find it similarly useful That is, we anticipate that employers and insurance companies would better be able to ensure boiler safety if such persons as certified boiler maintenance engineers and certified boiler operators existed. We foresee it as a job requirement set by many employers and a policy requirement set by many insurance

companies that boilers be installed, maintained, and operated by certificated personnel.

Now, in addition to this basically permissive system, we believe the Industrial Safety Board should have the authority to require, by the regular safety order process, the use of certificated personnel in those situations in which the interests of safety clearly demand it. We have indicated certain situations in which certificated, and therefore competent, personnel might possibly be required by the board.

We do not believe the Legislature should attempt to specify the situations in which the use of certificated personnel is required This field is too complex, and technological development too rapid, to make this feasible. The Legislature should establish the basic policy and leave the specific applications to those for whom boiler safety is a full-time job. The advantage of authorizing the board to make this determination is their technical competence, the representativeness and fairness of their safety order process, and their ability to adjust the law to keep pace with changing conditions in the boiler field.

The committee expects some opposition to this proposal. At the hearing on September 6, 1966, several witnesses objected to any permissive licensing system on the ground that it could be changed to a fully mandatory system, applying to those who pose no safety problem, by a later Legislature We consider this to be a specious argument We do not believe the legislative process, involving two independent houses and the Governor, to be capricious We do not believe our laws impose unnecessary burdens

Others may object to the proposed authorization of the Industrial Safety Board to impose the mandatory use of certificated personnel in certain situations It is the intent of our proposal that this mandatory provision be exercised only when safety clearly necessitates it We do not expect the board to act capriciously Their long record of fair and efficient administrative legislation denies any such expectation Their safety order process embodies technical expertise and the representation of the interested parties We see no reason not to trust the determination of which situations necessitate certificated personnel to the Industrial Safety Board

In conclusion, we believe our proposal is responsive to both the need to establish a standard of competence which completes the existing law and which may be used by those legally responsible for boiler safety at their discretion and the need to require competence when the interests of safety demand it.

THE PROPOSED LEGISLATION

(Sections 6321–6326 of the Labor Code)

Section 6321. The division may examine and certify boiler maintenance engineers and boiler operators The experience and educational qualifications of such maintenance engineers and operators and the scope of the examinations shall be established by the general safety orders of the division Every applicant for either of the two certificates under this section shall file an application with the division accompanied by the application fee established pursuant to Section 6322.

Section 6322 The fees prescribed by Section 6321 shall be established by the general safety orders of the division but shall not be less than $5 nor more than $20 per year

Section 6323 All boiler operator certificates and boiler maintenance engineer certificates shall expire on December 31 of the calendar year in which they were issued and if not renewed before March 15 of the following calendar year shall be subjected to a delinquency fee of $5 in addition to the prescribed renewal fee Any certificate not renewed for two years shall be void and shall require reexamination for revalidation.

Section 6324 The division may appoint an advisory panel to serve without compensation, to assist in developing the necessary rules, regulations and examinations necessary to make the provisions of Sections 6321--6326 effective

Section 6325 It is the intent of the Legislature that the system of examination and certification of competence as boiler maintenance engineer and boiler operator established in Sections 6321 through 6324 be basically permissive No person shall be prevented by law from engaging in boiler maintenance or operator work except as provided in Section 6326

Section 6326 When the Industrial Safety Board finds that the safety of employees, or the public, necessitates the expert installation, maintenance, or operation of any boiler, or class of boilers, they may by general safety order require the installation, maintenance, or operation of that boiler, or class of boilers, by certificated personnel.

LETTER OF TRANSMITTAL

ASSEMBLY COMMITTEE ON
INDUSTRIAL RELATIONS
JANUARY 2, 1967

HONORABLE JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly

Ladies and Gentlemen:

The undersigned members of the Assembly Interim Committee on Industrial Relations, 1965–1967, respectfully submit their report on the conditions of labor in the hospital industry.

MERVYN M. DYMALLY, Chairman (with reservations)
JOHN L. BURTON (with reservations)
PAULINE L. DAVIS (with reservations)
EDWARD E. ELLIOTT
RAY E. JOHNSON (with reservations)
WALTER W. POWERS
VICTOR V. VEYSEY

THE CONDITIONS OF LABOR IN THE HOSPITAL INDUSTRY

The Assembly Rules Committee assigned this committee the task of investigating the conditions of labor in the hospital industry during this past interim period. The assignment was made because of the inferior conditions of labor in hospitals, the difficulties inherent in the organization of hospital personnel by unions, and the severe public problems implicit in any hospital strike. The committee held one hearing on September 6, 1966, in San Jose.

The assignment was related to two pieces of legislation considered, but not enacted, at the 1965 General Session. A brief review of these measures may help to clarify the issues AB 865 (Dymally) referred to all private health care facilities (including hospitals, nursing homes, convalescent homes, and sanitariums) and provided that if a majority of the workers in an appropriate unit of a private health care facility indicated a desire to be represented by a labor organization, the employer would have to bargain exclusively with that labor organization concerning wages, hours, and the other conditions of labor. If such mandatory bargaining led to an understanding, it would be embodied in a signed agreement. The bill also provided for determination by the State Conciliation Service, a division of the Department of Industrial Relations, in disagreements between the employer and the labor organization over what would constitute an appropriate bargaining unit and whether a majority of workers in such a unit desired representation by a given labor organization

AB 686 (Dymally) provided roughly the same procedure for employees of public hospital districts (but not other kinds of public hospitals) with certain significant differences First, it mandated a written contract between the hospital district (employer) and the labor organization representing an appropriate unit of the district's hospital, rather than mandating only bargaining, as in AB 865. Second, it specifically gave public hospital district employees the right not only to join labor organizations and bargain collectively but also to "engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection" This phrase is generally interpreted to include the right to strike, in this case against a public agency. Third, it provided for the arbitration of disputes if both parties agreed to it And fourth, it provided that the district must bargain in good faith and that this obligation, as well as any obligation created by the subsequent contract, should not be limited by anything in the Government Code or in any other law or statute.

After considering these measures at some length during the 1965 session, the committee asked that they be referred for interim study because of the substantial additions to existing law they embodied—a limited labor relations act, a mandatory labor contract for certain public agencies, the right of some public employees to strike, and so on. The committee has studied these issues during this past interim but

finds itself unable to make any positive recommendation. However, we have concluded that the basic issue—the variable legal advantage of different groups of labor—poses a serious problem which requires the immediate attention of the Legislature We suggest that the 1967 session consider the general subject of the status of those employees who do not fall within the jurisdiction of the National Labor Relations Act and consider the possibility of enacting some state labor relations law to cover them

The following discussion is intended as background information for such consideration by the 1967 session

THE CONDITIONS OF LABOR IN THE HOSPITAL INDUSTRY

The general argument behind the two measures proposed at the 1965 General Session is that hospital employees suffer inferior conditions of labor compared to the employees of other industries and that the representation of hospital employees by bona fide labor organizations in collective bargaining would substantially improve those conditions. It is further argued that because of the character of hospital employment and because of the exclusion of hospitals from the National Labor Relations Act, this beneficial representation is very difficult to achieve. Hence, the limited labor relations provisions embodied in AB 865 and AB 866 is the first step toward improving the conditions of labor of hospital employees

The primary concern is of course wages The subprofessional workers of most hospitals earn relatively low wages. The following tables were extracted from two reports published by the United States Department of Labor and based on surveys done in major metropolitan areas in mid-1963 (this is the latest comprehensive data available)

AVERAGE HOURLY EARNINGS IN HOSPITALS *

Category	*Los Angeles-Long Beach*	*San Francisco-Oakland*
Machine washers (laundry)	$1 63	$1 92
Practical nurses	1 81	1 89
Nursing aides (orderlies)	1.56	1.83
Maids and porters (janitors)	1.48	1.77
Kitchen helpers	1.43	1.74
Machine dishwashers	1.41	1.78

AVERAGE HOURLY WAGES IN NURSING HOMES †

Category	*Los Angeles-Long Beach*	*San Francisco-Oakland*
Practical nurses (licensed)	$1 78	$1 89
Practical nurses (unlicensed)	1 57	1.61
Nursing aides	1 35	1 43
Cooks	1 53	1.83
Groundskeepers	1 48	1.77
Kitchen helpers	1 32	1 43
Laundry workers	1 32	1 43
Maids and porters	1 33	1.42
Building maintenance	1 69	1.85

* USDL, Wage and Hour and Public Contracts Division, "Nongovernmental Hospitals· A Study to Evaluate the Feasibility of Extending the Minimum Wage under the Fair Labor Standards Act," January 1966

† USDL, Bureau of Labor Statistics, "Industrial Wage Survey. Nursing Homes and Related Facilities," April 1965 Note· The data from these reports was supplied by Building Service Employees Union, Local 250.

This kind of data is used to illustrate three points First, subprofessional hospital workers are paid close to poverty-level wages The average hourly wage for all of the categories listed above is $1 61 per hour. At 40 hours per week for 50 weeks of work per year the average gross annual wage of subprofessional hospital workers is $3,220 Second, these wage rates are well below those of other workers The average hourly wage of manufacturing production workers in 1963 was $2 81.* It was lower in the Los Angeles-Long Beach metropolitan area ($2 74) and higher in the San Francisco-Oakland metropolitan area ($3 05). The statewide figure of $2 81 is $1.20 an hour more than the average wage rate of subprofessional hospital workers—$1 61. Another useful comparison, in a very general sense, is the average family income in 1963 of $8,300 † compared to the average subprofessional hospital worker's annual income of $3,220 Third, these data illustrate the difference in the wage rates of hospital workers between the San Francisco-Oakland area and the Los Angeles-Long Beach area For all the categories listed, there is an average of 19 3 cents per hour difference This higher wage rate in the San Francisco-Oakland area is attributed to the higher degree of unionization among subprofessional hospital employees in that area

Wages are not the only concern Almost equally important are the kinds of protection provided by labor organizations in the employer-employee relationship Without organized representation, the individual worker has no effective means to carry a grievance to his employer, he has no recourse against arbitrary orders or disciplinary actions, against being fired—in short, he has no security in his employment A union contract governing the conditions of labor regularizes the relationship between employer and employee and gives the employee a measure of participation in the decisions which affect his employment

In general, unionization is in the best interest of the employee This is not only empirically demonstrable by almost any test of the employee's welfare one chooses to use, but it is also the expressed policy of the state Section 923 of the *Labor Code* reads, in part

> Negotiation of terms and conditions of labor should result from voluntary agreement between employer and employees. Governmental authority has permitted and encouraged employers to organize in the corporate and other forms of capital control In dealing with such employers, the individual unorganized worker is helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment Therefore it is necessary that the individual workman have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of employment .

The conditions of labor in the hospital industry are generally inferior to those in most other industries The relatively low degree of unionization

* State Department of Industrial Relations, Division of Labor Statistics and Research, "Earnings and Hours, 1963" This is the most general figure on average hourly earnings available It represents all wages paid to manufacturing production workers, excluding overtime wages

† This figure is from the *Economic Report of the Governor* (1964). It is based on the income of the average family of four during 1963

in the hospital industry is one reason for this disparity And the lack of a labor relations act is the primary cause of this low degree of unionization The limited labor relations provisions of AB 865 and AB 866—the machinery for organized representation, the exclusiveness of the representation, and the mandatory bargaining—would create the conditions for the orderly unionization of the hospital industry This is the general logic of these measures

There are, however, other considerations besides the lack of a labor relations act which make the unionization of this industry difficult. In general, subprofessional hospital workers have a low skill level. They are relatively easy to replace on the one hand, and if they become unemployed, other jobs are difficult for them to find because of the surplus of low-skilled workers in the labor force, on the other hand In this situation, employer hostility and the employee's fear of unemployment makes unionization difficult Many employers in this industry are strongly opposed to unionization Labor costs are estimated to be 64 percent of the total operating cost of hospitals,* and the cost of hospital care is already prohibitively high for many citizens. Many employers anticipate that unionization would increase labor costs and therefore the cost of hospital care But it should be noted that hospital costs are to be kept down at the expense of hospital workers Also, hospital employers have been so preoccupied with the problems posed by Medicare that they do not welcome the additional problems of unionization at this time. Finally, the unionization of most industries has historically involved strikes. But striking a hospital is a very difficult action to take because of the danger it creates for the patients.

Beyond these reasons for the difficulty in organizing hospital workers, there is the final consideration, and perhaps the most important consideration from the standpoint of public policy, that a labor relations act establishes a framework within which regularized negotiation can take place. The essence of such an act is the mandate that the two parties—employers' and employees' representatives—shall negotiate a mutually satisfactory contract. A labor relations act is thus an attempt to maximize the peaceful settlement of industrial conflict Without such an act, there is no reason for the employer to even recognize the labor organization, let alone negotiate with it Thus, the labor organization is forced to provide the employer with a reason and it usually does this by means of a picket line, a boycott, a slowdown, anything to cause him greater inconvenience or economic loss than recognition and negotiation would cause him. This situation is hard on the employer, the employees, and particularly on those who are not directly involved—the public. Legislation which helps avoid this "law of the jungle" is generally in the common interest.

THE COMMITTEE'S PERSPECTIVE

The committee has carefully considered the line of argumentation presented above. We must agree that unionization would improve the conditions of labor in the hospital industry and increase peaceful relations. But we are skeptical of the wisdom of this kind of piecemeal

* This estimate was made by Mr. Emery B Dowell, Director of Government Relations, California Hospital Association, at this committee's hearing in San Jose on Sept. 6, 1966

attack on a general problem. We believe there is a broader and more important issue than simply the conditions of labor in a single industry.

The basic issue is the variable legal advantage of different groups of labor, or, seen from another angle, the variable availability of a legal framework within which peaceful collective bargaining may be carried on. The National Labor Relations Act covers some employees but does not cover others. Thus some employees have basic employment rights well articulated through judicial decisions and have the use of a public regulatory process which gives general practical meaning to these rights Other employees—those who are excluded from the act's provisions—do not enjoy these advantages. As far as employment rights are concerned, the act in effect creates first- and second-class citizens.

We believe it to be in the best interest of labor, management, and the public at large that there exists a settled process for peaceful collective bargaining between parties of roughly equal strength. We think few would disagree with this statement in principle. But developing a specific workable program is a task fraught with disagreement. It is this task which we refer to the 1967 session

THE NATIONAL LABOR RELATIONS ACT

The National Labor Relations Act, also known as the Wagner Act, was passed in 1935 after decades of industrial strife. Basically, it guarantees employees the right to organize unions without employer interference, and it imposes on employers the duty to bargain with unions in good faith. The act created the National Labor Relations Board to supervise union organization (that is, the selection of bargaining representatives by groups of employees) and to prevent unfair labor practices through the adjudication of complaints. The Labor-Management Relations Act of 1947 (also known as the Taft-Hartley Act) amended the National Labor Relations Act to balance somewhat the relationship between labor and management

Both of these pieces of legislation, and other related labor legislation, have strong proponents and strong opponents. We do not intend to take sides in the controversy. The over-all effect of the existence of this legislation, however, has been to create a workable system of peaceful collective bargaining which almost all sides prefer to the industrial strife which preceded it. We share this preference.

The problem is that this system of peaceful collective bargaining applies only to some workers. The National Labor Relations Board estimates that perhaps 65 percent of the national work force comes within its jurisdiction. The act specifically excludes:

1. The employees of the United States and state governments, or any political subdivision of either
2. The employees of nonprofit hospitals
3. The employees of any employer subject to the Railway Labor Act
4. Agricultural employees
5. Domestic servants
6. Individuals employed by their parent or spouse
7. Independent contractors
8. Those in supervisory capacities.

In addition, the board has adopted rules which exclude from its jurisdiction the employees of smaller employers (that is, for example, retail stores which have a gross volume of business under $500,000 per year). Finally, all employees who work for firms whose activities do not affect interstate commerce (such as proprietary hospitals) are excluded.

These are significant groups of employees. There are an estimated 6.2 million wage and salary workers in California Using the board's estimate that 35 percent of all members of the work force are excluded from their jurisdiction, more than 2 million California employees and their employers do not enjoy the advantage of this regularized collective bargaining process

STATE LABOR RELATIONS ACTS

Many of the employees who are excluded from the National Labor Relations Act are organized and do succeed in bargaining collectively. But this has occurred outside the framework of rules established by the act. It has often occurred in quite chaotic fashion. The growth of public employees unions in the past few years is a case in point So is the recent organization of agricultural workers in the Central Valley. And the organization of subprofessional hospital workers has been proceeding for over a decade

All employees (except public employees) have the legal right to organize, to bargain collectively, and to engage in other forms of collective action for their own benefit such as striking, boycotting, and so on The California Supreme Court has declared this to be a common law right existing apart from any statute as well as being guaranteed in Section 923 of the Labor Code * But some employees have access to a public regulatory program which makes this right meaningful while others do not.

Thirteen states,† including the major industrial states of New York, Pennsylvania, and Massachusetts, have responded to this situation by enacting their own labor relations acts to cover some of those employees excepted from the National Labor Relations Act These state labor relations acts establish the right of employees to organize and bargain collectively, define unfair labor practices, and establish agencies whose function it is to enforce the right, to determine proper collective bargaining representatives, and to remedy the unfair labor practices

California does not have such an act It does have an administrative agency, the State Conciliation Service, whose mediation services are available to those who request them But this agency does not perform the functions of a labor relations agency.

The state labor relations acts operate to complement the national act; they extend the availability of a legal framework for the process of collective bargaining to some of the excluded employees. The Kansas act covers all the groups excluded from the federal act except those employees subject to the Railway Labor Act. Other state acts cover

* *Safeway Stores v Retail Clerks* (1953), referring to the U S Supreme Court's *NLRB v Jones and Laughlin Steel Co* (1938)

† Colorado, Connecticut, Hawaii, Kansas, Massachusetts, Michigan, Minnesota, New York, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, Utah, and Wisconsin

fewer of the excepted groups But the important point is that these states have recognized the basic principle that a framework of law within which collective bargaining can be carried on is necessary for the promotion of industrial peace as well as to redress the legal disadvantage suffered by some workers.

We urge the 1967 session to consider the advisability of a labor relations act for California. The recent spate of problems in collective bargaining involving public employees, agricultural workers, and hospital workers (the three largest groups of workers excluded from the National Labor Realtions Act) lends an element of immediacy to this consideration.

Our suggestion is a unified study. Two basic questions must be answered First, which groups of employees should be included within the scope of a state labor relations act? We believe all of the groups excluded from the national act should be considered at once rather than in the piecemeal fashion represented by AB 865 and AB 866. Second, what should be the content of the labor relations law? Should it merely provide for the certification of bargaining representatives through a government supervised election? Or should it also mandate recognition by the employer of such a certified bargaining representative as the exclusive bargaining representative? Should it also mandate bargaining between the employer and the employee's representative? Should it define unfair labor practices for one or both parties and establish an adjudicatory process for enforcing the prohibition of these practices? Should it provide for a government-initiated injunction, of limited duration, for strikes against the public interest? There is clearly a great variety of forms such an act could take.

MINORITY REPORT ON THE CONDITIONS OF LABOR IN THE HOSPITAL INDUSTRY

Dear Mr. Speaker and Members of the Assembly:

We agree with the majority of the committee members that the problems posed by the variable treatment of different classes of laborers in federal law ought to be considered by the Assembly and that the Assembly ought to give serious consideration to enacting a general labor relations law in the interests of industrial peace and the fair treatment of all. But we disagree that the need to consider this broad subject should preclude our recommending legislation to provide collective bargaining rights to hospital workers.

We believe that hospital workers are unnecessarily discriminated against in federal law, we believe they have no effective collective bargaining rights; we believe that their relatively low wages and poor working conditions are a direct result of their lack of effective collective bargaining rights; and we believe that the several recent hospital strikes which have occurred outside the framework of any law demonstrate the immediate need for providing hospital workers with effective collective bargaining rights We recommend the enactment of bills similar to AB 865 and AB 866 of the 1965 General Session

MERVYN M. DYMALLY
JOHN L. BURTON
EDWARD E. ELLIOTT

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Volume 2 Number 11

Report of the

ASSEMBLY INTERIM COMMITTEE
ON INDUSTRIAL RELATIONS
1965–1967

on

PENSION PLANS AND PUBLIC POLICY IN CALIFORNIA

Members of the Committee

Mervyn M. Dymally, Chairman
Victor V. Veysey, Vice Chairman

Robert E Badham
John L. Burton
Lou Cusanovich
Pauline L. Davis
Edward E. Elliott
Ray E Johnson
Walter W. Powers

March 1, 1967

Hon. Jesse M. Unruh, Speaker of the
Assembly, and Members of the Assembly
Assembly Chamber, State Capitol
Sacramento, California

Dear Mr. Speaker and Members:

The 1965–67 Interim Committee on Industrial Relations herewith transmits a report on pension plans and public policy which was prepared at our request by the Martin E. Segal Co., a firm of consultants and actuaries specializing in the private pension field

This report was requested because of the serious lack of available information concerning this increasingly important subject. The committee felt that a document such as this was a necessary first step toward legislative evaluation of private pension plans and possible remedial legislation The recommendations contained in the report represent the views of the Martin E. Segal Co , and not necessarily those of the members of this committee

The committee wishes to express its appreciation for the helpfulness and consideration of Mr Robert Tilove and Mr John Mackin of the Segal Co Their services to us went far beyond the terms of our contract and their services were most useful

Respectfully submitted,

MERVYN M. DYMALLY
Chairman

MARTIN E. SEGAL COMPANY
CONSULTANTS AND ACTUARIES
730 FIFTH AVENUE - NEW YORK, N Y 10019 - JUDSON 6-5600

BOSTON
CHICAGO
CLEVELAND
LOS ANGELES
PHOENIX
SAN FRANCISCO

February 7, 1967

Mr Mervyn M. Dymally, Chairman,
Assembly Committee on Industrial Relations
State of California
State Capitol
Sacramento, California 95814

Dear Mr. Dymally.

We are pleased to submit our report on "Pension Plans and Public Policy in California" as authorized by the Assembly Interim Committee on Industrial Relations We will be pleased to meet with your committee to review our findings and recommendations.

We want to express our appreciation for the cooperation we received in our research and discussions from state and federal officials and from representatives of industry, labor, and of the insurance industry Particular thanks are due to Mr Maurice I. Gershenson, Chief, Division of Labor Statistics and Research, California Department of Industrial Relations, and Mr. Jerald S Schutzbank, then Commissioner of Corporations.

This report represents the effort of a number of members of our staff; particular mention should be made of the research work contributed by Mr John P Mackin

We trust that the Assembly Interim Committee on Industrial Relations will find this report a useful guide to the issues of public policy which are raised by the rapidly growing significance of private pension plans to the well-being of our older citizens

Very truly yours,

ROBERT TILOVE

TABLE OF CONTENTS

	Page
Summary of Findings and Recommendations	7
Introduction	10
I. The Development and Current Status of Pension Plans	11
A. The History of Growth	12
B. Recent Trends and Prospects for Future Growth	13
II. Pension Plans in California	19
III Present Regulation of Pension Plans	25
IV The Questions of Public Policy	31
A Funding	31
B. Vesting	42
C. Portability	51
D Reinsurance	54
E Security of Investments	56
F. Extension of Coverage	59
G Fiduciary Responsibility	61
Appendix A—Data on Pension Plans With Principal Administering Offices Located in California Filed Under the Federal Welfare and Pension Plans Disclosure Act for 1961 Compared to All Plans in the United States	63
Appendix B—Major Benefit Provisions of 27 Large California Pension Plans as of November 1966	69

LIST OF TABLES

Table 1—Private Pension and Deferred Profit-Sharing Plans Estimated Coverage, Contributions, Beneficiaries, Benefit Payments, and Reserves, 1950–64	14
Table 2—Assets of All Public and Private Pension Funds, 1965	17
Table 3—Pension Coverage, by Industry	19
Table 4—Normal Benefits of Large California Plans—Monthly Normal Retirement Benefit Payable at Age 65, With 25 Years of Future Service Credit and an Annual Salary or Wages of $6,000	22
Table 5—Percentage Distribution of 650,000 Employees—Three Large Automobile Manufacturing Companies	49

SUMMARY OF FINDINGS AND RECOMMENDATIONS

More than half of the wage and salary workers of California will be counting on pension payments (aside from social security) for a substantial part of their retirement income. Having come through almost two decades of rapid and, as yet, continuing growth, pension plans have assumed a massive responsibility for the future well-being of our citizens It is therefore understandable that there is great interest in the question whether these plans will be able to fulfill their responsibilities

Approximately 25,000,000 Americans are covered by pension plans and the scope of coverage is still expanding It is possible to foresee the time when 66–75 percent of all employees will be covered by private pension plans. However, it is likely that by 1980 some 25 percent of all wage and salary workers will still lack coverage by a private pension plan

In the aggregate these plans are massive. Contributions exceed $6 9 billion a year The reserves exceed $85 billion, more than four times the size of the Federal Old-Age Survivors and Disability Insurance Trust Fund A recent estimate is that these reserves will mount up to $225 billion by 1980, part of it managed by insurance companies and part of it self-insured.

The evidence indicates that employees in California are more fully covered by pension plans than are employees in the nation as a whole The closest estimate possible is that of all employees in California, some 57–58 percent are now covered by pension plans other than social security For two out of three workers covered, the pension plan is affected by collective bargaining

A survey of 27 of the largest plans with principal offices in California establishes the following.

They account for 30–40 percent of all private pension plan coverage in California—roughly 750,000 employees

Contributions to these 27 plans total $270 million a year

The median benefit of these large plans—with half the plans lower and half higher in benefit level—was $125 a month, exclusive of social security, the amount being payable in most cases from age 65

The great majority of the plans provided early retirement benefits, usually as early as age 55 and vested rights, commonly by age 40 after 10–15 years of service

These plans put a lump-sum dollar value on the benefits accrued under their terms to the end of 1965 at figures totaling at least $2 5 billion, which amounted to $3,300 for every person covered by the plans

Pension plans are presently regulated, in one respect or another, by the Internal Revenue Code, the Labor-Management Relations Law (Taft-Hartley Law), the Federal Welfare and Pension Plans Disclosure Law, and the Retirement Systems Act of California

A number of questions concerned with the regulation of private pension plans intended to assure their ultimate fulfillment have been under active consideration at the national level Several legislative proposals have focused on questions raised by a January 1965 report by a federal interdepartmental committee, headed by Secretary of Labor Wirtz That

cabinet committee, appointed in 1962 by President Kennedy, recommended that legislation be enacted to require as conditions for federal tax qualification, that plans provide certain vesting provisions, and adhere to certain minimum funding requirements, that greater detail be revealed as to pension fund investments; that proposals for pension portability arrangements and for the reinsurance of pension plans be studied; that the option to establish plans for salaried employees only be limited, and a number of other changes be made in the requirements of the Internal Revenue Code for the qualification of plans

This report considers the substance and merits of proposals which have been made on the following: (a) funding, (b) vesting, (c) portability, (d) reinsurance, (e) security of investments, (f) extension of coverage and (g) fiduciary responsibility

These questions have in effect been preempted for federal consideration, at least for the time being It is therefore suggested that state legislation on any of these aspects would be unwise at the present time, with one exception to be noted Legislation to regulate these aspects of private pension plans would have far-reaching effects on costs, structure, and procedures It is not as if these were changes which could be made at the state level somewhat in advance of possible action at the federal level. If changes in pension plan provisions were required at the state level, they might be found to run counter in some respects to the changes which federal legislation might require at a later point Moreover, many of the plans that would be affected by state legislation are multistate in coverage Finally, a number of the current proposals—such as a reinsurance arrangement or any revision of the Internal Revenue Code for the further encouragement of pension plans—could only be made effective by federal legislation

The questions of public policy that have been raised are the subject of active study by the U S Department of Labor, the Treasury Department, and a number of private agencies

The California Legislature can take steps to help safeguard the interests of workers covered by pension plans by the following recommended steps

1 Give consideration to the extension of reciprocity or portability provisions among the retirement plans which cover public employees Portability provisions now cover several of the state and county systems but not, as yet, all of those affected by state legislation Extension would provide equitable protection of employees, facilitate transfers of employment, and encourage, by example, voluntary action along the same lines by the major cities It might also set an example for greater vesting by plans in private industry
2. Authorize a study of a cross-section of California's middle-aged workers (for example, those age 50) to secure a representative picture as to the extent which these workers are covered by private pension plans, whether they would, in fact, be eligible for benefits when they retire, what level of benefits they will secure, whether they are protected by vesting provisions, whether they are eligible for pensions as a result of earlier employment, and what circumstances account for the lack of coverage or eligibility of those not covered

3 Authorize a study of the effect over a recent period of time of permanent mass layoffs on pension rights, determining the extent to which middle-aged and older workers may be disappointed in their pension expectations because of such layoffs, whether they hold any vested rights, whether the funding of any pension plans that may have been involved was adequate or inadequate

4 Authorize a one-time inventory through the cooperation of the Commissioners of Insurance, Banking, and Corporations, of the investments of those pension funds which have their principal offices in California to the extent that those investments were unorthodox, that is, fell outside a broad definition of the classes of investments normally made by pension funds Many of these investments may be excellent, but the inventory would also reveal whether there was a significant number of questionable investments.

While the great majority of pension funds are prudently invested, a number of cases have come to light in which investments have been made for reasons other than the exclusive benefit of the beneficiaries How many instances there may be in which such practices have remained unnoticed is unknown Present disclosure requirements under the Federal Welfare and Pension Plans Disclosure Act are not adequate to reveal those facts The suggested inventory would provide a detailed basis as to the nature, quality, and extent of unorthodox investment practices and afford ground for judgment whether public concern is warranted Such an inventory would also serve notice that the investment practices of pension plans are potentially subject to public disclosure

The investments which would be included in such an inventory would include say, for example, the following

(a) Purchase of a stock or bond not listed on the New York Stock Exchange, except if it is an investment in a major bank or insurance company, registered investment company, or common trust fund

(b) Investment of x percent (perhaps, 5 percent or more) of the pension fund in one security

(c) Ownership of more than x percent (perhaps, 5 percent or more) of the stock of any one company.

5 If the Congress does not enact a statute establishing the fiduciary responsibility of trustees and others handling pension funds and authorizing a government official to enter suit for the enforcement of that responsibility, then the California Legislature should authorize a study of the minimum legislation required in order to empower an appropriate state official to enter suit to enforce the appropriate fiduciary responsibilities of trustees and others handling pension funds for the application of such funds exclusively for the benefit of employees, pensioners and their beneficiaries

The several studies recommended would not duplicate any of the public or private studies now under way in connection with national discussions of federal proposals They would serve to cast light on aspects of pension plan operations which are unknown at the present time, and would help to provide a sound foundation for the formulation of public policy, both nationally and within the state.

INTRODUCTION

More than half of the wage and salaried workers of California will be counting on pension payments (aside from social security) for a substantial part of their retirement income. That fact is relatively new and revolutionary and it has vast implications for public policy.

Having come through almost two decades of rapid and, as yet, continuing growth, pension plans have assumed a massive responsibility for the future well-being of the American people. It should not be surprising that there is great interest in the question whether these plans will be able to fulfill their responsibilities

Will pension coverage become universal? What is the future of those workers who remain uncovered? How dependable are the promises of future security which private pension plans represent? Should the plans be required to observe new standards of vesting, funding and disclosure? Should they be reinsured to guarantee fulfillment?

This report will concern itself with the growth and nature of private pension plans, with particular emphasis, when possible, on those in California, and with the questions of public policy which have been posed

I. THE DEVELOPMENT AND CURRENT STATUS OF PENSION PLANS

Private pension plans have experienced phenomenal growth over the last two decades (See Table 1.) That development may be viewed as a result of five underlying trends One is demographic · the growth, both absolutely and relatively, in the population over 65 years of age. Second is the widespread recognition that in our dynamic and urbanized economy the average man cannot be sure of economic security in the years of his retirement if he must rely solely on his individual savings A third factor is the growth and the influence of collective bargaining Fourth is the growth of the economy, which has enabled the accumulation of savings in the form of pension plans A fifth, molded no doubt by these other trends, is public and governmental encouragement of the establishment and expansion of measures of economic security

The aging of our population has been evident since the turn of the century. From 1900 to 1965 the total population of the United States grew from 76.1 million to 194 6 million or by 156 percent, while the number of persons age 65 and over increased more than fivefold, from 3 1 million to 18 2 million As a proportion of the total population, the group 65 and over increased from 4 1 percent in 1900 to 9 3 percent in 1965 Projections indicate that the older population will number some 25 million persons (about 10 percent of the projected total population) by 1985 Then there will be approximately one person 65 years of age or older for every five persons between the ages of 20 to 64, which we may presume to be the productive years [1]

The increase in the proportion of older persons is the result of lower mortality rates—brought about by better medical and health care and improved living conditions—and of the cessation of any great waves of immigration and a long-term reduction in the birth rate.

The lengthening of the average lifespan has increased the years spent both at work and in retirement. Pension plans and improved living standards have resulted in a lowering of the average age of retirement This trend has further stimulated far-reaching interest in governmental and private programs of old-age income maintenance

The most significant response, thus far, to the problem of old-age dependency has been the enactment and subsequent expansion of the Federal Social Security System and the companion Railroad Retirement System The development of private pension plans is the next most important Whether measured in terms of coverage, benefits, volume of assets accumulated, or the number of plans in operation, the extension of private pensions since 1950 has been nothing less than remarkable This rapid growth is in itself evidence that these plans have been a response to basic needs, and until these needs have been met insofar as is practicable, continued growth may be expected

[1] U S Bureau of the Census, *Statistical Abstract of the United States 1966* (87th edition), Washington, D C, 1966, Tables 2 and 3, pp 5–8

A. *The History of Growth*

The upsurge of private pension plans really began with World War II. About 4 million employees were covered by pension plans in 1940, whereas in 1965 some 25 million employees were plan participants. The advance in reserves has been even more impressive, increasing from $2 billion in 1940 to over $85 billion in 1965.

A number of reasons may be cited for the timing of this spectacular growth, some creating a favorable atmosphere and others more immediately causative

The Great Depression of the thirties had deprived a whole generation of middle-aged workers of their life savings and created the conviction that social measures were needed to provide old-age security Part of the response was the creation in 1935 of the Social Security System, which may in turn have strengthened belief in group or collective provision for retirement income and which may have encouraged further action by providing a floor of protection on which to build.

Conditions during World War II encouraged the growth of plans. High tax rates on corporations and individuals coupled with tax deductions for contributions to pension funds encouraged the establishment of plans. Valuable tax concessions are available to an employee who is covered under a qualified pension plan, since employer contributions toward the funding of pensions, and the earnings of a pension trust, constitute taxable income to the employee only at the time of payment, when his tax bracket is substantially lower The Revenue Act of 1942 had spelled out the basic conditions for tax qualification of pension plans which we have today. Among other things, the law provided that a pension plan, in order to qualify for favored tax treatment, must be a permanent plan which distributes benefits on the basis of some predetermined formula and does not discriminate in favor of highly paid employees. The latter provision was undoubtedly effective in converting what would otherwise have been tax-advantage plans for highly paid individuals into plans which spread the benefits among a broader class of employees.

Wage stabilization controls during World War II retarded direct wage and salary increases and served to accelerate the spread of fringe benefits, including pensions. Arrangements for attracting and holding employees acquired greater significance in this period due to the high levels of economic activity and a tight labor market Government wage controls during the Korean conflict had a similar, though less marked, effect on the growth of private pensions and other nonwage benefits

The extension of coverage to the great mass of organized labor dates from 1950, when pensions became the subject of collective bargaining on a massive scale. In May 1946, an agreement negotiated by John L. Lewis and Secretary of the Interior Krug provided for a welfare and retirement fund for the bituminous coal industry to be financed by operator payments of 5 cents per ton In 1948, the National Labor Relations Board ruled that pensions were a proper subject of collective bargaining, a decision affirmed by the Supreme Court in the 1949 Inland Steel case. On September 10, 1949, the President's Special Fact-Finding Board, appointed to resolve the dispute between the steel industry and

the United Steelworkers, filed a report recommending noncontributory pensions for the steelworkers Less than three weeks later, the Ford Motor Company signed an agreement on pensions with the United Automobile Workers, and Bethlehem Steel followed almost immediately, establishing the pattern for the steel industry. After this breakthrough, pensions became a standard demand in collective bargaining. The pattern of bargaining for extension of coverage and higher benefit levels has continued ever since.

B. *Recent Trends and Prospects for Future Growth*

With tax policy adding a strong financial inducement, and the unions serving as a primary driving force, the private pension movement has become a major institution in the American economy in less than a generation. A brief survey of the available data will give a clearer picture of the substantial magnitudes involved in existing pension arrangements. (See Table 1.)

Coverage. Based on Social Security Administration estimates, the number of workers covered by all types of private retirement plans increased from 9 8 million in 1950 to 24 6 million in 1964 [2] Within the area of private nonagricultural industry about one out of every two workers is currently covered by a pension plan. Coverage rose from 24 percent to 50 percent in the 15-year period. Whereas the number of employed wage and salary workers in private nonagricultural industries increased by only 23 percent from 1950 to 1964, the number of employees covered by pension plans increased by more than 150 percent.[3]

One form of pension coverage—the multiemployer or industrywide plan—had its origin in the late 1940's and has expanded rapidly. Under a multiemployer plan, a group of employers in the same area or industry make specified payments to a pooled central fund, from which pensions are provided for their eligible workers It is an arrangement based on collective bargaining These are prevalent in industries where collective bargaining is conducted on a multiemployer basis: for example, construction, motor transportation, maritime and mining among nonmanufacturing industries, and food and apparel among manufacturing industries. (Multiemployer plans are not, however, limited to industrywide bargaining situations) Negotiated multiemployer plans account for a sixth of total coverage and for approximately a third of the workers covered by all collectively bargained plans.[4] In 1950 only about a tenth of all covered workers were under multiemployer plans and in 1954 about an eighth [5]

The growth of pension coverage, while continuing, has been slowing down The number of workers added was 4.4 million from 1950 to 1955; 4.5 million from 1955 to 1960; and 3.4 million from 1960 to 1965. In

[2] Alfred M Skolnik, "Ten Years of Employee-Benefit Plans," *Social Security Bulletin*, XXIX (April 1966), p 11

[3] The number of employed wage and salary workers in private nonagricultural industries rose from 40 2 million in 1950 to 49 4 million in 1964 (*Manpower Report of the President*, March 1966, Table A-9, p 163) Pension coverage increased from 9 8 to 24 6 million over the same period

[4] *Multiemployer Pension Plans Under Collective Bargaining, Spring 1960*, Bureau of Labor Statistics Bulletin No 1326 (June 1962), p 1

[5] "Growth of Employee Benefit Plans, 1954–61," *Social Security Bulletin*, XXVI (April 1963), pp 11–12

TABLE 1

Private Pension and Deferred Profit-Sharing Plans:[1] Estimated Coverage, Contributions, Beneficiaries, Benefit Payments, and Reserves, 1950–64

Year	Coverage, end of year (in thousands)			Employer contributions (in millions)			Employee contributions (in millions)			Number of beneficiaries, end of year (in thousands)[2]			Amount of benefit payments (in millions)[3]			Reserves, end of year (in billions)		
	Total	Insured	Non-insured	Total	Insured	Non-insured	Total	Insured	Non-insured	Total	Insured	Non-insured	Total	Insured	Non-insured	Total	Insured	Non-insured
1950	9,900	2,600	7,200	$1,750	$720	$1,030	$330	$200	$130	450	150	300	$370	$80	$290	$12 1	$5 6	$6 5
1951	11,000	2,900	8,100	2,280	820	1,460	380	210	170	540	170	370	450	100	350	14 5	6 6	8 0
1952	11,700	3,200	8,500	2,540	910	1,630	430	240	190	650	200	450	520	120	400	17 3	7 7	9 7
1953	13,200	3,400	9,800	2,990	1,010	1,980	485	260	225	750	230	520	620	140	480	20 5	8 8	11 7
1954	14,200	3,600	10,600	3,090	1,030	1,970	515	270	245	880	270	610	710	160	550	23 8	10 0	13 8
1955	15,400	3,800	11,600	3,290	1,100	2,180	560	290	290	980	290	690	850	180	670	27 5	11 3	16 1
1956	16,900	4,100	12,800	3 600	1,110	2,490	625	290	335	1,090	320	770	1,000	210	790	31 4	12 5	18 9
1957	18,100	4,400	13,700	4,030	1,220	2,810	690	300	390	1,240	370	870	1,140	240	900	36 1	14 1	22 1
1958	18,800	4,500	14,300	4,100	1,250	2,850	720	310	410	1,400	430	970	1,290	290	1,000	40 9	15 6	25 2
1959	19,900	4,800	15,100	4,590	1,330	3,260	770	330	440	1,590	500	1,090	1,540	340	1,200	46 6	17 6	29 1
1960	21,200	4,900	16 300	4,690	1,190	3,500	790	300	490	1,780	540	1,240	1,750	390	1,360	53 0	18 8	33 1
1961	22,200	5,100	17,100	4,770	1,180	3,590	810	290	520	1,910	570	1,340	1,960	450	1,510	57 8	20 3	37 5
1962	23,100	5,200	17,900	5,020	1,240	3,780	860	310	550	2,100	630	1 470	2,250	510	1,740	63 5	21 6	41 9
1963	23,800	5,400	18,400	5,260	1,350	3,910	920	340	580	2,290	690	1,600	2,460	570	1,890	69 9	23 3	46 5
1964	24,600	6,000	18,600	5,900	1,470	4,430	990	370	620	2,490	740	1,750	2,760	640	2,120	77 2	25 2	51 9

[1] Includes pay-as-you-go, multiemployer, and union-administered plans, those of nonprofit organizations, and railroad plans supplementing the federal railroad retirement program Insured plans are underwritten by insurance companies, noninsured plans are, in general, funded through trustees

[2] Excludes annuitants, employees under both insured and noninsured plans are included only once under the insured plans

[3] Includes refunds to employees and their survivors and lump sums paid under deferred profit-sharing plans

SOURCE Compiled by the office of the Actuary, Social Security Administration, from data furnished primarily by the Institute of Life Insurance and the Securities and Exchange Commission

1964, the number of covered workers advanced by 800,000 to a total of 24 6 million—a modest increase of about 3 percent.

The future growth of private pensions depends on such variables as the level of employment, the future development of social security, labor force trends, changes in industrial composition, and the economic climate for the introduction of pension plans. Forecasts of coverage will vary depending upon the assumptions that are made regarding the above variables. The National Bureau of Economic Research, as part of its extensive pension research project, has forecast the growth of private pension plans through the 1970's The national bureau combined various assumptions to arrive at three estimates—low, medium, and high End-of-year estimates of pension coverage in 1969 ranged from 31.1 to 34 3 million and in 1979 from 38 1 to 46 1 million.[6]

The President's Committee on Corporate Pension Funds and Other Private Retirement and Welfare Programs projected that 34 million employees would be covered by private retirement plans in 1970, with coverage rising to nearly 43 million by 1980 As a proportion of employees in private nonfarm establishments, the number covered by pension plans is expected to increase from 60 percent in 1970 to over 63 percent by 1980[7] The evidence indicates that the private pension structure will continue to expand over the next 20 years

However, there are probably sharp limits to the ultimate coverage of private pension plans There are large industry segments for which a prediction of pension growth would be hazardous Small employers, highly competitive and marginal enterprises may not feel that they have the margin of economic ability to establish pension plans and if their workers are unorganized they may never set up plans In many industries, job turnover may make individual-employer pension plans fairly meaningless Without a union to force the establishment of an industry-wide plan, it is difficult to imagine an unorganized construction worker being covered by a pension plan Employment conditions in agriculture would have to be revolutionized before pension plans could be considered there as realistic possibilities In the absence of some radically new development, it is likely that by 1980 some 25 percent of all wage and salaried workers will still lack coverage by a private pension plan

Beneficiaries The number of persons receiving monthly benefits from private pension plans passed the 2 million mark at the end of 1962 Since then, approximately 400,000 beneficiaries have been added, bringing the total to about 2 5 million. The 1964 increase (210,000) was the highest absolute increase for any one year

An overwhelming proportion of private pension plan beneficiaries are also receiving benefits under the Federal OASDHI program This is to be expected in view of the fact that some 21 million men, women, and children are now receiving monthly social security benefits, and over 16 million of these beneficiaries are age 62 and over In short, roughly one out of seven aged social security recipients currently supplements his retirement income with a private pension

[6] National Bureau of Economic Research, *Forty-third Annual Report* (May 1963), p 57

[7] *Public Policy and Private Pension Programs A Report to the President on Private Employee Retirement Plans* (Washington, D C U S Government Printing Office, January 1965), Appendix A, Tables 1 and 2

Due to the aging of the population and the pension movement, as well as the spread of early retirement, the absolute number of beneficiaries grew more rapidly from 1960 to 1964 than it did in earlier periods The increase of 710,000 may be compared with those of 610,000 in 1955–59 and 430,000 in 1950–54 Projections by the National Bureau of Economic Research suggest an even more accelerated growth in future years According to the bureau's estimates, the number of beneficiaries will rise to 3 6 million in 1969 and 6 3 million in 1979 The President's committee predicted that private plan beneficiaries will increase from nearly 2 5 million in 1964 to over 6 5 million in 1980, when, over the nation, about one out of four persons age 65 and over will be receiving private pension plan benefits

The number of beneficiaries has increased much more rapidly than coverage, a fact that is not surprising in view of the relative youth of the plans In 1950 there was only 1 beneficiary for about 22 covered workers By 1954 the ratio had declined to 1 for 16, and in 1964 there was 1 beneficiary for every 10 covered workers The national bureau's estimates of coverage and beneficiaries assume that in 1979 there will be 1 beneficiary for every 6 or 7 covered workers, depending on which of the three coverage estimates is used.

Benefits. Benefit payments from private retirement plans amounted to slightly over $2 76 billion in 1964 The 1964 increase of $300 million was the largest recorded for any year

In the past 10 years, aggregate benefits have been growing at an even faster pace than the number of beneficiaries Pension plans have not remained stationary, their benefit levels have been subject to repeated increases, and those pensions *that are a percentage of wages or salaries* have gone automatically to higher levels The 1964 average benefit expenditure of $1,108 was 37 percent higher than the 1954 average of $806. The President's committee projected that $9 billion will be paid to 6 6 million beneficiaries in 1980, for an average benefit payment of $11,364 per year.

Contributions An estimated $6 9 billion was contributed in 1964 by employers and employees to finance private retirement plans. Employer contributions have accounted for about 85 percent of the total since 1950

Contributions have increased steadily—an increment in annual contributions of about $1 5 billion over every five-year period Total contributions rose by $1 4 billion in 1950–54, $1 5 billion in 1955–59; and $1 4 billion in 1960–64

Reserves. Private pension plans have accumulated substantial reserves According to Social Security Administration statistics, reserves reached a total of $77 2 billion in 1964, having grown by $65 1 billion since 1950 The absolute increase in 1960–64 ($25 2 billion) was greater than in the two preceding five-year periods—1955–59 ($19 1 billion) and 1950–54 ($11 7 billion). The annual increase in total reserves has been $5 billion or more since 1958.

The Securities and Exchange Commission reports [8] that the assets of private pension plans totaled $85 billion at the end of 1965, more

[8] Securities and Exchange Commission, Statistical Series Release No 2132 (June 21, 1966)

than four times the size of the Federal Old-Age Survivors and Disability Insurance Trust Fund Assets of private self-insured plans amounted in 1965 to $58.1 billion, while the reserves of insured plans stood at $27 3 billion (Table 2)

Pension plan reserves are held in one of two ways—by insurance companies or by plan trustees, commonly trust companies (banks). Under an insured plan, contributions are deposited with an insurance company, which underwrites the plan and guarantees annuity payments While insured plans come in many varieties, the most important types in terms of coverage are deposit administration plans (47 percent), deferred group annuities (34 percent), and individual policies (11 percent) The deposit administration plans, under which contributions are accumulated with interest in a pooled fund to buy lifetime annuities when employees retire, have grown more rapidly than the other categories, accounting for 47 percent of insured coverage in 1964 compared with 10 percent in 1950

The extent to which an insurance contract guarantees fulfillment of the terms of the pension plan depends on the type of insurance contract. Under any of them the insurance company guarantees the fulfillment of lifetime payments for any employee for whom an annuity has actually been purchased With a "deposit administration" contract the purchase for an individual may not be made until the point of retirement With a deferred annuity type the purchase is to be made piecemeal with each year of employment. In either event, fulfillment is contingent on continuing contributions adequate to meet the funding requirements of the plan.

TABLE 2

Assets of All Public and Private Pension Funds, 1965

		(Billions of dollars)
Private		
Insured pension reserves	$27 3	
Noninsured corporate pension funds	52.9	
Other noninsured funds	5 2	
Total private funds		85 4
Government		
Railroad retirement	3 9	
Civil service	16 2	
State and local	33 6	
Federal old-age and survivors insurance	18 2	
Federal disability insurance	1 6	
Total government funds		73 5
Total All Funds		159 0

SOURCE U S Securities and Exchange Commission

Historically, insured plans have accounted for a declining share of total coverage—from 27 percent in 1950 to 22 percent in 1962 There were three major reasons First, through a period of rising interest rates, investment directly in bonds provided higher yields than participation in older insurance company portfolios—and the rate of investment return is a significant determinant of pension costs Second, investment in common stocks—very little known before the 1950's—became a wide-

spread practice and insurance contracts did not provide that opportunity Third, insurance contracts often failed to provide the flexibility of funding that many of the newly established plans found desirable. The trend to self-insurance was reversed in 1964 when coverage under insured plans advanced to 6 million or approximately 24 percent of all covered employees. The development of more flexible contracts, opportunity for common stock investments, and new insurance company policies in crediting recent investment yield have tended to put insured plans in a more competitive position vis-à-vis noninsured plans.

A "noninsured" or "self-insured" plan, under which contributions are deposited in a trust fund, is usually administered by a bank and sometimes by company officials or a joint labor-management board. These plans account for the bulk of coverage—some 18.6 million employees at the end of 1964 In order of relative importance, corporate pension plans are by far the largest with between 13 and 14 million members. Multiemployer plans are next and have been growing in significance, while trade union plans with no employer participation, pay-as-you-go or unfunded plans, and plans of nonprofit organizations collectively account for only 10 percent of the noninsured coverage.

The continued large growth in pension plan assets will reflect increases in both major sources of income—employer contributions and earnings of invested reserves It is estimated that total reserves will grow to the enormous figure of about $225 billion by 1980 [9]

The national picture then is an explosion of growth that started about 1950 and has continued to expand vigorously in every direction—workers covered, level of contributions, level of benefits, and total reserves There are natural limitations to that growth and that fact poses the question of how the portion that will remain not covered is to achieve adequate old-age security Moreover, for much of the working population the initial period of plan establishment is over and questions begin to appear as to whether existing plans will be adequate to fulfill the expectations they raise

[9] *Public Policy and Private Pension Programs A Report to the President on Private Employee Retirement Plans* (Washington, D C U S Government Printing Office, January 1965), Appendix A, Table 1

II. PENSION PLANS IN CALIFORNIA

The evidence indicates that employees in California are more fully covered by pension plans than are employees in the nation as a whole

There is no full count of all California employees covered by pension plans The most direct evidence consists of 1961 data compiled by the U S. Department of Labor, Office of Labor-Management and Welfare-Pension Reports, on pension plans covering 25 or more employees that have their principal offices in California A total of 2,233 California plans were reported, but of these only 1,225 plans furnished information on the number of employees they covered They totalled 1,425,216 employees, or 35 0 percent of all California employees excluding government, agriculture, and household employment The same reports established total U S coverage at 34 4 percent of all such employees (Table 3).

Relative coverage in California was even better than these figures indicate Coverage was counted for California only if the principal office of the plan was located in the state That would omit entirely such large plans as U S Steel, General Motors, and the Western Conference of Teamsters, which are located outside the state Consequently, the margin of California coverage over the national percentage was no doubt greater than the ratio of 35 0 to 34 4

Both figures understate the extent of pension coverage They go back to 1961 They omit groups of less than 26 and leave out profit-sharing plans The annual estimate of pension coverage by the Social Security Administration was 24 6 million for 1964, or 50 percent of the employees exclusive of government, agriculture, and household employment From that figure as the basis, it is possible to estimate the extent of coverage among California employees as of 1966 The 1964 figure for California was no doubt higher than the national ratio of 50 percent The ratio for 1966 was undoubtedly a little higher still Finally, when the population taken into account is broaded to include government employees and

TABLE 3

Pension Coverage, by Industry

Industry	California			United States		
	Total number of employees, 1961	Employees covered by pension plans, 1961	Percent covered by pension plans, 1961	Total number of employees, 1961	Employees covered by pension plans, 1961	Percent covered by pension plans, 1961
Manufacturing	1,318,000	608,332	46 2%	16,326,000	9,678,000	59 3%
Mining	30,300	6,551	21 6	672,000	327,000	48 7
Construction	287,200	168,021	58 5	2,816,000	1,072,000	38 1
Transportation	208,100	103,004	49 5	2,460,000	1,286,000	52 3
Communication and utilities	143,100	140,707	98 4	1,443,000	1,270,000	88 0
Wholesale and retail trade	1,080,600	137,714	12 7	11,337,000	920,000	8 1
Finance, insurance and real estate	260,200	78,872	30 3	2,731,000	733,000	26 8
Services and miscellaneous	748,300	181,955	24 3	7,610,000	334,000	4 4
Total	4,075,800	1,425,216	35 0	45,395,000	15,620,000	34 4

SOURCE Pension coverage—U S Department of Labor, Bureau of Labor Statistics Bulletin No 1407 and Office of Labor-Management and Welfare—Pension Reports Employment—U S Bureau of Labor Statistics, *Employment and Earnings Statistics for States and Areas, 1939–65*, Bulletin No 1370-3, June 1966

agricultural and household workers, we can estimate that of all employees in California, some 57 to 58 percent are covered by pension plans, other than social security

Industry Pattern In certain respects, the pattern of industry in California helps to account for the larger-than-national ratio of plan coverage Certain segments of employment in which pension coverage is very high are more significant in California than in the nation federal, state and local government, and the aircraft industry Agricultural employees, among whom pension plans are virtually nonexistent, are a smaller percentage of California employment than of the nation. In another respect, however, the pattern is not what would normally be conducive to a high degree of pension coverage—California has a lower percentage of manufacturing employment

Unionization Collective bargaining has been a major force in achieving the extension of pension plans As of 1964, nearly 34 percent of California nonagricultural employees were union members This was higher than the national total, which was 30 percent of nonagricultural employment [1]

Characteristics of California Plans

The reports filed for 1961 by pension plans located in California with the U S Department of Labor under the Disclosure Law have provided data which are comparable at various points with nationwide summaries of the same data prepared by the U S Bureau of Labor Statistics.[2] The data on the California plans and comparisons with national data are given in the statistical tables of Appendix A

Size of Plans. In comparison with the national picture, California plans are, on the average, slightly larger and the largest plans account for a greater proportion of total coverage The 1,225 plans surveyed covered 1,425,216 employees for an average size of 1,163 members per plan, compared to the national average of 988 members Most of the plans are small-scale operations, having 200 or fewer participants, but nearly two-thirds of the covered employees were covered by the 37 largest plans—each having over 10,000 participants

Coverage by Industry. A much larger share of California coverage is in nonmanufacturing industry. In California, about 40 percent of the plans and workers were in manufacturing industries, with the remaining 60 percent in nonmanufacturing (Appendix A, Table 1). This 2-to-3 ratio of manufacturing to nonmanufacturing contrasts with a ratio of 3-to-2 for the nation as a whole.

The proportion of California employees covered by a pension plan in 1961 ranged from 13 percent in wholesale and retail trade to virtually complete coverage in the communications and public utilities industry (Table 3). Less than 25 percent of the workers in mining and services were private pension plan participants On the other hand, nearly one out of every two workers in the manufacturing and transportation industries, and 6 out of 10 construction workers, were covered by pension plans.

[1] U S Bureau of Labor Statistics, *Directory of National and International Labor Unions in the United States, 1965*, Bulletin No 1493 (April 1966), Table 9, p 58
[2] U S Bureau of Labor Statistics, *Labor Mobility and Private Pension Plans*, Bulletin No 1407 (June 1964)

In general, larger plans predominate in industries that are highly unionized or characterized by multiemployer bargaining patterns. The larger California plans are to be found in the communications and public utilities, construction, and transportation industries, respectively (Appendix A, Table 2) In industries with numerous small employers, such as wholesale and retail trade and finance, insurance, and real estate, the average plan covered fewer than 600 employees.

Collective Bargaining Status. Slightly more than one out of six California pension plans, affecting two out of three of all workers covered, were mentioned in a collective bargaining agreement (Appendix A, Table 4) The comparable ratios for all plans studied by the U.S Bureau of Labor Statistics were one out of three plans but (like California) two out of three workers.

Financing. Employers financed the entire cost of retirement benefits in 70 percent of the California plans covering the same proportion of workers (Appendix A, Table 5). Slightly over a fourth of the plans with about a fourth of the workers were contributory, that is, were financed by joint employer-employee contributions. Only nine plans with less than 3,000 participants were financed by the workers alone or by a union out of general funds. Similarly, the BLS study indicated that nationally about three out of four plans covering about the same proportion of workers were noncontributory, the remaining plans requiring employee contributions.

Combination of Benefits Provided California plans provided more than benefits for retirement on the basis of age or years of service, or both Plans covering 66 percent of the workers provided disability pensions and plans covering 83 percent of the workers provided some form of death benefit (Appendix A, Table 6).

Type of Funding. Insurance companies underwrote about a fourth of the California plans covering slightly over a tenth of the workers (Appendix A, Table 7). Self-insured or trusteed plans predominate, with nearly 63 percent of the plans and 80 percent of the workers in this category. Conforming to the national pattern, insured plans in California average fewer participants (514) than self-insured plans (1,482).

In contrast to the national pattern, however, a smaller proportion of the California employees covered by private pension plans are under insured plans—an insured to noninsured ratio of about 1 in 10 compared to one in four for the nation as a whole [3] This may be attributable to a difference in the periods when the plans were established, many of the older plans being insured.

Level of Benefits. It is possible to draw a rough inference as to how the level of pension benefits in California compares with the level nationally through comparing averages which come out of a study by the California Department of Industrial Relations of collectively bargained California plans in 1961,[4] with a study by the U S Department

[3] Alfred M Skolnik, "Ten Years of Employee-Benefit Plans," *Social Security Bulletin*, XXIX (April 1966), pp 3–20

[4] California Department of Industrial Relations, Division of Labor Statistics and Research, *California Industrial Relations Reports No 26 Pension Plans, Wage Settlements* (January 1964), p 11

of Labor of plans throughout the country as of the winter of 1962–1963.[6] Median benefits for a worker with 30 years of service and with earnings of $4,800 a year were:

California (1961)	$75
United States (1962–1963)	78

A fair inference is that a "snapshot" taken at one time would show the levels of benefit—that is, California and the nation—to be approximately the same.

[6] U S Bureau of Labor Statistics, *Private Pension Plan Benefits*, Bulletin No 1485 (June 1966), p 12

TABLE 4

Normal Benefits of Large California Plans

Monthly Normal Retirement Benefit Payable at Age 65, With 25 Years of Future Service Credit and an Annual Salary or Wages of $6,000

Single-employer plans	Monthly benefit	Multiemployer plans	Monthly benefit
Pacific Telephone & Telegraph	$125 00[a]	Southern California Retail Clerks—Food Employers Pension Fund	$100 00[g]
North American Aviation			
Salaried plan	118 75	Carpenters North California Pension Plan	210 00
Hourly plan	118 75		
Douglas Aircraft		Carpenters Pension Trust for Southern California	181 50
Salaried plan	87 50		
Hourly plan	118 75		
Lockheed Aircraft		Motion Picture Industry Pension Fund—Los Angeles Area	200 00
Salaried plan	125 00[b]		
Hourly plan	106 25[b]	Printing Pressmen's Los Angeles Retirement Fund	75 00
Southern Pacific			
Salaried plan	187 50[c]	California Butchers Pension Trust	62 50
Hourly plan	125 00[d]		
Standard Oil Company of California	225 00	Los Angeles Hotel-Restaurant Employer-Union Welfare Fund	40 00
General Dynamics			
Salaried plan	137 50	San Francisco Culinary, Bartenders and Service Workers Pension Plan	83 25
Hourly plan	106 25		
Pacific Gas & Electric	237 50	Southern California Pipe Trades Pension Plan	185 00
Crown Zellerbach—Hourly	140 63[e]	Painters Bay Area Pension Plan	150 00
Garrett Corp	143 75		
Safeway Stores	125 00		
Bank of America	350 00[f]		

NOTE These amounts are simply illustrative They do not necessarily represent the benefit level of the plan as a whole, for which many other features would have to be taken into account

[a] Minus one-third social security benefit
[b] Minimum benefit payable
[c] Minus 85 percent railroad retirement and 100 percent social security benefits
[d] Minus railroad retirement benefit
[e] Basic plan benefits
[f] Minus social security, profit-sharing, and supplemental retirement plan benefits
[g] Plus cost-of-living supplement

Survey of 27 Large California Plans

To develop a picture of the pension provisions by which California workers are covered, a questionnaire was sent to the 35 plans which were filed under the Federal Disclosure Law as having their principal office in California and which covered 10,000 or more employees. Responses were received from 27, consisting of 10 multiemployer labor-management plans, and 17 plans established by 12 large employers.

The benefits provided by the plans are set forth in Appendix B[6] A brief statement of the highlights follows.

Size The 27 plans account for roughly 30 to 40 percent of all private pension plan coverage in California; they covered 752,357 active employees and 56,353 retirees. Contributions to these plans totaled $270 million in the most recent year available (generally 1965).

Normal Retirement Age The normal retirement age is the age when benefits are payable in an amount unreduced because of age, as distinguished from an early retirement age, when the benefits are reduced because of the earlier-than-normal age Most of the plans (20) set the normal age at 65; the rest set it at 62 and one at age 60.

Most plans required no more than 10 years of service for eligibility for normal retirement benefits Only two required at least 20 years.

Benefit Levels. The benefits provided at normal retirement age are illustrated in Table 4 for a worker with 25 years of service and earnings of $6,000 a year. This compilation does not attempt to evaluate each of the plans comparatively; a number of related features would have to be taken into account to do that It is intended only to impart a rough idea of the composite level of these large plans. The benefit levels show a wide spread—from $40 a month to more than $200 a month The median benefit—with half the plans lower and half higher—was $125 a month, exclusive of social security

Early Retirement All but two of the plans had provisions for earlier-than-normal retirement. In all but five cases, the earliest age for benefit receipt is 55; otherwise it is 60

In 16 of the plans, an employee who has reached the early retirement age is eligible if he has 10 years of service With 15 years of service he would be qualified in 22 of the plans

The amount provided in the event of early retirement is reduced. In several of the plans this reduction is "actuarial" or results from a formula that approximates an "actuarial reduction" That term refers to a reduction, commensurate with the number of years preceding early retirement, calculated to balance, in terms of total cost, the longer life span in retirement of the employee who retires "early" In recent years, however, there has been a trend toward the provision of fuller benefits in the event of early retirement Several California plans provide early retirement benefits that are reduced by much less than a full actuarial or "cost-equivalent" basis For example, Lockheed's plan reduces benefits by only 2½ percent for each year that early retirement precedes the normal retirement age, while full actuarial reduction would be 6 percent

[6] Also included in Appendix B is a summary of the benefits provided by the Western Conference of Teamsters Pension Plan, because it covers a large number of California employees It is not included in the statistics of the 27 plans, however, because its principal office is outside the state

to 7 percent. The Northern California Carpenters Plan and the General Dynamics Plan reduce by 3 percent a year from 65 to 60 and by a steeper rate from 59 to 55

Vesting Provisions. Under most of the plans, if an employee has reached age 55 and has had 10 years of service, he is eligible for early retirement benefits Suppose, however, his service is terminated before age 55 Would he be entitled to any benefits when he reached the early or the normal retirement age? That is the question of vesting—the right to a deferred benefit if termination of employment occurs before retirement age.

Twenty-two of the 27 large plans provide vesting; only five do not.

Of the 22 that make provision, a majority (12) impose no condition of age at termination Of those which have an age requirement, four fix it at 40 The service requirement is 10 years of service in half the plans providing vesting A worker with 15 years of service would qualify in the great majority of the plans Five of the plans require 20 years' service

In short, in about half the cases, a worker who has 10 years of service and has reached age 40 will have secured vested rights to an ultimate benefit If he has 15 years of service and has reached age 40, vesting will be accorded by the great majority of the plans

The benefit provided under these vesting provisions is generally the full benefit (normal retirement benefit at normal retirement age or the early retirement benefit at early retirement age), computed on the basis of years of service accrued to termination

Disability Pensions. The prevailing provision among these plans is that an employee who becomes totally and permanently disabled after 10 or 15 years of service, whatever his age, is entitled to a pension equal to the normal amount, based on his earned years of service Under some of the plans, if he is not also entitled to a social security disability pension, he is entitled to an additional pension amount until social security is payable

Death Benefits. A majority of the plans pay some amount to beneficiaries in the event of death. This ranges, however, from a mere return of accumulated employee contributions, with interest, to a survivor's pension if the employee was eligible to retire.

Total Value. A dollar value can be put on the total benefit rights accrued to date under these 27 plans That figure should be close to the liability for benefits based on service to the present time as calculated by the actuaries to these plans That liability at the end of 1965 was $2.7 billion That figure may overstate the value of accrued benefits. However, it is safe to conclude that the present value of the future benefits thus far accrued (to 1966) under these 27 large plans approximates $2 5 billion, representing an average of $3,300 a person, averaged over all pensioners and all employees, young and old

III. PRESENT REGULATION OF PENSION PLANS

To what extent are private pension plans regulated now?

Pension plans for California employees are affected by the Internal Revenue Code, the Federal Welfare and Pension Plans Disclosure Law, the Retirement Systems Act of the California Corporations Code, and, in some instances, by the Federal Labor-Management Relations Law (Taft-Hartley Act).

Internal Revenue Code. A pension trust is exempt from taxation and employer contributions are deductible expenses for purposes of federal taxation if the trust and the level of contributions meet requirements of the Internal Revenue Code Basically, those requirements are:

1. There must be a definite plan having determinable benefits and intended to be permanent
2. Funds contributed for the support of the plan must be beyond the control of the employer, and not subject to recapture (unless they ultimately prove unnecessary to fulfill the plan).
3. The plan must not discriminate in favor of the highly paid, but must include a broad class of employees
4. To be currently deductible for tax purposes, contributions to the plan in any one year may not fund liabilities too rapidly, the limit being payment in any one year of the normal cost (which is approximately the cost attributable to the current year of service) plus no more than 10 percent of the past service (or supplemental or residual) liability

The Internal Revenue Code also seeks to prohibit financial transactions by a trust that unduly favors the creator of the trust (the employer in the case of pension plans) A tax-exempt trust may not engage in any of the following transactions in favor of the creator of the trust: (1) make a loan without adequate security and a reasonable rate of interest, (2) pay unreasonable compensation, (3) provide services preferentially, (4) buy securities or property for more than an adequate price. (5) sell securities or property for less than an adequate price, or (6) any other transaction which results in a substantial diversion of income or corpus

The Bureau of Internal Revenue does not concern itself with whether a pension plan is being adequately funded Its P.S. 64 ruling has in effect established a minimum practice for the funding of those pension plans which are based on fixed rates of contributions and fixed benefits. However, the bureau finds it sufficient that the employer (or a joint labor-management board of trustees, if it is responsible for the plan) certify that the standards of P S 64 have been observed The bureau is, after all, primarily concerned with whether plans are overfunded (since that would be tax evasion) rather than underfunded.

"Own-company" investments are subject to some control by the Treasury Department To be qualified, a plan must be for the "exclusive benefit of the employees" and this may be subject to the interpretation that employer self-dealing through a pension fund to the disadvantage of the beneficiaries introduces a contrary purpose which destroys

3—L-4358

the tax exemption of the trust. This broadly worded clause has, however, been invoked rarely, if ever This phrase could also have potential application to control the use of a pension fund for control in another company, if the employees are disadvantaged by the transaction.

Labor-Management Relations Law The Taft-Hartley Act (Section 302) includes broad requirements as to pension plans which involve contributions to union representatives (including contributions to joint labor-management boards of trustees):

1 The pension trust must be separate from any welfare plan.
2 The pension benefits must be for the exclusive benefit of the employees, their families and dependents.
3. The plan of benefits must be in writing.
4. The employers must be equally represented with the union(s) on the board of trustees administering the plan
5 Deadlocks within the board of trustees must be subject to arbitration.
6 The trust fund must be subject to annual audit and the audit results available for inspection

The Federal Welfare and Pension Plan Disclosure Law Abuses in the administration and operation of private welfare and pension programs were made public by a series of congressional inquiries during the period 1954–1958 A subcommittee of the Senate Labor Committee, headed successively by Senators Ives, Douglas, and Kennedy, found evidence of mismanagement, embezzlement, exorbitant commissions, and other irregular practices in a number of programs, although at the same time it was pointed out that the vast majority of welfare and pension plans were being administered responsibly and honestly. The end result was enactment of the Welfare and Pension Plans Disclosure Act of 1958 The law was subsequently enlarged and strengthened by amendments adopted in 1962

The law applies to all employee welfare or pension plans established or maintained by an employer (including a group or association of employers), or by an employee organization, or by both Exempted from the provisions of the act are plans (1) administered by a governmental body; (2) maintained solely to comply with workmen's compensation or temporary disability insurance laws; (3) administered as a corollary to membership in a fraternal benefit society; and (4) those covering fewer than 26 participants The broad scope of the act is evidenced by the fact that, as of July 1, 1965, the number of welfare and pension plans filed with the Secretary of Labor totaled 163,500 Over 34,000 of these plans were pension benefit plans

Administrators of all plans subject to the act are required to publish and file two copies of the plan description with the Department of Labor, which then makes them available for public examination In addition, administrators of plans covering 100 or more participants must publish and file annual reports Amendments in 1962 exempted plans covering less than 100 but more than 25 participants from the annual report requirements, unless the Secretary of Labor determines, after investigation, that such a report is necessary to effectuate the purposes of the act.

Plans required to submit annual reports indicate (1) the number of active and retired employees covered by the plan; (2) whether the plan benefits are funded and, if so, the type and basis of funding, (3) the plan's assets and liabilities, and (4) the amount of contributions, benefits and disbursements under the plan during the period covered by the report The statement of assets includes the dollar amounts of cash, bonds and debentures, common and preferred stocks, common trust funds, real estate loans and mortgages, operated real estate, and other investment assets

Plans covering 100 or more participants are required beginning December 31, 1966, to spell out greater detail regarding their finances. Among the disclosures required are a detailed breakdown of the insurance premium dollar, the actuarial basis of pension funding, and detailed disclosure of any party-in-interest transactions, namely, those which involve the employer, the union, or the trustees or administrators

The federal statute goes beyond disclosure (1) it requires bonding of any person in a position to cause a loss in plan funds through fraud or dishonesty, (2) it makes a federal crime of the following acts with respect to a subject plan· theft, embezzlement, false reporting, and bribery or kickbacks; and (3) it provides the Department of Labor with investigation authority, although limited, to assure compliance

State Disclosure Laws. When the federal act originally was adopted in 1958, six states had laws regulating welfare and pension plans. California, Connecticut, Massachusetts, New York, Washington, and Wisconsin The California law (reviewed later in this report) expired on June 3, 1960, leaving five states with disclosure laws The New York law applies only to plans administered jointly by labor and management representatives

The enactment of these laws in each state was preceded by some official hearings or investigations Like congressional inquiries at the federal level, these state investigations revealed a number of scandals in the operation of private pension and welfare plans

In contrast to the federal act, some of the state laws provide for more direct supervision of plan operations by inspection and inquiry. While the state laws differ, particularly in their scope of application, they provide basically for registration of funds with the state insurance department or other agency, disclosure of certain information to participants, periodic reports and examinations, and prohibitions against payments and kickbacks to those concerned with the creation and administration of the funds.

State disclosure laws apply to benefit plans over which the state has some kind of territorial jurisdiction, either because the principal office of the plan or company is located within its borders or because the plan covers a certain number of employees in the state In recognition of the existence of state laws, some of which went beyond the objectives of the original federal act, Congress provided that nothing in the federal act should be construed as preventing any state from obtaining additional information on welfare and pension plans or from otherwise regulating such plans

At the same time it was believed that concurrent authority would result in needless duplication if multistate plans were required to file

the same information in reports to the Labor Department and various state agencies Consequently, to the extent that the same information is required under the federal act and a state law, Section 16 of the federal act provides that in any state other than the one in which a plan has its principal office, it will suffice if a copy of the federal report is sent to the state agency.

While the Federal Disclosure Law does not preempt state regulatory legislation, the detailed reporting now required by the federal authorities has reduced the potential function to be performed by a state disclosure law. The present state laws add certain powers by authorizing state agencies periodically to investigate the funds under their jurisdiction The fact is, however, that the only states having disclosure laws are those which enacted them before the federal law

The Rees-Doyle Act California's disclosure law, the Rees-Doyle Health and Welfare Program Supervision Act, approved July 8, 1957, was effective from October 7, 1957, to June 30, 1960. It provided for the registration and examination of certain employee welfare funds by the State Insurance Commissioner.

California's disclosure law applied to all health and welfare programs created by contracts between labor organizations and employers, except where the trustee was subject to state or federal banking laws. The law contained provisions for (1) registration of funds with the State Insurance Commissioner, (2) filing of annual reports with the commissioner and making such reports available to employers and employees upon request (3) examination of programs by the commissioner at least once every three years, and (4) prohibitions against payments and kickbacks to those concerned with the creation and administration of the funds Each willful failure to comply with any order of the commissioner pursuant to the act was punishable by a fine up to $500, plus an additional $500 for each full calendar month during which such noncompliance continued

The filings under this act were maintained by the Insurance Commissioner. The department did not publish any surveys or reports to summarize the benefit provisions and financial characteristics of the subject programs In general, the law uncovered no sensational scandals in the administration of health and welfare programs It was allowed to expire in 1960, following enactment of the federal law

Retirement Systems Act. The California Corporations Code, Division 3, provides for the regulation of certain "retirement systems" Exempted from the provisions of the act are retirement systems· (1) established by a governmental agency or the Regents of the University of California (Sec. 28100); (2) established for employees of any public utility or common carrier (Sec 28101); (3) established for employees of a foreign corporation not doing an intrastate business in this state (Sec 28104); (4) in which all contributions by the employer or employee or both are paid, either directly or through a trustee, to an insurer authorized to do business in this state, and all benefits are paid directly by the insurer to the employee or his beneficiaries (Sec 28102); and (5) which provide that all funds contributed shall be paid to a trustee or cotrustee qualified and doing business in this state and subject to the supervision of the Superintendent of Banks or the Con-

troller of the Currency, or that such funds shall be paid to a trustee or cotrustee that is a bank and a member of a Federal Reserve bank (Sec. 28103).

Subject to these very broad exemptions, the law covers retirement systems formed for the purpose of providing benefits "on account of members retiring by reason of age or length of service or both, or on account of death, and may include benefits for sickness or accident disability, or medical and hospitalization expenses in connection with sickness or accident disability, or benefits in the form of equities which may include the right to receive a portion of the trust fund on severance of employment and the right to receive a percentage of the trust fund after the lapse of a period of service or of participation, or any or all of such benefits, and may include a stock bonus or profit sharing plan." (Sec 28402)

Employers or groups of employees subject to the Retirement Systems Act (or both jointly) are requested to file a declaration of their intention to form or create a retirement system, accompanied by a copy of the instruments adopted to regulate the affairs of the system, with the Commissioner of Corporations If satisfied that the plan of operation is "sound and equitable," the commissioner may issue a license authorizing the retirement system to begin operations (Sec. 28301) A fee of $50 is to be paid to the commissioner on the filing of the declaration provided for in Section 28301 (Sec 28500). Amendments to a licensed retirement system become "effective upon being filed with and not disapproved by the commissioner" (Sec 28301 1).

The law further provides that the commissioner can examine the business and affairs of a retirement system whenever he deems it necessary (Sec. 28405), at the expense of the system (Sec. 28408) If the commissioner determines after examination that a retirement system is conducting business in an "unsafe manner or is unable to fulfill the benefit granted in the system," he may, after a hearing, order the system to "cease operations and to liquidate, or he may, without such hearing, take possession of the business and assets for the protection of the beneficiaries of the retirement system" (Sec 28409).

The Retirement Systems Regulations promulgated by the Commissioner of Corporations request the filing of annual financial reports and special reports if deemed necessary (Title 10, Subchapter 8, Article 5) Section 1676 states:

> Each retirement system shall annually, on or before the 15th day of March, file with the Commissioner a report of its financial condition as of the preceding 31st day of December Said report shall consist of an itemized balance sheet, an income and expense statement and such other information as may be required by the Commissioner Such report shall be verified by an officer or trustee

Investments are regulated by Article 5 which provides:

(1) The investment portfolio of a retirement system should be limited to investments legal for savings banks in the State of California;
(2) The Commissioner will consider with disfavor an investment of funds contributed by employees in the stock, bonds or other securities issued by the sponsor of a retirement system; and

(3) Funds contributed by the sponsor of a retirement system may be invested in securities issued by the sponsor, unless disapproved in writing by the Commissioner.

A significant provision of the Retirement Systems Act covers the funding of benefits. It provides that the "contributions shall be adequate to support the benefits granted" (Sec 28401) More specifically, Section 28403 provides·

A retirement system shall, except to the extent that its benefits are underwritten by an insurer authorized to transact such business in this State, create and maintain reserves, calculated to be adequate to cover the liabilities on account of benefits payable under its contracts, by-laws or declaration of trust The Commissioner may require such reserves to be calculated on the basis of an interest rate not in excess of 4 percent per annum and mortality, disability, and other experience tables based on reliable experience for such or a similar group of employees and approved by the Commissioner

A retirement system shall be deemed to have created and maintained the reserve required by this section and to be sound and equitable within the meaning of Section 28301 and the contributions shall be deemed adequate to support the benefits granted within the meaning of Section 28401, if the documents setting forth the retirement system provide for contributions that are expected to accumulate sums, within a reasonable period of time, sufficient to fund at the time of the retirement of each employee the benefits payable to him under its contract, by-laws or declaration of trust The reasonable time shall be fifteen (15) years The Commissioner may determine that a shorter period of time is reasonable with respect to any retirement system, and in making such determination and in fixing the reasonable time for such system, shall consider such relevant factors as the number and size of employers participating in the retirement system, the age distribution of the covered employees, the period of any firm obligation to pay contributions, and the actual likelihood that sufficient contributions will be paid to permit the retirement system regularly to pay the benefits described in the Plan.

Discussions with Jerald S. Shutzbank, Commissioner of Corporations, on September 1, 1966, revealed that in order to be licensed, retirement systems have also been required to provide full vesting after five years of service, although this requirement is not explicitly stated in the Retirement Systems Act or in the Retirement Systems Regulations

Approximately 570 licensed retirement systems are under the jurisdiction of the Corporations Commissioner A substantial majority of these systems are profit-sharing plans and the pension plans covered by the law are most likely quite small in size. It is clear that the systems subject to the act are required to meet stringent funding and vesting standards However, the exemptions are extremely broad, involving any fund insured by a carrier or handled by a corporate trustee. The significance of this law in relation to the problems of pension funding and vesting will be discussed later.

IV. THE QUESTIONS OF PUBLIC POLICY

Major questions have been raised in recent years as to appropriate public policy in regard to private pension plans Disclosure laws have been enacted, they grew out of a concern, for the most part, with problems of maladministration That is only one of the questions The others concern essentially the fulfillment of pension expectations and they deal with the adequacy of funding, the vesting of benefit rights, portability of pensions, reinsurance and the security of pension investments

Much of the public discussion has focused on proposals made in January 1965 by a federal interdepartmental committee, headed by Secretary of Labor Wirtz President Kennedy had established the committee in 1962 to review legislative and administrative practices with respect to pension and welfare programs, following a suggestion from the Commission on Money and Credit that the subject should be examined Officially entitled "The President's Committee on Corporate Pension Funds and Other Private Retirement and Welfare Programs," the group has come to be referred to as the "President's Cabinet Committee"

The committee recommended that legislation be enacted to require, as conditions for federal tax qualification, that plans provide a certain degree of vesting, that they be required to meet a minimum funding schedule, that greater detail be revealed as to pension fund investments, that proposals for pension portability and for the reinsurance of pension plans be studied, that the present option to establish plans for salaried employees only be limited, and that a number of other changes be made in the requirements of the Internal Revenue Code governing qualification of plans

The agenda of questions will be considered in turn·

A Funding
B Vesting
C Portability
D Reinsurance
E Security of investments
F Extension of coverage
G Fiduciary responsibility

A. FUNDING

The report of the President's Cabinet Committee recommended that a standard of adequacy be established for the funding of pension plans and that the standard be enforced by making it a requirement for tax exemptions of the pension plan under the Internal Revenue Code.

The Nature of Funding Funding involves the accumulation in a pension fund of assets to assure the discharge of benefit commitments.

The nature of a funded plan can be described by starting with its difference from a pay-as-you-go plan A pay-as-you-go pension plan is one which has just enough income to cover current benefit payments and expenses, it does not accumulate reserves A pay-as-you-go plan

does not need the approval of the U S Treasury Department because the Internal Revenue Code is concerned only with allowing as a deductible expense those contributions which exceed current benefit payments and are being accumulated as reserves A pay-as-you-go plan would be an acceptable arrangement, if.

1. There were no chance that the plan will suffer a discontinuance of contributions, and
2. The employer were willing to recognize and accept increasing levels of cost, rather than level contributions

A pay-as-you-go plan suffers from two essential defects

1 If contributions cease at some point, there are no reserves on hand to fulfill benefit commitments
2. The required contributions increase over a long period of years as the number of persons on the pension rolls increase

Since these provisos are rarely met, except perhaps in some public plans, the standard practice is for pension plans to be funded to one degree or another

Funding normally seeks to achieve both of the following objectives:

1. To accumulate reserves sufficient (at some point) to fulfill benefit commitments if further contributions were to be discontinued, and
2. To level the required contributions over a prolonged period of years

When a pension plan has accumulated reserves equal to the value of all accrued benefits, it is referred to as being "fully funded" By "accrued benefits" is meant the prospective lifetime pension payments to the extent that they have accrued on the basis of years of employment to the current date of valuation. Actuarial calculation assigns a lump-sum present value to those prospective payments For example, an employee is 55 years old and he may have worked for his employer for 25 years His pension plan provides a monthly benefit of $4 for each year of service, payable upon retirement at age 65 His "accrued benefit" to date is therefore $100 a month, payable from age 65 (25 years × $4/mo) The total of those values or liabilities is a large sum A fully funded position is therefore practically never achieved overnight; it is generally planned for accomplishment over a period of years, ranging from 12 years to 40 years

The precise scheduling of contributions over those years to achieve a fully funded position may take one of a number of forms, depending not only on how short or how long the period is to be but on the extent to which the contributions are to be level from one year to the next

Amortizing the Past Service Liability Discussion of adequate levels of funding generally involves the concept of amortization of the "past service liability" The term "past service liability" is one enjoying wide usage, although it is not, in many cases, the most accurate term; the terms "accrued liability" and "supplemental liability" are sometimes used instead. However, in the context of this discussion, the distinctions among these concepts are a relatively minor matter and the term "past service liability" is the one which can be most readily described The concept is not difficult to convey.

The contribution requirements of a pension plan are determined by an actuary, who determines a minimum and a maximum corresponding to the requirements of the Internal Revenue Code and of the funding policy that the employer is following The employer has latitude within those limits to fix the amount of contributions for a particular year. The actuary makes his determination by using all of the relevant facts with respect to the employees, their ages, service, salaries, and accrued credits and by projecting the benefits that are to be paid and the future investment yield on the fund's reserves Those projections are made on the basis of certain "assumptions" as to future investment yield, mortality rates, turnover rates, incidence of retirement, incidence of disability, and (if relevant) expected changes in the level of salaries or wages Having determined the prospective liabilities, the actuary then determines the contributions required to accumulate matching assets That involves two components the "normal cost" and payment on account of the "past service liability " Roughly speaking, the normal cost is the cost of benefit rights accruing on the basis of current service Past service is the cost of benefit rights accrued on the basis of service prior to the adoption of the plan The past service liability may increase from time to time as benefits are liberalized

Our earlier illustration may be helpful. Let us assume that when the pension plan started, the employee we have used as an example was 45 years old and had had 15 years of previous service His "past service benefit" was $60 a month payable from age 65 (15 × $4) The "normal cost" for his current $4 a month per year of service would be about $144 a year The lump-sum amount corresponding to his past service benefit would be on the order of $4,220

If the goal is to achieve a fully funded position, then contributions to the plan must equal (a) the annual normal cost, plus (b) an amount sufficient to accumulate reserves equal to the past service liability. The Internal Revenue Code does not (in most cases) allow full current deductions if the contribution to amortize the past service liability is more than 10 percent of the original liability. A typical period of amortization of the past service liability is 25 to 30 years. However, because the liability may increase from time to time as the result of benefit liberalizations, it is frequently the case that the period is extended

The Cabinet Committee drew a distinction, quite appropriately, between so-called "stated benefit plans" and "fixed contribution plans " In most cases a pension plan is of the "stated benefit" variety That is, its benefits are defined and the annual contribution is a derived amount, calculated in the light of the benefit commitment and changeable from year to year This is in distinction to the typical union-negotiated multiemployer plan in which the basic commitment of the employers is to a fixed rate of contribution—cents per hour, percentage of pay, payment per ton, etc —and the benefit plan is determined in the light of expectations as to what the committed rate of contributions will produce in the way of aggregate contributions

The Recommendations of the Cabinet Committee The recommendations of the Cabinet Committee were as follows·

The present minimum standard for funding needs to be strengthened by changes along the following lines:

(1) As a minimum standard of funding for *stated benefit* plans, the plan should be required to fund fully all current service liabilities and to amortize fully all accrued liabilities over a period that roughly approximates the average work life of employees but not more than 30 years.
(2) As a minimum standard for funding of *fixed contribution* plans, the contribution commitments of the plan should be realistically related to benefits promised and actually paid
(3) The funding process of every qualified plan should be certified at the inception of the plan and periodically thereafter by an actuary with acceptable professional qualifications.
(4) The funding process should be subject to review by the Internal Revenue Service on the basis of guidelines or ranges of standards with respect to such actuarial assumptions The guides should be specified by the Internal Revenue Service with the advice and consultation of a public advisory body of actuaries and other interested parties.
(5) Concurrent with actuarial certification, a determination should be made by a professionally qualified public accountant with respect to the value of pension fund assets
(6) An appropriate transition period should be provided, and special procedures made available to plans whose costs would be increased by more than 10 percent as a result of this recommendation, the recommendation on vesting, or a combination of the two.

These recommendations were proposed as conditions for maintenance of the tax-sheltered position of a pension plan under the Internal Revenue Code.

The recommendations of the Cabinet Committee were submitted to the President's Advisory Committee on Labor-Management Policy for review. The majority of the committee concluded that ". . . adequate funding provisions should be required by law (as a condition for approval for tax purposes) to protect the interests of the employees . . ." Thirteen of the 21 members of the advisory committee made public individual expressions of opinion on various of the recommendations

George Meany, president of the AFL-CIO, gave recognition to the special position of industrywide pension plans·

> The general principle of funding, as well as the principle of vesting, is important in private pension funds—for their financial soundness and to provide employees with some degree of accrued rights in the plans, upon retirement, after a reasonable period of service.
>
> However, practical application of these principles may place heavy burdens on many existing plans and may discourage the spread of new plans. Moreover, multiemployer plans inherently include some assurance that employee benefit rights will be honored and provide for accrued employee benefit rights within the labor market, which funding and vesting seek to achieve. Therefore, careful and adequate consideration of these practical difficulties of application and differ-

ences among plans is necessary before any new requirements for favorable tax treatment of private pension plans are developed. Such consideration should include the substantial differences between single-employer and multiemployer plans, as well as the need to minimize additional costs that are not reflected in the level of pension benefits.

David Dubinsky, president of the International Ladies' Garment Workers Union, and Joseph D Keenan, international secretary of the International Brotherhood of Electrical Workers, had pointed comments with respect to the effect on industrywide plans·

> The Advisory Committee on Labor-Management Policy recognizes, while dealing with vesting, that additional pension costs may at times unduly burden the maintenance of existing plans or hamper the establishment of new plans, and may interfere with decisions regarding the allocation of resources available for pension benefits. This is also true of funding, particularly in the case of multiemployer plans established by collective bargaining For this reason, an unqualified endorsement of funding of pension plans as a prerequisite for continued tax qualification of the plan is not justified, particularly since pension plans which are not fully funded can nonetheless be actuarially sound This is particularly true of multiemployer plans since the likelihood of termination of such plans is farfetched.

W. Anthony Boyle, president of the United Mine Workers of America, pointed out that the recommendations would require the United Mine Workers Retirement Fund to secure much greater contributions or slash its benefits, neither of which he said would be in the public interest or the interest of the beneficiaries He suggested that the necessary security against all economic hazards requires a public pension program and that the Federal Social Security System be improved for "payment of a more meaningful retirement income for most people."

Opposition to the funding proposals, at least insofar as they would relate to fixed contribution or multiemployer plans, was expressed by Professor George W. Taylor of the Wharton School of Finance, a leading mediator and arbitrator He pointed out that about 1,000 private pension plans are operated on a "pay-as-you-go" basis without any advance funding and that these plans would not be affected at all by the proposal since they do not make any contributions or accumulate funds in advance of actual benefit payments On the other hand, he pointed out, plans which go beyond that and establish assets for ultimate fulfillment of the pension plan would have to meet costly requirements for full amortization and vesting. Taylor called for further study before any steps are taken so as "to make sure that an effort to improve the pension rights of employees generally will not result in a loss of opportunity for many employees to secure any private pensions."

It is advisable for this problem to be put in perspective.

Extent of Funding Now There is no question but that the pension plans which embrace the great majority of covered workers are already being funded on at least the basis recommended by the Cabinet Committee report.

A study was made of 75 of the largest plans in the country to determine the relationship between their assets and their accrued liabilities, the latter figure representing (roughly) the actuarial value of benefit rights accrued based on service to the date of the valuation.[1] As of 1964, these 75 plans covered some 4.2 million employees, reported assets of $16 7 billion and calculated accrued liabilities of $24.1 billion The ratio of their funds to their liabilities was therefore 69 percent Considering the fact that these plans had undergone almost perpetual change in the preceding decade, the degree of funding was quite impressive. It was even more impressive when one takes account of the fact that the liability figures represent a substantial *overstatement* of the value of the benefits accrued because to some extent the liability figures are determined with a "leveling-of-contribution" element in their calculation. It is safe to say that the assets of the 75 large plans represented at least 80 percent of the calculated value of the benefits accrued.

We have computed the same type of "funded ratio" for 21 of the 27 large plans located in California that were surveyed in the preparation of this report. These plans covered 30 percent to 40 percent of all workers under pension coverage in the State of California As of approximately the end of 1965, they had assets of $1,905,334,427 and liabilities of $2,679,244,582 In short, their assets were 71 1 percent of the accrued liability. Again, that composite liability figure was somewhat greater than the actuarial value of the benefits accrued based on employee service to the date of valuation. It is safe to say that the aggregate assets of these 21 funds were equal to at least 80 percent of the value of the benefits accrued under their provisions.

A number of different situations should be examined to help in an understanding of the effect of a mandatory schedule of funding

One situation is that of a highly stable and secure company (such as a prosperous public utility) that may avoid full funding because it considers it unnecessary, since the chance is negligible that contributions will be discontinued in the future On the other hand, such companies are financially able to raise their contributions to a full funding basis

A second category consists of the now existing pay-as-you-go plans, which make no attempt to accumulate assets for the fulfillment of plan commitments against the possibility of the company's inability to make contributions in the future. Funding would serve a useful purpose in these cases; however, the proposals of the Cabinet Committee would not affect these plans at all since they do not seek qualification under the Internal Revenue Code. To make employer payment of pensions without funding illegal would not necessarily serve a useful purpose because it might merely cut off retirement benefits to former employees. The issue that would seem to be involved with pay-as-you-go plans is that of potential misunderstanding or misrepresentation. An employee covered by a pay-as-you-go pension plan should know that there are no reserves to back it up; he should not be given the impression that he has the ultimate security that comes from a funded plan This might argue that employees should be told very clearly whether their pension plan is funded or unfunded, but it would not seem desirable to

[1] Joseph Krislov, "A Study of Pension Funding," *Monthly Labor Review*, June 1966, pp 638–642

cut off or curtail the freedom of an employer to make direct payment of benefits to retired employees

A third category consists of pension plans maintained by financially hard-pressed companies which do not feel that they can afford a schedule of full funding. That is where the greatest problem lies The very fact that the company is hard pressed means that there is a real possibility of plan termination or curtailment in the future In other words, the very circumstances that make adequate funding urgent are the circumstances which prompt the company to avoid it.

Certainly in these cases the employees ought to know what the situation is—how much funding there is—provided it can be accomplished in such a way that it does not create more misunderstanding than it eliminates Is a useful social purpose served by requiring a better funding schedule in such cases? If a company can afford to contribute at the level necessary for an adequate funding schedule, then the requirement would be useful If it cannot, then such a requirement can only result in curtailment or abandonment of the plans A plan that is being funded, but on an inadequate schedule, lies between a pay-as-you-go plan on the one hand and an adequately funded plan on the other. A pay-as-you-go plan, so long as it is not misrepresented, serves the useful purpose of paying, as long as it lasts, benefits that otherwise would not be paid. If a plan goes a step further by accumulating reserves, it would seem anomalous to force it to retreat to a termination or a pay-as-you-go status just because the reserves it does have do not meet a prescribed minimum schedule.

In the final analysis, it may come down to this Employees ought to know where they stand and what to expect A pay-as-you-go plan that is clearly described as such misleads no one, although the awareness may lead the employee to engage in some speculation about the future of the company On the other hand, if a plan is funded it may not be possible to convey to employees an adequate understanding what the funding schedule amounts to—how certain or uncertain their future benefits may be That essential uncertainty provides ground for the proposition that if a plan is more than pay-as-you-go, i e, if it is funded at all, it should conform to some minimum schedule of funding. An approach of that kind would eliminate the middle ground of funding which is not adequate It would require employers to choose between a pay-as-you-go plan with its uncertainty and its constantly increasing contribution requirements on the one hand and an adequately funded plan on the other hand.

The Industrywide or Multiemployer Plan A third type of plan deserving particular analysis in regard to the proposition of mandatory funding is the industrywide or multiemployer pension plan These plans are based on collective bargaining agreements and are financed through specific rates of contributions fixed in the agreements The funding practices among these plans vary widely It is doubtful that there are any on a pay-as-you-go basis All of the known industrywide plans are funding, that is building up reserves, to one extent or another. Many are in fact achieving full funding Certain others, while accumulating considerable reserves, are not doing so at the rate which a 30-year amortization schedule would require In many respects these plans occupy a special position.

A typical company pension plan has a fixed benefit commitment and the amount of its contributions results from actuarial calculations and company decisions By contract, a negotiated industrywide plan is financed through a fixed rate of contributions, which remains in effect for the term of the collective bargaining agreement, generally two to three years. Also, it typically has a fixed benefit commitment that has been calculated as supportable out of the aggregate yield of the fixed level of contributions Mandatory funding at a more rapid rate than is already being observed by a particular industrywide plan would therefore require (a) more contributions that the collective bargaining agreement otherwise requires or (b) a reduction in benefits Neither alternative is feasible within the normal course of collective bargaining. Of course, future contracts could perhaps accommodate to such funding requirements if they were enacted.

The Cabinet Committee recognized the distinctive position of industrywide plans by avoiding a recommendation for 30-year amortization for them; it contented itself by saying of these situations that "the contribution commitments of the plan should be realistically related to benefits promised and paid." It is also notable that the comments of the labor members of the President's Advisory Committee on Labor-Management Relations were all sensitive to the particular position of industrywide plans

Reexamination of the purpose of funding calls attention to certain distinctive characteristics of industrywide plans

The purpose of full funding is to assure a fulfillment of the plan's commitments in the event that contributions cease However, the chance that an industrywide plan based on collective bargaining agreements will terminate is considerably more remote than the chance that the pension plan of an individual company will terminate. The existence of the union and its collective bargaining role helps to assure permanency to the plan. Individual employers may go out of business but an entire industry in an area is less likely to do so.

A second consideration is the fact that an industrywide plan typically undertakes a unique funding obligation, namely, the obligation of fulfilling benefit rights in the event that a particular contributing employer goes out of business. Fulfillment of that undertaking is an everyday occurrence. Numerous employers have gone out of business without any damage to the ongoing pension rights of their former employees because the pension credits of their employees were covered by industrywide plans So long as the former employees continued to work within the industrial or craft scope of the industrywide plan, they have been made whole on their ultimate pension rights For example, a California building contractor employing carpenters can go out of business without damaging the ultimate pension security of a carpenter covered by one of the two large industrywide pension funds established by agreements of the Carpenters' Union. The same is true of teamsters, bricklayers, culinary workers, laborers, seamen, longshoremen, etc. Fulfillment of pensions in the face of business turnover represents an implicit cost to these plans, a cost which represents a margin otherwise applicable towards fulfilling a schedule of full funding.

Another unique aspect of these industrywide plans is the fact that their funded position is as much dependent on economic conditions in the industry as it is on the intention of the labor-management representatives who have fixed the terms of the plan The union-employer trustees may estimate the contribution yield and may fix a level of benefits so that the relation of income to expenditures would represent, in effect, a policy of amortization of past service over, let us say, a 35-year period. However, they may then find that in years of unexpectedly good employment, amortization is being achieved rapidly, at perhaps a 15-year rate, while, on the other hand, in years of unexpectedly poor employment, amortization may be at a total standstill It is for reasons such as these that the Cabinet Committee concluded that a multiemployer plan could only be expected to observe a reasonable relationship between rates of contributions and benefit commitments

Pension Plans as Developing Institutions It may be useful to conceive of the step to adequate funding as one of a sequence of steps taken by the typical pension plan in the course of its development

Ever since their mass establishment in the early 1950's, pension plans have been subject to almost incessant change Plans have gone through a sequence of changes, tending to first needs first The sequence of changes was by no means the same in each case, since needs, attitudes, and capacities have varied There has, however, been a general trend

Many of the large negotiated plans started by providing a top benefit of $100 a month inclusive of the primary Social Security benefit so that often the benefit paid by the plan itself amounted to not more than $15 to $25 a month, in contrast to $100–150 commonly paid now. The earlier commitments had no particular requirements as to funding. The first emphasis was on providing a more adequate level of benefits for persons on the threshold of superannuation. Over the succeeding years disability pensions were added with successively lower eligibility requirements, first with an age threshold and then without it. Early retirement benefits were added with subsequent improvement in the levels of benefit provided Death benefits were added, health benefits were secured for pensioners, and in many cases survivor benefits were provided. Progress has also been notable in both the single-employer plans and in multiemployer plans toward more adequate funding commitments The question which is raised by proposals for the mandating of funding schedules is whether funding requirements are to be given statutory priority over the other needs and considerations

If the cost commitment to a pension plan is fixed, a step to more adequate funding is a claim that competes with some improvement in the benefits At what point does social policy dictate that an adequate schedule of funding takes priority over the other claims? A classic case perhaps is that of the national pension fund for bituminous coal miners, which provided a pension of $100 a month financed out of a cents-per-ton royalty contribution. Through a combination of circumstances, including a drop in tonnage mined, the contributions proved inadequate to sustain the $100 pension level and it had to be cut back for a period of time to $50 With a fuller schedule of funding, a cutback might have been avoided, but by the same token the fund

would never have gotten started with payments of $100 a month. The question is whether social purpose would have been served by requirements for funding which would have limited the level of miners' pensions from the very beginning to less than $100 a month

The case of the United Mine Workers Fund is an extreme illustration of a broader fact. Pension plans are in many different stages of their development. Some of them are using the dollars of contribution that are available to meet benefit objectives, leaving the question of fuller funding for later resolution Should fuller funding take priority? The role of collective bargaining in pension development is significant in this connection An improvement in a pension plan is often an earmarked portion of a negotiated setttlement package and it is necessary to determined what claims have priority on the limited funds available. Mandated funding would substitute a statutory priority for funding for the sequence of developments otherwise determined in time by the parties to the plans.

Funding and Actuarial Calculations. A mandated minimum standard of funding would involve some supervision or prescription of standards for actuarial assumptions and actuarial calculations. Adequacy of funding requires adequacy in the actuarial calculation of liabilities Assurance on this point might be sought through formal accreditation of actuaries and full acceptance of the certification of any accredited actuary On the other hand, it might take the form of the prescription of minimum standards for assumptions or projections (such as mortality, employee turnover, investment return, etc) The latter requirements, if they were to be incorporated in a requirement for funding, would have an impact on the pension plans that are already observing adequate standards of funding by perhaps requiring some change in their actuarial bases.

Accounting Standards and Funding. An impetus toward more universal observance of funding standards has recently come (November 1966) from the promulgation of standards for the accounting of the cost of pension plans by the Accounting Principles Board of the American Institute of Certified Public Accountants, Inc This detailed opinion was published after very long and careful deliberation, in an effort to promote more uniform standards of accounting with respect to the pension costs of corporations There has been criticism in the past because the earning statements of corporations have been affected from year to year by the extremely wide flexibility available to corporations and their accountants in reflecting pension costs

The accounting standards set forth are not intended to control the amounts a company contributes to its pension plan They are only intended as guides to the entries in the financial report of the corporation so that a stockholder or other person interested in its financial position is not misled For example, some corporations have been known to omit pension contributions entirely in a particular year (because they had contributed sufficient amounts in prior years). Such an omission resulted in showing a profit for the company without indication of the unusual and nonrecurring nature of the event The new accounting principles call for the observance of certain standards to be followed consistently in *charging* pension costs in corporate finan-

cial statements These accounting standards will have effects in promoting more adequate funding by bringing to the notice of employees and of the public any discrepancy between amounts *charged* in accordance with a minimum funding schedule and amounts contributed

The standard for charging cost is that it should consist of at least the following, whichever is less

1 The payment of normal cost and amortization of the unfunded accrued liability over a 40-year period, or
2 The payment of normal cost and the interest obligation of the unfunded accrued liability plus the amount necessary, in effect, to build sufficient reserves to match the liability for all vested benefits over a 20-year period

The great majority of corporations are thought to be observing these standards at the present time However, those employers are not the problem to begin with The impact on companies that are not contributing these amounts may be twofold·

1. Many may now feel that they have an obligation to their employees to meet the same minimum of standards in terms of actual contributions to their pension plans,
2 The publication of financial statements in line with these requirements will make available a good deal of information hitherto not revealed as to inadequately funded pension plans In some cases, such as public utilities, the absence of full funding may not be a serious problem because discontinuance of contributions is not a likely possibility In other cases it may help to focus attention on a problem that it would be desirable to eliminate

The California Retirement Systems Law The Retirement Systems Law of California imposes very demanding requirements for funding on the pension plans that are subject to its jurisdiction The law requires, in effect, amortization of any unfunded liability over a period of 15 years Moreover, it has been applied so as to require full vesting after five years of service These requirements go far beyond any proposals which have been made for minimum standards at the federal level

On the other hand, however, the retirement systems requirements do not apply to any pension plan that is (a) insured, or (b) handled by a trust company In short, costly requirements as to rapid funding and early vesting can be avoided through a contract with an insurance carrier or a trust company, and that nonsubject status is the rule rather than the exception However, there is nothing about a contract with an insurance carrier or with a trust company which vouchsafes the observance of minimum funding schedules A contract with an insurance carrier will generally provide assurance that adequate funds are on hand to provide lifetime benefits to persons on the pension rolls at the moment, but it provides no assurance with respect to the funds needed for future retirees A contract with a trust company provides no assurance as to the actuarial adequacy of reserves in any respect. The present statute in effect forcefully encourages contractual relationships with an insurance carrier or a trust company, and in doing so it may introduce a highly accountable party into the management of the investment as-

pects of the pension fund, but it does not assure any minimum standards with respect to the ultimate funding of those plans

Studies Underway The Pension Research Council of the Wharton School of Finance (University of Pennsylvania) is now engaged in a large cross-section study of pension plans, with the aid of a grant from the Social Security Administration, to determine the extent to which pension plans are meeting specified schedules of funding The study may reveal how significant the problem of inadequate funding may be

The Federal Bureau of Labor Statistics, in cooperation with the Treasury Department, is studying terminated pension plans The adequacy of funding in those cases may be illuminated

Recommendations The recommendations of the President's Cabinet Committee, the national interest which it attracted, and the continuing attention to the question of funding, including the recently adopted opinions of the Accounting Principles Board and the current studies in this field, make this a question of serious consideration at the national level That fact leaves little room for meaningful state action at the present time The question is effectively—even though not legally—preempted Whatever the merits may be as to requiring adequate funding, it would not be reasonable to legislate on the state level while federal legislation is an active issue Much of the pension coverage in California is provided by plans that cover employees in other states as well Funding requirements would be far reaching in nature and could not be isolated for employees within California Consequently, it would not be wise, in our opinion for the California Legislature to consider statutory standards of funding at this time, when the entire question is one of national debate and consideration

B. VESTING

Vesting is a provision in a pension plan which gives an employee the right to deferred benefits if his employment terminates before he has reached a retirement age Vesting is a subject of compelling interest whenever employees with many years of service stand to lose their rights to ultimate pension benefits because of termination of employment The termination may be due to layoff, plant shutdown, or company liquidation, or it may be a matter of voluntary quit for another job

The President's Cabinet Committee came to the following conclusion

> A vesting requirement is necessary if private pension plans are to serve the broad social purpose justifying their favored status The Internal Revenue Code should be amended to require that a private pension plan, in order to qualify for favored tax treatment, must provide some reasonable measure of vesting for the protection of employees Several suggestions are made regarding the most effective method for implementing this requirement without creating obstacles to the future growth of the private pension system The committee suggests a system of graded deferred vesting based solely on service applicable to both single and multiemployer plans An appropriate transition period should be provided, and special procedures made available to plans whose costs would be increased by more than 10 percent as a result of this recommendation, the recommendation on funding, or a combination of the two.

More specifically, the report recommended graduated deferred vesting that would grant at least one-half of "accrued normal retirement benefits" after 15 years' service and full benefits after 20 years of service, with no age requirements

The President's Advisory Committee on Labor and Management Relations did not agree that vesting should be required

> Vesting is a highly desirable feature of pension plans employers and unions should be encouraged to adopt vesting provisions wherever feasible, but . vesting should not be required by law as a condition of tax approval

In regard to vesting, the advisory committee had this to say·

> We are encouraged by the extent to which vesting provisions are being included in private pension plans More than two-thirds of such plans now contain vesting provisions These plans cover 60 percent of all employees having private pension rights
>
> We recognize, however, that in some situations the additional cost of vesting or the alternatives of lower benefits or reduced coverage may make it impractical to adopt vesting We note that only one-fourth of multiemployer plans now provide for vesting
>
> Private supplementary pension plans are voluntarily instituted frequently by collective bargaining agreements, and their terms vary not only to meet the needs of particular groups of employees but in consideration of 'ability to pay' factors fashioned by the economic circumstances of particular companies and industries
>
> A vesting requirement may unduly burden the maintenance of existing plans or hamper the establishment of new plans, and may interfere with decisions regarding the allocation of resources available for pension benefits
>
> These considerations are particularly compelling with respect to the numerous private plans (covering about one-fifth of all employees in private pension plans) in which the funds available for pension purposes are limited to a fixed contribution by employers, e.g., so many cents per employee hour worked or per unit of production Under these circumstances, the limited funds available have been used as the parties deemed best, entirely for the needs of long-service employees In some cases the amounts available under such plans for benefits at retirement would be significantly reduced if vested rights were established In addition, to require such fixed contribution programs to provide vested rights may deprive a large number of employees in certain industries of the opportunity to secure any private pension benefits at all In our opinion this would be unfortunate
>
> Private plans have their own unique role to play We are fearful that a vesting requirement by law would deprive them of that degree of flexibility essential to perform this function

Again the union leaders connected with industrywide pension plans took exception to the mandatory vesting recommendation and Walter Reuther, president of the United Automobile Workers, suggested that a study might be made to determine whether it would be feasible to apply different standards of required vesting to joint labor-management industrywide funds in recognition of their special circumstances

The case for including a vesting provision in a pension plan is simple. Without it a worker covered by a pension plan may leave the employment or be laid off after many years of service—perhaps when he is middle-aged—and he would not receive a pension when he reached retirement age Aside from impairing his security in old age, that forfeiture tends to deter him from changing jobs; it reduces his mobility. Some number of workers are undoubtedly seriously affected, either through loss of ultimate pension rights or through immobility induced by the fear of losing pension rights The problem becomes particularly noticeable when there is a plant shutdown or mass permanent layoff in a situation in which vested rights are not granted

Many employers would rather not have vesting provisions They want to preserve an inducement to long-term employees to stay to retirement age The same consideration obviously does not apply from the worker's standpoint Neither does it apply from the standpoint of some other employer who would prefer to have a more mobile supply of labor, nor from the standpoint of society as a whole, which is well served by mobility of the labor force The countervailing consideration is cost The question is whether the parties to a pension plan—at any given point in time—are willing to devote a specified additional contribution to finance a vesting provision instead of using it toward some other liberalization of the pension plan

The Cabinet Committee estimated that its vesting recommendation—partial vesting after 15 years of service and full vesting after 20 years of service—would seldom add more than 8 percent to the cost of normal retirement benefits The use of an average cost figure may be misleading The cost of a vesting provision such as the Cabinet Committee proposed is directly proportionate to the chance that a worker will leave the employment before the retirement age That varies with the type of employment and the fortunes of the company or industry In some cases the chances are small and the cost would be commensurately low; in other cases, the chances might be several times greater

The controversy over whether a vesting provision should be mandated has not involved the merits of vesting provisions per se The question has been whether it would be wise to give to vesting a mandated priority in the development of private pension plans We have referred to the fact that over the past 20 years employers and unions have successively turned from one objective to another in developing pension provisions The first emphasis was on providing the maximum benefits then achievable for superannuated workers and for those on the brink of retirement. As those benefit levels advanced, attention turned to disability pensions, to early retirement, and most recently to vesting Progress is not, of course, uniform; a great many of the pension plans in effect today are relatively new and are still coping with the question of adequate benefit levels for those who are at, or near, the normal retirement age The real question is whether these plans should be asked to postpone some of their other objectives in order to meet proposed vesting requirements The Cabinet Committee considered that viewpoint and makes its own declaration of policy.

> If a choice must be made between a system that provides a higher level of benefits but only for those who remain with their employer until retirement age against one that assures a slightly lower level

of benefits to all workers after a reasonable period of service, public policy clearly must choose the latter.

Naturally, in any given situation, the choice of the employer, the union, and, as a matter of fact, the majority of the affected employees may be different.

The extension of vesting provisions has been rapid; they are extensive today. In 1952 only 25 percent of union-negotiated plans had any sort of vesting provisions By the winter of 1962–63, two-thirds of all pension plans provided vesting, and they covered 60 percent of all workers covered by pension plans [2] The requirements were 10 or 15 or 20 years of service, frequently joined to a minimum age requirement. Approximately a third of all workers covered by private pension plans would qualify for benefits if termination occurred after they had attained 15 years of service and age 40.

In an effort to summarize the great variety of vesting provisions, the U S. Bureau of Labor Statistics examined a complete cross-section of pension plans to determine what the chances were that a person starting employment at age 25 would be entitled to vested benefits by middle age By age 45, 45 percent of these workers would be entitled to vested benefits and by age 50, the fraction would have increased to almost 55 percent

These vesting provisions are in addition to early retirement provisions, which are today common practice and generally make benefits available by age 55. Also, evidence indicates that the spread of vesting has been accompanied, particularly in recent years, by a trend toward more liberal eligibility rules For example, the proportion of "pattern" or negotiated plans studied by the Bankers Trust Company that permit an employee to vest fully at age 40 with 15 years of credited service increased from 42 percent in 1959 to 75 percent in 1965. Among "nonpattern" plans, the increase was from 21 percent to 33 percent.

Industrywide or multiemployer pension plans, which provide about 20 percent of total pension coverage, add another element of protection for workers who change jobs—continuity of pension coverage for a worker who shifts from one job to another if they are both within the scope of the multiemployer plan In effect they provide immediate and full vesting to any worker under their coverage, provided the shift is to a covered job Since these plans generally cover a whole industry or craft within a city or region, they probably provide continuity of pension accrual for most of the job changes that are likely to occur. A notable example is the Western Conference of Teamsters Pension Plan which covers more than 300,000 workers throughout the Pacific Coast.

Reciprocal or integration agreements between industrywide plans is another development which has enlarged the area of protection for a worker in the event of a change in jobs Under these agreements, two or more multiemployer plans will agree to reciprocal recognition of employment credits as the basis for qualifying workers for their pension benefits So, for example, arrangements of that kind are in effect among two areawide pension plans established on the basis of Carpenters' Union agreements: one in northern California and the other in southern California Similarly, there are reciprocal arrangements be-

[2] U S Bureau of Labor Statistics, *Labor Mobility and Private Pension Plans*, Bulletin No 1407 (June 1964)

tween construction laborers' pension funds in northern and southern California and the San Diego area In the shipping industry an officer can switch from the East Coast to the West Coast or vice versa and be assured of continuity of pension credits Reciprocal agreements are in process of being extended to several other industrywide plans, including the operating engineers and the electricians

The Far-Reaching Effects of Compulsory Vesting. Compulsory vesting would have far-reaching effects on pension plans Difficulties in defining what is to be vested would lead to fairly elaborate rules

The question has to be asked · "Require vesting of what?" The Cabinet Committee report seemed to assume that every plan has a normal retirement age (such as 65) and that the benefit is, in one way or another, a certain number of dollars per month or a certain percentage of pay for each year of service That is not necessarily true.

Let us start with an obvious example—a plan that pays a flat benefit of $50 a month starting upon retirement at 65 or later, if the worker had at least 15 years of service in the period preceding his retirement. How would compulsory vesting apply? Does this mean that a worker who has acquired 15 years of service by age 35 has acquired a vested right and is entitled to benefits deferred to age 65?

If this is what it means, then a worker covered by plans of this kind may, under some circumstances, acquire two full pensions of this kind in one working lifetime There is certainly nothing uncommon in 40 or 45 years of total employment

Take another example There are many plans that reach their maximum benefit after 25 years of service It simply means that they treat everybody who has 25, 35 or 45 years of service the same. What is to be vested? Suppose, for example, that the full benefit is $100 a month after at least 25 years of service Would this mean that the benefit that vests is $\frac{1}{25}$ of $100, or $4 of monthly benefits per year of service? If so, it will mean that a worker can have 25 years of service in one plan of this type and become vested in the full benefit and then go on to another plan of this type for 15 years and wind up with more pension benefits than another worker who stayed for 40 years under one plan Nor is the problem limited to plans which cut off the crediting of service at some point such as 25 or 30 years There are plans that credit all years toward retirement income although some taper off the amount that is credited after the 25th or 30th year. However, even these plans were fixed on the basis of producing a certain desired level of retirement income—such as 40 percent, 50 percent, or 60 percent of pay—for people who had 25 to 30 years of service. In these cases, would compulsory vesting mean that such an employee after 25 or 30 years would be fully vested in the complete retirement income goal even though he had not reached the appropriate retirement age, so that he could move on somewhere else in sufficient time to build up a second pension?

If vesting is to be mandated so as to assure a worker retirement income despite changes in jobs, then it will have to take account of the fact that a full working lifetime is closer to 35 or 40 years than it is 20 to 25 or 30 years and in this connection a proper vesting formula would be something like $\frac{1}{35}$ or $\frac{1}{40}$ of the full benefit for each year of service.

Another example · There are some plans in the maritime industry and others that pay full benefits regardless of age after 20 years of service Is this to be vested too? Does this mean that somebody with 15 years of service would automatically be entitled to a partial pension regardless of age? It is doubtful that that was intended by the proposal. That means that a retirement age would have to be spelled out

There are further difficulties in defining what benefit is to vest, if it is mandated It is becoming a little difficult to say what the normal retirement age is, that is, to what age the benefits of a plan are keyed The automobile industry agreements provide the same benefits at age 62 as they do at age 65 (and in fact higher benefits for workers who retire before 65 because of layoff or by mutual agreement). The only exception is for somebody who left employment with vested rights—if he wants to claim a deferred pension starting at age 62, it is in a reduced amount based on his being three years younger than 65. What is the normal retirement age in such a plan? Is it 62 or 65? What gets vested, if vesting is compulsory, an age 62 pension or an age 65 pension? Except for their vesting provisions, the automobile industry agreements actually provide for a normal retirement age of 62 Certainly a compulsory vesting law could not allow the vesting to be fixed by a decision of the parties to the plan that they vest what they want to vest If it has any meaning they would have to vest some part of the benefit payable to a worker who retires normally. Would that mean that the automobile pension plans would have to vest the full benefit amount payable from age 62?

All of this is likely to mean that in any statute to mandate vesting an age would probably have to be fixed independently of what the plans provide.

Further technical problems occur in the possible treatment of pension plan benefits that are not readily allocable to individual years of service, such as benefits on the death of a pensioner, benefits on the death of an employed worker who has fulfilled the age and service requirements for retirement, survivors' benefits, health insurance after retirement, lump-sum allowances in addition to monthly income, etc

These questions do not present insuperable obstacles Answers can no doubt be devised to all of these questions However, the answers inevitably add up to detailed prescriptions as to vested benefit amounts and conditions for payment. It is fairly simple to add a vesting provision to a given pension plan by voluntary action or agreement Under a law compelling all funded plans to grant vesting, detailed rules reaching far into what pension plans may or may not provide are likely to be inevitable.

The Extent of the Problem There has been great uncertainty and wide difference of opinion over the extent of the problem, i e., the extent to which workers covered by pension plans will fail to secure benefits because of turnover and lack of vesting

Private pension plans have been under attack from some quarters as a virtual "mirage " The objection is raised that while they seem to cover a great many workers, in reality they do not The case made out is that with employment turnover a large percentage of the workers employed under private pension plans will not qualify for pensions.

Professor Dan McGill of the University of Pennsylvania has said that "no more than 40 percent and certainly no more than 50 percent of employees presently covered under private pension plans will ever receive a cash benefit from the plan"[3] This same point is a major theme in "The Future of Private Pensions," by Professor Merton Bernstein[4] who was recently quoted as estimating that the percentage of those covered by private pension plans who will qualify for benefits "may be as low as 25 percent"[5]

These pessimistic estimates have not been supported by convincing evidence. Certain of these published conclusions have relied on general labor turnover figures—separation rates—and have calculated cumulative results over a period of years which seemed to establish that very few workers will remain in the same employment. General turnover rates are inappropriate for such findings. Even where employment is highly stable, a substantial turnover statistic can be generated by a few unattractive jobs that are filled by a succession of short-term workers. There have been other calculations which are one step more sophisticated They recognize that turnover rates vary by the age of the worker and they therefore utilize turnover tables with specific rates for each age bracket and sex From these it is possible to calculate the chances that a young man or woman will remain in a particular employment to retirement age The result is not difficult to predict—with any significant degree of turnover the result is a high probability that a young man of 25 will not be in the same employment when he is 65

Those findings have a certain plausibility but they are also inappropriate The real question is not the probability that a young man or woman will remain with the same employer to retirement age but rather the following: what percentage of the older worker population is covered by pension plans and will be eligible for pension benefits?

The distinction can be well illustrated by an actual example using a group with comparatively high turnover—the unlicensed seamen on the East and Gulf Coasts. If we apply the successive turnover rates which have actually occurred in a projection applied to seamen who are 27 years of age, we find that no more than 13 out of 100 will be sailing by the time they are 65 This is the kind of figure that has been used to establish the idea that pension plans are a "mirage" However, if we look at the seamen who are 60 or over, we find that 71 percent have accumulated the 10 or more years of service required for eligibility. These figures are by no means in conflict If we start at a comparatively young age, the cumulative attrition is high. When we look at the situation of the older worker, we see that the great majority is eligible for pensions These two answers are reconciled if we recognize that turnover rates are high in the younger age brackets but they go down soon enough so that older workers do, in most cases, accrue pension eligibility

Table 5 establishes the same point on the basis of an age and service distribution of the 650,000 employees of three large automobile manufacturing companies. Out of all employees who are 65 years of age or older, only 9 percent had less than 10 years of service Of the workers

[3] McGill, *Pensions Problems and Trends* (Homewood, Ill Richard D Irwin, Inc, 1955), p 40

[4] Bernstein, *The Future of Private Pensions* (New York Free Press-Macmillan, 1964)

[5] *New York Times*, November 28, 1966, p 63

between 60 and 64, only 12 percent had less than 10 years of service. Of the workers in the 55–59 age bracket, 93 percent had at least five years of service and they are in an age bracket when they can still accumulate another 5 to 10 years of service

However, the observation that the great majority of older workers covered by pension plans will fulfill their eligibility requirements does not entirely resolve the question The objection can still be raised that these older workers represent a select population, the *survivors* of a process of attrition and that what is missing from the picture is the ultimate fate of the workers who left that employment.

However, that objection only raises a further question When a worker leaves an employment in which he is covered by a pension plan, where does he go? The analyses to date seem to have assumed that he went to another employment *where there was no pension plan* That assumption is unwarranted. Presumably, there is at least a 50–50 probability that his next employment is covered by a pension plan and, since most turnover occurs before age 40, he will still have adequate time on the new job to become eligible for a pension. One might argue that the chances are even better that he will wind up under the protection of a pension plan on the theory that as he changes jobs he will move into more stable employment in which there is greater-than-usual prevalence of pension plans On the other hand, the claim can be put forward that the process of turnover results in the accumulation of middle-aged workers in undue proportions in low-standard industries in which there are few pension plans That argument would have persuasiveness if it were true However, no facts are available on which this significant question can be resolved

There is no question but that to the industrial worker who loses out on pension benefits because of job changes, voluntary or involuntary, the loss is real and significant It remains of some importance, however, whether these cases are 15 percent of the workers covered by private pension plans, 50 percent or 75 percent The question can be resolved on the basis of fact but those have not been gathered, although they would appear to have a direct bearing on the role of private pension plans and on the shaping of public policy.

TABLE 5

Percentage Distribution of 650,000 Employees, Three Large Automobile Manufacturing Companies

Attained age group	Percent of employees completing service of						
	All	0 years	1–4 years	5–9 years	10–14 years	15–19 years	20+ years
Under 25	9 22	3 35	5 05	32	----	----	----
25–29	13 28	1 79	6 34	4 83	30	01	----
30–34	14 78	1 18	4 37	6 01	2 76	44	02
35–39	14 83	93	3 52	5 28	3 28	1 70	21
40–44	13 68	51	2 50	4 24	2 81	1 79	1 83
45–49	11 02	27	1 60	2 07	2 18	1 55	3 06
50–54	9 20	12	90	1 72	1 53	1 20	3 72
55–59	6 87	06	43	86	1 04	88	3 59
60–64	5 18	02	17	62	66	64	3 27
65+	1 33	----	01	10	17	16	.88
Total	100 00	8 11	24 91	27 29	14 73	8 37	16 58

SOURCE Merton C, Bernstein, *The Future of Private Pensions* (New York Free Press—Macmillan, 1964), p. 318

Recommendations As in the case of funding, the issuance of the Cabinet Committee report, subsequent proposals for legislation, and the evident continuing interest in possible legislation to mandate some degree of vesting, add up to federal preemption of the question. Whatever the merits of compulsory vesting might be, it would be unwise for state legislation along those lines to be considered at the present time Any legislation on vesting would have far-reaching impact on plan provisions and plan financing, and it would not be possible to insulate the effect of any such state legislation so that it applied to California employees only So long as federal legislation is in any state of pendency, it would be unrealistic to consider state legislation to the same general effect It is not as if the state could take the same steps in advance of federal legislation, because, given the complexity of the question, the steps could not be precisely the same and yet anything mandated at the state level would have irreversible effects

It is difficult to say how this question will develop in the future and whether state consideration will become more relevant However, a significant contribution could be made to defining, evaluating, and ultimately resolving this problem by one or more studies which sought to develop the facts as to the nature and extent of the problem It is obvious that there are widely different claims as to the extent to which workers covered by private pension plans will or will not ultimately secure benefits That information gap can be narrowed to a fraction of its persent dimensions and its closing may be critical in resolving the question of vesting California has an especially high stake in the question; it undoubtedly has far higher mobility of labor than the nation as a whole We therefore suggest that the Legislature consider one and possibly two studies as follows

1 *A Study of a Cross-Section of California Workers Who Are Now Age 50 to Determine Their Pension Coverage and Pension Prospects* This might be made on the basis of a sample of possibly 1,000 workers It would develop a picture, representative of the state, as to whether these middle-aged workers are covered by private pension plans, whether they will in fact be eligible for benefits, what level of benefits they will secure, whether they are protected by vesting provisions, whether they are eligible for pensions from other sources (earlier employment), and, if they will not be eligible for pensions, what circumstance in their present employment or previous work history accounts for it. In a study of this kind the sample would not have to be very large in order to be meaningful and dependable It would involve interviewing of the persons selected and research into the pension plans of their companies Longterm employment histories might be secured via the Social Security Administration and the files of the U S Department of Labor might be useful in determining the provisions of the plans involved A study of this sort would be incomparably better than any information thus far available in terms of determining the significance of private pension plans in providing future old-age security to California's workers.

2 *A Second Subject of Study Might Be an Examination of the Effect of Mass Permanent Layoffs on Pension Rights.* This would

involve an examination, covering perhaps a one-year period, of situations where there had been permanent terminations of employment for sizable groups of workers The object would be to establish whether the workers involved received any rights to immediate or deferred benefits A study of this kind would also have bearing on the question of funding, particularly where the terminations were due to liquidation of the company, and the question whether the assets of the plan fell short of meeting the liabilities for accrued benefits could then be answered.

C. PORTABILITY

Portability involves the concept of a worker carrying his pension credits with him when he leaves one job for another. The term is used to indicate something more than vesting. When a former employee has a vested right, it means that he can come back to his former employer or to a pension plan of that former employer and get a pension benefit starting at normal or early retirement age. Portability implies a transfer of some kind at the time the change of employment takes place.

The President's Cabinet Committee expressed the opinion that "the possibility of some institutional arrangement for transferring and accumulating private pension credits was worthy of serious study." The idea is that such an arrangement—a central fund whether public, private or quasi-public—could receive and hold contributions on behalf of workers who had left plans with portability provisions and it could maintain a central registry of accumulated credits.

A limited form of portability among pension plans in private industry is now effected, in limited ways, in two respects An industrywide or areawide plan allows transfer of employment within its jurisdiction without any loss of pension rights Moreover, reciprocal agreements among industrywide plans permit transfer from the coverage of one to another, preserving ultimate pension rights. In a way, for the types of job transfers it protects, a reciprocal agreement provides more than vesting because the earlier years of service are counted toward fulfilling the eligibility requirements of subsequent plans

Congressman Dingell (Mich.) introduced a bill in 1966 to compel vesting after 10 years of service and to establish a special transfer fund within the Social Security Administration that would receive deposits from pension plans commensurate with such vested rights. That institution would maintain the funds and the corresponding records for ultimate payment of the benefits. The suggestion has also been made that such a central depository or clearinghouse might be a nongovernment or quasi-public agency.[6]

A central institution to effectuate portability has important implications. It may mean, for example, that the entire reserve to fulfill the ultimate benefit for a separated employee would have to be transferred out of the affected pension plan, notwithstanding the fact that corresponding reserves for employees who continue with the company may not yet be on hand because a fully funded position had not yet been reached by the plan

[6] Robert D Paul, executive vice president, The Martin E Segal Company, *New York Times*, April 22, 1963

The idea of extensive vesting and a central institution for collating and maintaining the several pieces of ultimate pension rights has served to raise the question whether an adequate Social Security System is not, after all, the best assurance of old-age security One of those presenting that viewpoint Sar A Levitan, an economist with the W. E Upjohn Institute for Employment Research, has expressed that viewpoint as follows

> An effective portability system would necessarily involve government intrusion and increase the role of public decision-making in private pensions At the risk of oversimplifying the situation, it seems to me that we do have already an almost perfect portable pension system which is operated by Uncle Sam, namely OASDI It is operating effectively and efficiently with an extremely low overhead cost This is not intended to negate the vital role that pensions are now playing and the potential of private pensions But if we decide as a matter of public policy that retirement benefits should be increased, it would seem to me futile to attempt to develop new complicated systems when a very effective one is already in operation If we want to increase benefits to retired aged persons, then why not utilize more effectively the government-operated retirement system? This can be achieved by increasing the contributions to OASDI—either by raising employer contributions, particularly for low paid workers, if our major purpose is to eliminate or at least reduce poverty for aged persons; or to include the government as a partner in OASDI by contributing to the fund from general government revenues. What I am suggesting, in brief, is that the public retirement system would provide for basic needs while private pensions would continue to add various levels of comfort above minimum needs [7]

Recommendation Clearly an institution for accumulating the pension credits and reserves of workers who have changed jobs, if it is feasible, should be a national institution since so much of both pension plan coverage and mobility cross state lines This, too, then is a federal question, state legislation to the same effect would be unrealistic.

Pension Portability and Public Employees Among the pension plans covering government employees, portability is a widespread practice; it takes a form which is a step beyond the other concepts of portability An employee of one of California's counties can leave that employment and go to work for another county and maintain pension rights as if he had worked throughout for the final employer Not only are his earlier years of employment with the first county applicable to the fulfillment of eligibility requirements, but his ultimate retirement benefit is calculated as a percentage of his final compensation or highest salary and his contribution rate is maintained on the basis of his age when he first began to accrue credits (that is, with his earlier employer)

While a great deal of progress has been made over the years in extending this concept of reciprocity, it is not fully effective over the entire area of employment by state and local governments in California

[7] Sar A Levitan, "An Evaluation of the Social Security System as an Income Protection Program," *Pension and Welfare News* (September 1966), p 47

The situation has been described by William E Payne, executive officer of the State Employees' Retirement System

The basic reciprocity provisions, or "portability" provisions, affecting public retirement systems within the State of California are·

1. The protection afforded members of the State Employees' Retirement System. This system includes all state employees, a substantial portion of the employees of the University of California, all of the classified school employees, employees in excess of 200 cities, of 33 counties and of some 200 other kinds of public agencies Total active membership is approaching 350,000 Movements of personnel within the employers who are part of this system is constant but in such movements the member of the system maintains his rights in the system and is fully protected in all respects, including vesting provisions, rate age of contribution, utilization of the three-year final compensation, death benefits, disability benefits and other rights within the system If he terminates from the system and subsequently returns in the employment of a different employer but one that is a member of the system, he may reestablish all of his rights Thus his protection is total
2. There are twenty of California's counties organized under the County Employees' Retirement Act of 1937 and thus subject to state statute or legislative control These counties are

Alameda	San Joaquin	Sonoma
Contra Costa	Kern	Stanislaus
Sacramento	Los Angeles	Merced
San Bernardino	San Mateo	Orange
Fresno	Santa Barbara	Tulare
Imperial	Marin	Ventura
San Diego	Mendocino	

In combination they represent the larger counties and a substantial number of California's public employees In 1957 legislation was developed to provide for reciprocity between these independently administered county systems and the State Employees' Retirement System with its many public agencies

The major provisions of the reciprocity are

a Exchange of information by the "to" system and the "from" system
b Acceptance of the original rate age of contribution by the "to" system
c. Mutual protection of earned death and disability benefits by the "to" system
d Recognition by both systems of the final compensation or highest salary in calculating retirement benefits Since the various systems have guaranteed formulas, this is the most important concept in the reciprocity

3 Recent legislation adopted by the Board of Regents of the University of California provides for similar reciprocity between the State Employees' Retirement System and the University of California Retirement System.

4. Reciprocity provisions between this system and the State Teachers' System, that go only to recognition of final compensation. This, however, is the most important provision of reciprocity since it does guarantee no decrease in retirement benefits

The immediate areas which could be considered by the State Legislature if it wished to expand the reciprocity provisions which have already been developed, as outlined above, are the extension of the reciprocity provisions now in existence between the state system and the 1937 Act county systems to (1) movements between the State Teachers' System and the 1937 Act county systems; (2) movements between the State Teachers' System and the University of California System; (3) the development of complete reciprocity in the event of movements between the State Teachers' System and the State Employees' Retirement System

Since all of these systems are subject to legislative control, then the Legislature could extend its reciprocity or "portability" policy to all of the systems within its jurisdiction so that movements in any direction would be protected. This would then include almost all of California's public employees with the exception of those employees of the major cities having independently administered systems. These include primarily the three separate systems within the City of Los Angeles, the retirement system of the City and County of San Francisco, and retirement systems of other cities such as San Diego, Sacramento, and Oakland These systems are not organized pursuant to state law and the Legislature has never exercised control over them I do not believe it would be appropriate for the Legislature to attempt to do so at this time Certainly with extension of reciprocity between all of the statutory systems there then exists the possibility for further extension by voluntary agreement

Recommendation It would seem desirable for the Legislature to consider the extension of reciprocity provisions so that they more comprehensively embrace the employees of state and local government. Such provisions would provide equitable protection of employees, facilitate transfers of employment and set examples which might encourage voluntary action along the same lines by the major cities It might also stimulate, by example, greater vesting by plans in private industry

D. REINSURANCE

Proposals have been made that pension plans should be required to be reinsured as a condition for their tax shelter Reinsurance would fulfill the payment of accrued benefits in the event of default by the plan

The President's Cabinet Committee considered the proposition and said that "a system of insurance which, in the event of certain types of termination, would assure plan participants credit for accrued benefits" was worthy of serious study. A bill to require reinsurance through an institution of the federal government was introduced in 1965 by Senator Hartke (Ind) and the same idea is incorporated in an omnibus pension plan bill to be introduced by Senator Javits (N.Y.). These pro-

posals would require plans to make contributions to a federal fund from which accrued benefits would be paid in the event of default by the plan

The Studebaker Case. The idea of reinsurance derived its original impetus from termination of the Studebaker-United Automobile Workers Pension Plan when Studebaker shut down its United States manufacturing facilities at South Bend, Indiana, in 1964 The plan had been established in 1950 and successively liberalized in 1953, 1955, 1959 and 1961 When the plan was terminated, it had assets of $37,906,093 26. Those assets were sufficient to do the following:

1. Buy lifetime annuities for all persons on the pension rolls.
2. Buy lifetime annuities for all employees who had attained age 60 and were eligible for retirement
3. Provide lump-sum payments to 4,080 employees who had achieved vested positions ($2 4 million)

The payments to those who had not yet attained age 60 represented 15 cents on every dollar of benefits accrued under the terms of the plan The fund was, in aggregate, $14 million short of meeting all accrued obligations

What hurt, of course, was the fact that an employee who was 59 years old with long years of prior service would realize only 15 percent of the benefits he had every reason to consider he had accrued for his retirement income

The Studebaker case has often been discussed as if it argued for vesting and for a schedule of full funding In point of fact, it is irrelevant for both The Studebaker Plan included a vesting provision—benefits were fully vested for anyone who had attained age 40 and had at least 10 years of service This vesting provision was comparatively liberal Moreover, the contributions of the Studebaker Corporation followed a schedule of 30-year funding. In fact, the 1959 agreement was that, even in the event of benefit liberalizations, the fixed period of 30 years would be maintained for amortization of the past service liability instead of being extended.

The problem in the Studebaker case was that a company which had a comparatively good vesting provision and a comparatively good funding schedule went out of business before the funding was completed The thought behind the reinsurance proposal is that such an arrangement might fulfill the obligations of the plan under such circumstances.

Reinsurance is a far-reaching proposal The risks that would have to be covered are several·

1. The risk that the company will go out of business This might include the risk that a company might elude its commitment to a pension plan in connection with a merger or sale of assets
2. The risk that the assets of the pension fund might depreciate. It is a common practice for 30 percent to 50 percent (sometimes more) of the assets of a pension fund to consist of common stock Unless a reinsurance proposal involved the elimination of common stock as a pension fund investment it would have to undertake to fulfill the dollar commitments of the plan even if the common stock depreciated. The question is most spectacular in

the case of common stock, but of course the possibility of depreciation could also apply, to a lesser degree, to preferred stock, bonds, and mortgages Unless the types of securities which a pension fund might acquire were to be severely regulated, the reinsuring institution would have to be prepared either to charge a uniform premium, no matter what degree of risk the securities represented or charge a differentiated premium based on a valuation of the degree of risk embodied in a specific portfolio

3 The risk that the actuarial assumptions on which the projection of benefit commitments were caluclated prove erroneous Turnover, mortality, salary changes, age patterns when retirements take place, investment yield, are likely to prove different to some degree from what was assumed An undertaking to fulfill the benefit commitments would involve in essence a coverage of this risk as well as the others

There has, therefore, been serious question whether, despite its attractiveness, the proposition of reinsurance is feasible Proponents are frank to admit that all of the problems have not been solved but they draw confidence from the fact that mortgages, the deposits of savings banks, the deposits of savings and loan associations, and credit risks are insured, and they proceed in the conviction that the difficulties of working out a feasible reinsurance arrangement can be solved.

Recommendations. The proposal for reinsurance is under continuing study by its proponents and by departments of the federal government This question, too, is in effect preempted for federal consideration In fact, even if it were not under active discussion at the federal level, it would be difficult to visualize it as viable for state action, considering the far-reaching nature of the risks and of its implications for comprehensive regulations of pension plans

The study suggested earlier with respect to the effect of mass terminations of employment on pension rights, including cases of plan liquidation may help to put the problems with which the reinsurance proposal is concerned into perspective and therefore contribute to enlightened public consideration of the problems involved

E. SECURITY OF INVESTMENTS

Whether pension fund investments are secure is one of the questions to consider in determining whether pension expectations will be fulfilled Occasionally, a pension plan will make an investment that involves undue risk or is motivated by some interest other than that of the beneficiary.

It is safe to say, based on working knowledge of the field, that prudent investment is the rule among pension plans; the cases of imprudent investment are very much the exception In the great majority of cases, pension fund investments are handled either by an insurance company which is closely regulated and supervised or by a trust company which is likewise regulated and supervised and is subject to the legal accountability of a trustee (It should be recognized, however, that in some cases a trust company will make particular investments at the direction of its client company or pension plan administrators.)

Occasionally, the use of pension fund money for an investment that is imprudent or that is primarily for a purpose other than fulfillment of the pension plan comes to public notice. For example:

The McCrory Corporation used the assets of its pension fund to support the price of stock of its controlling company, Rapid-American Corporation, so as to improve its position in negotiations for a merger. The pension fund suffered a loss of $3 4 million, at the same time one of the trustees was selling his own shares.

The Central and Southern States Pension Fund associated with the Teamsters Union invested more than $20 million in mortgages in hotels, motels, shopping centers and other buildings and, in connection with these investments, James Hoffa and certain associates were later convicted of fraudulent misrepresentation The same fund invested several millions in a number of mortgages that defaulted

In 1954 two teamster welfare funds, under Hoffa's leadership, bought 12,500 shares of Montgomery Ward stock to help support Sewell Avery in a proxy fight, and soon thereafter Avery yielded to a compulsory union membership clause which he had previously resisted.

A classic case is that of the Springfield, Massachusetts, *Republican.* Its pension fund acquired control of a New York skyscraper, the Longchamps Restaurant chain, Atlas Tack Company, and a major interest in Bell Aircraft. Then it acquired control of the newspaper itself. It was subsequently involved in a dispute with the Internal Revenue Service because the value of the plan's assets exceeded all of its pension liabilities

The principal officer of the Allied Trades Council and Teamsters Local 815 in the New York area transferred some $4 million of welfare and pension funds to overseas "research" foundations with which he was connected.

A number of companies have been owned by their employee pension or profit-sharing trust (E G. Shinner & Company, a general meat market; Arthur D. Little, Inc , an industrial research firm; Cleveland Pneumatic Industries, Inc , a tool manufacturer).

Genesco, a large producer of footwear and apparel accounted over a period of years for a substantial percentage of the trading in its own common stock on the New York Stock Exchange (for one four-month period as much as 75 percent) with the assistance of the assets of its employee benefit funds

It is not suggested that every transaction of this type is improper It may be quite proper, for example, for a profit-sharing trust to buy the company's own stock. For example, the Sears, Roebuck Profit-Sharing Trust owns about 30 percent of Sears, Roebuck and has been highly successful in producing retirement income for the employees However, it is obvious that a number of plans have engaged in practices which run counter to the interests of the beneficiaries.

The President's Cabinet Committee considered this problem and recommended as follows:

1. Future investments by retirement funds should be subject to a maximum limitation (perhaps 10 percent) on the portion of a fund that may be held in stock or obligations of the employer

company or its affiliates, regardless of the ability of such investment to meet a fiducial test

2. The Welfare and Pension Plans Disclosure Act should be amended by requiring the disclosure of additional information related to the investment holdings and activities of retirement plans

The reporting requirements under the Federal Disclosure Act have since been enlarged For fiscal years after December 31, 1966, every pension plan subject to the act will be filing a report that will include a statement of its portfolio by class of security (common stock, corporate bonds, mortgages, etc) and in addition it will have to reveal in detail any investment in which any trustee of the plan or any person handling its fund or any employer or union official associated with the plan has a direct or indirect interest

However, the new federal disclosure requirements are not adequate to bring to public attention the cases in which questionable investments are made. A pension plan will still be able to make an unusual or questionable investment and even one in which there is some element of self-interest because of the potentiality for corporate control or interest, and yet not be required to disclose that transaction under present reporting requirements. For example, if a large amount of the stock of Company A is bought by Company B's pension fund in order to influence a proxy fight or to effect a merger or as part of some sort of reciprocal business arrangement, it would not have to be reported at the present time.

The instances when pension funds have made unorthodox investments have come to public attention almost accidentally While those who are familiar with the practices of pension plans can testify that investments which are off the beaten track are truly exceptional, no one is actually in a position to know how many cases there are of questionable or unorthodox investments that have not come to public attention Perhaps there are two cases undisclosed for every case which has become known, or perhaps there are 20 or 200 cases undisclosed for every case known. All that can be seen now is the top of the iceberg, there must be more below, but how much more is simply unknown.

It would serve a useful purpose if unorthodox investments were subject to disclosure. It would give the public knowledge on a subject on which the public (and the employees affected) are entitled to know the facts, and it would tend to impose restraint on those responsible

This could be accomplished if every pension fund were required to file an inventory of its portfolio and transactions The difficulty with this proposition, however, is that it would accumulate a mountain of paper, 90 to 99 percent of it from plans which hold diversified portfolios invested in well-known blue-chip stocks and bonds and insured or conventional, high-quality, mortgages

It would seem possible to pinpoint disclosure so that only extraordinary investments are regularly disclosed For example, annual disclosure requirements could be made to apply to.

1. Any purchase of a bond or stock not listed on the New York Stock Exchange, except for shares in a major bank, major insurance company, registered investment company, or a common trust fund.

2. Any investment in a single security in an amount exceeding 5 percent of the total pension fund (provided it is at least $x—such as $500,000).
3. Any holding of common stock representing more than x percent—such as 5 percent—of the total outstanding common stock of the company.
4. Other classes of common investment (such as insured mortgages) could be defined for nondisclosure, so that disclosure would apply only to the extraordinary.

Should the state legislate such a disclosure requirement if it remains missing from the federal requirement? That would not seem desirable because it would involve the creation of a reporting procedure concerned only with a single, rather isolated aspect of private pension plans. However, legislation may not be necessary in order to cast a good deal of light on any existing practices among the pension plans located in California in the way of unorthodox investments. Every pension plan with a principal office in California is, in a general sense, accountable to one of three departments of the state government. insured plans are under the supervision of the Commissioner of Insurance; funds handled by the trust companies are under the supervision of the Commissioner of Banking; and the plans filed under the California Retirement Systems Law must conform to requirements administered by the Commissioner of Corporations A survey done with the cooperation of these three commissioners could compile an inventory of those investments by pension plans which fall outside the usual patterns of pension fund investments. If what constitutes an ordinary pension fund investment is adequately defined, it would mean that the overwhelming majority of plans would provide no listing at all for the inventory. Inclusion of the exceptional cases on the inventory would, of course, by no means signify any imprudence or impropriety It would, however, include the data from which a much better judgment could be made by the Legislature and the public generally as to whether unorthodox investment presented a sufficiently significant problem to be cause for concern and further action.

Recommendation. A survey should be made, through the cooperation of the Commissioners of Insurance, Banking and Corporations, of extraordinary or unorthodox investments by pension funds with principal offices located in California. Such a study is suggested as a onetime review, not as an annual report Its purpose would be to gauge the extent of possible unorthodox investment by a number of pension plans in California, to provide the facts from which it would be possible to judge whether imprudent investment was a problem of any significant dimensions, and to encourage prudence by giving notice that such investments are subject to public scrutiny.

F. EXTENSION OF COVERAGE

The lack of pension plan coverage for about 42 percent of the employees in the state is probably the most significant of the questions affecting the role of pension plans in the state. It is not possible to be

optimistic about the coverage of most of these workers in the near future A large part of employment is by small employers that are subject to intense competition and comparatively high rates of business turnover. In the absence of union organization, it is not realistic to expect that pension plans will be widely established in such fields. Moreover, there are some industries—the building trades being a prime example—in which workers typically make their livelihood over a period of years from a number of employers; there is not sufficient continuity of employment with any one employer to make a pension plan practicable in the absence of some industrywide organizing elements such as a union.

The chances are that pension plan coverage, in the absence of a radical change of circumstances, will grind to a halt with at least one quarter of the employees not covered at all. Their security will have to come from the Federal Old-Age Survivors and Disability Insurance System and from such personal resources as they may accumulate. That fact may pose major problems. In a few decades most workers will retire with income from both social security and private pensions but a large minority will have only social security to depend on. That gap will undoubtedly prove to be the source of continuing dissatisfaction

There have been a number of proposals for encouraging the further extension of pension plans:

1 Establishment of prototype plans, preapproved by the Treasury Department, to facilitate the inclusion of small employers.
2. Making employee contributions tax deductible.
3. Establishing a simple mechanism for voluntary additional contributions to the Social Security System to provide supplementary benefits.
4 Enlarging flexibility for employers in deducting contributions to pension plans.

All of the proposals involve federal law. It is difficult to see what a state could do effectively to encourage the extension of pension plan coverage in private industry. Theoretically, one can conceive of the possibility of a requirement for employers to establish pension plans in the same way that a minimum wage law requires them to pay a minimum wage and perhaps observe other minimum conditions of employment. However, it is difficult to see the rationale of mandating pension plan coverage in the many situations where, if an additional payroll cost is to be imposed, a higher wage would be valued above deferred income.

Recommendation. The study suggested earlier in this report involving a cross-section sample of middle-aged workers would be helpful in providing a realistic evaluation of the position of those workers who either lack coverage altogether or who will not have sufficient continuity of employment to be eligible for pension benefits. It would help to focus the attention of employers, employees, and the public generally on the problem of noncoverage. Beyond that however, we can at the present time make no recommendation for state action that would be feasible to extend the coverage of pension plans.

G. FIDUCIARY RESPONSIBILITY

The moneys accumulated in a pension plan can be used legally only for the benefit of the employees covered (and their survivors and/or beneficiaries), including, of course, the reasonable expense of establishing and maintaining the plan. The only exception is that funds ultimately found unnecessary for the fulfillment of the plan may be returned to the employer. In short, the objective of preserving the funds for the exclusive benefit of the employees is already embodied in law.

Those funds are accumulated either under an insurance contract or in a pension trust. The insurance contractors are subject to supervision by state insurance departments The pension trusts are governed by agreements or declarations of trust, which make pension (and related) benefits the exclusive purpose of the trust.

Trustees are generally held to a high standard of accountability; they are held liable not only for misfeasance but for negligence and for failure to exercise prudence Some pension trust agreements have exculpatory provisions, which seek to limit the liability of the trustees, but there is doubt about their effectiveness

In the light of these facts, there is cause for concern that the number of suits against pension plan trustees has been negligible. There have been cases in which trustees for large pension plans, covering thousands of employees, have engaged in acts which might expose them, as trustees, to civil suit and yet no one has sued them. The answer lies in the fact that those entitled to enter suit are employees and pensioners, without the resources for legal action, and their interests are diffuse If the trustees of a pension fund with $50 million in assets make an imprudent investment that results in a loss of $500,000, how much is an individual employee or pensioner affected?

The idea has therefore been advanced that a public agency be given the power to enter suit to enforce the fiduciary responsibilities of trustees and others handling pension funds The President's Cabinet Committee felt that there was a problem in "enforcing existing standards of fiducial obligations of trustees—in behalf of the interests of employees and their beneficiaries" "As suggested by the Commission on Money and Credit," the Cabinet Committee concluded, "it might be necessary to empower a regulatory agency to act as guardian for the collective interests of employees and their beneficiaries, and, if necessary, to bring suit in behalf of the plan participants" The committee added:

> The committee believes it is premature, short of a real test of the effectiveness of the disclosure approach as a means of assuring standards of fiducial responsibility, and in the absence of sufficient facts as to the prevalence of abuses, to make a recommendation for regulatory action of this kind at this time. The committee recommends continuing exploration of the nature of the problem and of ways and means for guarding the employees' interests and the public interest in the investment activities of retirement funds

In 1965, Senator McClellan (Ark) introduced a bill amending the Welfare and Pension Plans Disclosure Act to provide safeguards for employees and beneficiaries by providing (a) minimum standards for

funds, (b) minimum fiduciary standards of conduct, (c) penalties for violation, and (d) recovery of losses from funds. The bill provided that the Secretary of Labor was to have the power to investigate and to bring action in federal courts to enjoin violations A bill along similar lines will, no doubt, be considered in the current session of the Congress

Several of the provisions of the McClellan Bill do no more than incorporate into the statutes requirements which trust agreements normally impose on trustees, in an attempt, no doubt, to provide the legal basis for intervention by the Secretary of Labor, in the interests of the employees. Other provisions of the bill go further and create standards for pension and welfare funds

Recommendations If federal legislation along these lines is enacted, concurrent state action would be needless If federal legislation is not enacted, then it would become pertinent for the state to consider legislation that would empower a state agency to bring suit for the enforcement of the fiduciary obligations of pension fund trustees Preliminary to such action it would be desirable for a rigorous analysis to be made to determine (a) whether exculpatory or delegating or other provisions of trust agreements have the effect of reducing the essential responsibility of trustees for prudent management, (b) what statutory provisions would have to be included in order to give a state agency the standing to enter suit for the enforcement of trusteeship responsibilities, and (c) whether any limitations or safeguards are desirable if a state agency is given the right to enter such suit

APPENDIX A

Data on Pension Plans with Principal Administering Offices Located in California Filed Under the Federal Welfare and Pension Plans Disclosure Act for 1961 Compared to All Plans in the United States

SOURCE U S Department of Labor, Bureau of Labor Statistics and Office of Labor-Management and Welfare-Pension Reports

TABLE 1

Distribution of Pension Plans, by Industry

Industry	California				United States			
	Plans		Employees		Plans		Employees	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Manufacturing	497	40 6	608,332	42 7	9,257	58 5	9,678,000	62 0
Mining	18	1 5	6,551	0 5	316	2 0	327,000	2 1
Construction	55	4 6	163,021	11 8	449	2 8	1,072,000	6 9
Transportation	46	3 8	103,004	7 2	673	4 2	1,286,000	8 2
Communication and utilities	33	2 7	140,767	9 9	849	5 4	1,270,000	8 1
Wholesale and retail trade	231	18 9	137,714	9 7	1,627	10 3	920,000	5 9
Finance, insurance and real estate	141	11 5	78,872	5 5	1,853	11 7	733,000	4 7
Services and miscellaneous	203	16 4	181,955	12 7	794	5 0	334,000	2 2
Total	1,225	100 0	1,425,216	100 0	15,818	100 0	15,621,000	100 0

TABLE 2

Average Size of Pension Plans, by Industry

Industry	California			United States		
	Employees covered by pension plans	Number of plans	Average size of plans	Employees covered by pension plans	Number of plans	Average size of plans
Manufacturing	608,332	497	1,224	9,678,000	9,257	1,045
Mining	6,551	18	364	327,000	316	1,035
Construction	163,021	55	3,000	1,072,000	449	2,387
Transportation	103,004	46	2,239	1,286,000	673	1,911
Communication and utilities	140,767	33	4,266	1,270,000	849	1,496
Wholesale and retail trade	137,714	231	596	920,000	1,627	565
Finance, insurance and real estate	78,872	141	559	733,000	1,853	395
Services and miscellaneous	181,955	203	896	334,000	794	420
Total	1,425,216	1,225	1,163	15,620,000	15,818	987

TABLE 3

Group of Employees Covered

Pension plan covers	California				United States			
	Plans		Employees		Plans		Employees	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
All employees	675	55 1	561,004	39 4	6,038	38.2	6,253,000	40 1
Salaried employees only	302	24 6	116,138	8 1	3,995	25 3	1,584,000	10 1
Hourly rate employees only	111	9 1	586,939	41 1	4,925	31 1	7,039,000	45 1
Other employees	106	8 7	155,449	10 9	860	5 4	735,000	4 7
Unclassified	31	2.5	7,325	0 5	--	--	--	--
Total	1,225	100 0	1,425,216	100 0	15,818	100.0	15,621,000	100 0

TABLE 4

Collective Bargaining Status

Plan mentioned in collective bargaining agreement	California				United States			
	Plans		Employees		Plans		Employees	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
No	996	81 3	464,078	32 6	10,023	63 4	4,926,000	31 5
Yes	209	17 1	949,012	66 6	5,795	36 6	10,695,000	68 5
Unclassified	20	1 6	12,126	0 8	--	--	--	--
Total	1,225	100 0	1,425,216	100 0	15,818	100 0	15,621,000	100 0

TABLE 5

Parties Making Contributions to Plan

Parties	California				United States			
	Plans		Employees		Plans		Employees	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Employer(s)	863	70 8	1,009,963	70 8	11,526	72 9	11,867,000	74 7
Employer(s) and plan participants	338	27 6	373,089	26 2	4,292	27 1	3,954,000	25 3
Other	10	0 8	39,358	2 7	--	--	--	--
Plan participants	7	0 6	934	0 1	--	--	--	--
Union—out of general funds	2	0 2	1,852	0 1	--	--	--	--
Total	1,225	100 0	1,425,216	100 0	15,818	100 0	15,821,000	100 0

TABLE 6

Types of Benefits Provided

Benefits	California			
	Plans		Employees	
	Number	Percent	Number	Percent
Retirement for age or service only	1,225	100 0	1,425,216	100 0
Death benefits as well	1,081	88 2	1,183,325	83 4
Retirement for disability as well	863	70 4	946,126	66 4

NOTE Assumed that all plans provide benefits for age or service retirement, even though a very few of the smaller plans provide benefits for only disability and/or death

TABLE 7

Type of Funding *

Funding medium	California			
	Plans		Employees	
	Number	Percent	Number	Percent
Self-insured	766	62 5	1,134,918	79 6
Insured	324	26 5	166,649	11 7
Insured and self-insured	91	7 4	64,434	4 5
Unfunded (pay-as-you-go)	36	2 9	49,482	3 5
Combination of above	3	0 3	7,415	0 5
Unclassified	5	0 4	2,318	0 2
Total	1,225	100 0	1,425,216	100 0

* Based on the D-2 report for 1961

APPENDIX B

Major Benefit Provisions of 27 Large California Pension Plans as of November 1966

COMPANY PENSION PLANS

Name of company	Pacific Telephone and Telegraph		
Covered employees	84,765		
Retirees	9,632		
	Age		
	Men	Women	Service (years)
Normal retirement Age and service requirements	65 60–65 55–59 under 55	65 55–65 50–54 under 55	15 but less than 20 20 or more 25 or more 30 or more
Monthly benefit	*If eligible for social security benefits* 1% of average monthly salary in final 5 years for each year of service minus ½ social security benefit *Prior to social security eligibility* 1% of average monthly salary in final 5 years for each year of service Minimum $85 if under 65 up to $125 if age 65 with 40 or more years service		
Early retirement Minimum age Minimum service			
Benefit amount (reduction of normal benefit)			
*Vesting** Age and service requirements			
Benefit amount			
Disability Age and service requirements	Under 65 with 15 or more years service		
Benefit amount	Same provisions as for normal retirement, depending on entitlement to social security disability benefits		
Death or survivor Preretirement	*Sickness death benefit* varies with service up to maximum of 1 year's salary after 5 or more years service *Accident death benefit* 3 years salary (maximum $30,000 or sickness death benefit, if larger) plus funeral expenses up to $500 *If eligible to retire* widow's annuity equal to ½ of reduced benefit he would have received		
Postretirement (other than through optional forms of retirement benefits)	If retired on or after 9/30/63 1 year's salary.		

* *Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age. Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age.*

COMPANY PENSION PLANS

Name of company	North American Aviation		Douglas Aircraft	
	Salaried plan	Hourly plan	Hourly plan	Salaried plan
Covered employees	61,000	34,000	55,000	19,069
Retirees	800	1,500	3,500	609
Normal retirement Minimum age Minimum service	65 or 62 5 10	62 10	62 10	
Monthly benefit	$2 50 for each year of service plus 1½% of average salary in excess of $350 per month times years of "qualifying employment" Minimum $25 Maximum credit 35 years	$4 75 for each year of service Maximum credit 35 years	$4 75 for each year of service Maximum credit 35 years	½% of 1st $400 monthly salary plus 1½% of average monthly salary† in excess of $400 times "years in benefit period" Maximum $40,000 a year
Early retirement Minimum age Minimum service	55 10		55 10	
Benefit amount (reduction of normal benefit)	Percentage of normal benefit based on age 57 9% at 55 to 93 3% at 61		Percentage of normal benefit based on age 57 9% at 55 to 93 3% at 61	
*Vesting** Age and service requirements	10 years service		10 years service	
Benefit amount	Full benefits accrued		Full benefits accrued	
Disability Age and service requirements	10 years service		10 years service	
Benefit amount	Normal benefit actuarially reduced to minimum of $70 (plus supplemental benefit if ineligible for unreduced social security benefits)	Full normal benefit	Same as normal benefit (plus supplemental benefit if ineligible for unreduced social security benefits)	
Death or survivor Preretirement	If eligible for early retirement widow's annuity equal to 55% of reduced benefit he would have received		If eligible for early retirement widow's annuity of 55% reduced benefit	Actuarial value of vested benefit
Postretirement (other than through optional forms of retirement benefits)	Lump sum $1,000 to $5,000 depending on salary at retirement date	Lump sum $1,000	Lump sum $1,000	

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age. Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age.
† Average monthly salary is the highest average base monthly salary for a period of 10 consecutive years during the last 15 years of employment.

COMPANY PENSION PLANS

Name of company	Lockheed Aircraft		Southern Pacific	
	Hourly plan	Salaried plan	Hourly plan	Salaried plan
Covered employees	51,072	31,033	47,821	4,200
Retirees	2,544	597	2,730	1,175
Normal retirement				
Minimum age	65		65	
Minimum service	10		20	
Monthly benefit	.009% of hours worked (maximum 2,000) times base rate up to $3 52 plus .005% of hours worked times excess base rate for each year of service Minimum $4 25 for each year of service up to 35 years	$2 00 for each year of service plus .015% of average salary in excess of $350 per month times years of service up to 35 years Minimum $5 00 for each year of service Maximum $3,333 33	1% of average monthly salary in last 10 years for each year of service, minus Railroad Retirement benefits Maximum $6 00 for each year of service	1 5% of average monthly salary in last 5 years for each year of service (1 2% for each year of past service), minus 85% of Railroad Retirement benefits and 100% social security benefits Maximum 30% of total contributions Maximum $50,000 a year.
Early retirement				
Minimum age	55		60	
Minimum service	10		30	
Benefit amount (reduction of normal benefit)	Smaller of 2½% for each year under 65 or 2½% for each year if age plus service is less than 85—no reduction if age plus service equals 85 or more		1/180 for each month under age 65	
*Vesting**				
Age and service requirements	10 years service			Contributions for 20 years
Benefit amount	Full benefits accrued according to formulas—without benefit of minimums			% of retirement income as of age 65 that years of service bear to years he would have contributed up to age 65
Disability				
Age and service requirements	10 years service		25 years service	20 years service
Benefit amount	If eligible for social security, full benefits accrued according to formulas—without benefit of minimums If ineligible for social security, $5 00 for each year of service but not less than $70 a month		Same as normal benefit	
Death or survivor				
Preretirement†	Lump sum *Age* *Amount* 55–60 $2,000 60–65 $1,500	Percentage of group insurance *Age* *Percent* Under 60 20% 60–65 15%		
Postretirement (other than through optional forms of retirement benefits)	Lump sum if 65 or over—$1,000	Lump sum if 65 or over—10% of group insurance		

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age

† Under Lockheed's hourly and salaried plans, preretirement death benefit payable only if vested under plan in effect prior to December 16, 1957.

COMPANY PENSION PLANS

Name of company	Standard Oil Company of California	General Dynamics	
		Hourly plan	Salaried plan
Covered employees	35,686	32,278	22,134
Retirees	5,500	2,856	823
Normal retirement Minimum age Minimum service	65 --	65 --	
Monthly benefit	Highest of (a) 2% of career earnings (b) 1½% of career earnings plus ⅔% of final monthly earnings for each year of service after age 25 (c) 1 4% of final earnings for each year of service after age 25—divided by 12 (earnings are those over $50 a month)	Hourly base rate / Benefit for each year of service Less than $3 18 / $4 25 $3 18 and below $3 50 / $4 75 $3 50 and below $3 85 / $5 25 $3 85 or more / $5 75 Minimum $4 25 for each year of service up to 35 years	Effective 1/1/66 1 1% of 1st $6 000 annual salary plus 2% of excess for each year of service divided by 12
Early retirement Minimum age Minimum service	-- 25	55 --	
Benefit amount (reduction of normal benefit)	Age / Reduced 60–64 / 3% per year 54–59 / 7% per year under 54 / actuarial	¼% for each month under 65 to age 60, actuarial reduction prior to age 60	
Vesting[a] Age and service requirements	15 years service	Age 40 with 10 years service	
Benefit amount	50% of accrued benefits after 15 years service plus 5% for each additional year service	Full benefits accrued	
Disability Age and service requirements	Age 55 with 15 years service	10 years service	
Benefit amount	Same as early retirement benefit	$5 for each year of service (normal benefit payable if receiving social security benefits or at age 65)	Accrued normal benefit
Death or survivor Preretirement	Refund of employee contributions with interest		Refund of employee contributions with interest
Postretirement (other than through optional forms of retirement benefits)		Lump sum $1,000	

[a] Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or under most of the plans, in reduced amount at early retirement age

COMPANY PENSION PLANS

Name of company	Pacific Gas & Electric	Crown Zellerbach hourly plan	Garrett Corporation
Covered employees	17,935	12,406	11,792
Retirees	3,454	2,210	293
Normal retirement Minimum age Minimum service	65 1	65 5	65 --
Monthly benefit	For current service 1/24 of employee's total contributions Minimum with 35 years service, 50% of average monthly earnings in last 5 years (including social security benefits), reduced 1% for each year less than 35 to 15 years service	Basic plan Service after 1/1/48—¾% of 1st $3,000 annual salary plus 1½% of excess for each year of service divided by 12 Minimum $3 00 for each year of service after 5/1/65 ($2 50 prior to 5/1/65) Maximum $25,000 a year plus 35% of "ending compensation" in excess of $50,000	Service after 12/31/65 $89 plus 1½% of annual salary over $6,600 for each year of service divided by 12
Early retirement Minimum age— Minimum service	55 --	55 56 57 58 59 60+ 20 18 16 14 10 5	55 10
Benefit amount (reduction of normal benefit)	3% for 1 year early graded to 4% a year for 10 years early	Percentage of normal benefit based on age 44% at 55 to 67% at 64	Actuarial reduction
*Vesting** Age and service requirements	Age 50 with 10 years service or 15 years service	Age 40 with 20 years service to age 55 with 5 years service	Age 40 with 10 years service
Benefit amount	Full benefits accrued	Full benefits accrued	50% of accrued benefits after 10 years service plus 10% for each additional year service
Disability Age and service requirements		Age 60 or over—5 years service Age 59—10 years service Age 58—14 years service Any age—15 years service	10 years service
Benefit amount		Actuarial equivalent of accrued normal benefit	Actuarial equivalent of accrued normal benefit
Death or survivor Preretirement	If age 55 with 15 years service, widow's benefit of 50% accrued benefit If ineligible for widow's pension, refund of employee contributions with interest	Refund of employee contributions with interest	Full cash value of "severance account"
Postretirement (other than through optional forms of retirement benefits)		Lump sum $1,000	

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age.

COMPANY PENSION PLANS

Name of company	Safeway Stores	Bank of America	
Covered employees	9,200	7,439	
Retirees	1,600	1,041	
Normal retirement Minimum age Minimum service	65 5	65 --	
Monthly benefit	Service after 12/1/46 sum of (a) 1% of social security wages, (b) 2% of excess up to 2 times social security wages, and (c) 1½% of excess for each year of service divided by 12 Minimum 0 75% of final average compensation plus 0 75% of final average compensation in excess of social security wages times years of participation divided by 12 Maximum $40,000 a year	Total retirement income (including social security and profit sharing plan benefits) based on average annual salary in last 10 years 75% of 1st $4,800, 50% of next $10,200, and 40% of excess divided by 12 Minimum with 10 years service—$1,750 a year, 15 or more years service—$2,100 a year Maximum $35,000 a year	
Early retirement Minimum age Minimum service	55 5	55 15	
Benefit amount (reduction of normal benefit)	Actuarial reduction	1/30 for each year of service less than 35 years	
*Vesting** Age and service requirements	Age 55 or 20 years service from age 30	Age 55 with 15 years service or 25 years service	
Benefit amount	Full benefits accrued	Full benefits accrued	
Disability Age and service requirements			
Benefit amount			
Death or survivor Preretirement	Refund of employee contributions with interest		
Postretirement (other than through optional forms of retirement benefits)			

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age.

MULTIEMPLOYER PENSION PLANS

Name of plan	Southern California Retail Clerks—Food Employers Pension Fund	Carpenters Northern California Pension Plan		Carpenters Pension Trust for Southern California	
Covered employees	40,000	31,150		30,000	
Retirees	1,455	2,285		3,000	
Normal retirement		*Normal*	*Reduced*	*Normal*	*Reduced*
Minimum age	60	65	65	62	62
Minimum service	10	25	15	25	15
Monthly benefit	$33 40 for 1st 10 years, $6 66 for each of next 10 years service (plus cost of living supplement—as present 12 97%) Maximum $100 plus cost of living supplement	$210 (normal) $8 40 for each year of service (reduced) Maximum $210		$181 50 (normal) $7 25 for each year of service (reduced) Maximum $181 50	
Early retirement					
Minimum age	50	55		55	
Minimum service	10	15		15	
Benefit amount (reduction of normal benefit)	Percentage of normal benefit based on age 52% at 50, 70% at 55	½% for each month under 65 to age 60, ¼% for each month under 60 to age 55		¼% for each month under age 62	
*Vesting**					
Age and service requirements	10 years service	Age 50 with 15 years service		Age 45 with 15 years service	
Benefit amount	Full benefits accrued			Full benefits accrued	
Disability					
Age and service requirements		Under age 65 with 15 years of service		15 years service	
Benefit amount		$8 40 for each year of service Maximum $210		$7 25 for each year of service Maximum $181 50	
Death or survivor					
Preretirement				With 5 years service, lump sum equal to half of employer contributions ($2,500 maximum)	
Postretirement (other than through optional forms of retirement benefits)		Normal, reduced or early retirement pension guaranteed for 60 months		Normal, reduced or early retirement pension guaranteed for 36 months	

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age

MULTIEMPLOYER PENSION PLANS

Name of plan	Motion Picture Industry Pension Fund—Los Angeles Area	Printing Pressmen's Los Angeles Retirement Fund	California Butchers Pension Trust
Covered employees	29 841	23,974	14,793
Retirees	2,922	1,498	549
Normal retirement			
Minimum age	65	65	65
Minimum service	20 years and 20,000 hours of credited service	5 years and employer contributions of at least $165	10
Monthly benefit	$200 (Full normal benefit graded down to 25% for employees with 10 years and 10,000 hours of credited service)	$3 00 for each year of service after 1/1/65 $2 50 for each year of service prior to 1/1/65	$2 50 for each year of service ($2 00 for each year of past service)
Early retirement			
Minimum age	62	60	55
Minimum service	Same as for normal benefits —10 to 20 years	5	15
Benefit amount (reduction of normal benefit)	Actuarial equivalent	6⅔% for each year under 65	Percentage of normal benefit based on age and sex 46 33% at 55 to 91 48% at 64 for males
*Vesting**			
Age and service requirements	Service requirement same as for normal benefits—10 to 20 years	30 years service	Age 50 with 10 years service or 20 years service
Benefit amount	Full benefits accrued	Full benefits accrued	Full benefits accrued
Disability			
Age and service requirements	20 years and 20,000 hours of credited service	5 years service	10 years service
Benefit amount	Varies based on age from $200 if age 60 or over to $170 if age 49 or younger	Same as normal benefit, except maximum is $50 Normal benefit payable after age 65	Same as normal benefit $2 50 for each year future service
Death or survivor			
Preretirement	Refund of employee contributions with interest	50% of employer contributions	
Postretirement (other than through optional forms of retirement benefits)		Benefit payments guaranteed for 36 months	

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age.

MULTIEMPLOYER PENSION PLANS

Name of plan	*Los Angeles Hotel—Restaurant Employer—Union Retirement Fund*	*San Francisco Culinary, Bartenders and Service Workers Pension Plan*	*Southern California Pipe Trades Pension Plan*
Covered employees	14,600	13,142	11,653
Retirees	1,403	1,085	649
Normal retirement Minimum age Minimum service	65 (62 for females) 10	65 15	*Normal* / *Reduced* 65 / 65 25 / 15
Monthly benefit	$40	$3 33 for each year of service Maximum $100	$185 (normal) $1 85 for each quarter of service credit (reduced)
Early retirement Minimum age Minimum service		55 15	55 15
Benefit amount (reduction of normal benefit)		Percentage of normal benefit based on age and sex 43 69% at 55 to 90 94% at 64 for males	¼% for each month under 65 to age 60, ⅙% for each month under 60 to age 55
*Vesting** Age and service requirements			Age 50 with 15 years service or 25 years service
Benefit amount			Full benefits accrued
Disability Age and service requirements	Age 50 with 10 years service plus receipt of social security disability benefit	Age 55 with 15 years service	15 years service
Benefit amount	$40	Actuarially reduced normal benefit	$1 85 for each quarter of service credit
Death or survivor Preretirement			Age 55 with 15 years service, lump sum equal to $40 for each year of service ($1,000 maximum)
Postretirement (other than through optional forms of retirement benefits)			Lump sum equal to $80 for each year of service ($2,000 maximum) benefit payments guaranteed for 60 months

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age

MULTIEMPLOYER PENSION PLANS

Name of plan	Painters Bay Area Pension Plan	
Covered employees	6,373	
Retirees	643	
Normal retirement Minimum age Minimum service	*Normal* *Reduced* 55 65 25 10	
Monthly benefit	$150 (normal) $5 for each year of service (reduced)	
Early retirement Minimum age Minimum service	55 10	
Benefit amount (reduction of normal benefit)	½% for each month under age 65	
*Vesting** Age and service requirements	Age 50 with 15 years service or age 45 with 20 years service	
Benefit amount	Full benefits accrued	
Disability Age and service requirements	15 years service	
Benefit amount	$5 for each year of service Maximum $150	
Death or survivor Preretirement	For those in vested status, benefit payments guaranteed for 36 months	
Postretirement (other than through optional forms of retirement benefits)	Benefit payments guaranteed for 36 months	

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age

MULTIEMPLOYER PENSION PLANS

Name of plan	Western Conference of Teamsters†	
Covered employees	361,000‡	
Retirees	12,000	
Normal retirement Minimum age Minimum service	65 600 covered hours in 2 consecutive calendar years	
	Hourly contribution rate	Benefit for each year of service
Monthly benefit	7½¢ 10 ¢ 15 ¢ 20 ¢ 25 ¢	$3 00 4 00 6 00 7 20 8 86
Early retirement Minimum age Minimum service	60 16 years service and 3,000 covered hours	
Benefit amount (reduction of normal benefit)	4/10% for each month under 65 if 3,000 covered hours in 16 preceding quarters, otherwise 6/10% per month	
*Vesting**		
Age and service requirements	Age 52 with 15 years service and 3,000 covered hours	
Benefit amount	50% of accrued benefits (with slight modifications) at age 52 to 100% at age 60 or over, if below age 52, cash termination benefit equal to amount of death benefit	
Disability		
Age and service requirements	Under age 65 with 15 years service, covered by plan for 2 years, receiving social security disability benefits, and 3,000 covered hours in 16 preceding quarters	
Benefit amount	Same as normal benefit, except minimum benefits are specified for each contribution rate	
Death or survivor		
Preretirement	With 15 years service and 2 000 covered hours lesser of (a) 30% of employer contributions or (b) $900 multiplied by contribution ratio	
Postretirement (other than through optional forms of retirement benefits)	Excess, if any, of preretirement death benefit minus benefit payments received	

* Vesting is here defined as deferred benefit rights granted upon termination prior to any early retirement age Vested benefits are payable at normal retirement age or, under most of the plans, in reduced amount at early retirement age
† Plan covers workers in 11 western states, including California
‡ About 16,500 employers contributed to the plan in 1965

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ASSEMBLY INTERIM COMMITTEE REPORTS
1965–1967

Volume 3 Number 13

FINAL REPORT OF THE

ASSEMBLY INTERIM COMMITTEE ON TRANSPORTATION AND COMMERCE

MEMBERS OF THE COMMITTEE

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RICHARD J. DONOVAN, *Vice Chairman*

FRANK P BELOTTI
CHARLES E CHAPEL
WILLIAM E DANNEMEYER
JOHN FRANCIS FORAN
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OF THE STATE OF CALIFORNIA

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Minority Floor Leader

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TABLE OF CONTENTS

	Page
Letter of Transmittal	5
Enabling Resolution	7
Preface	8
SUBJECTS OF INVESTIGATIONS AND FINDINGS	
Air Pollution Control	9
Motor Vehicular Pollution Control	17
Sources of Air Pollution other than Motor Vehicular	
Effects of Air Pollution upon Agriculture and Reduced Visibility in Transportation	
Aviation	15
Regional Operation of Airports	17
Helicopters and Development of Heliports	18
Coordination of Transportation—Heliports, Bay Crossings and Related Matters	19
Legislative Needs for 1967; Access/Egress to Airports	22
Highways and Freeways	25
Snow Tread Tires and Tire Chains	27
Completion of Harbor Freeway to Link with Vincent Thomas Bridge	29
Freeway Connections to Port of San Diego	29
Division of Highways—Design and Signing Procedures	30
Division of Highways—Auditing and Accounting Procedures	32
Motor Vehicles	39
Driver Education and Driver Training (Financing and Standards)	41
Mandatory Inspection of Motor Vehicles	41
Financial Responsibility of Uninsured Motorists	42
Driving Hours and Fees for Truckers	43
Department of Motor Vehicles, Proposed Relocation of Berkeley Facility	44
Evaluation for Registration of Motor Vehicles	45
Rapid Transit	47

LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE ON TRANSPORTATION AND COMMERCE

January 3, 1966

HONORABLE JESSE M UNRUH
Speaker of the Assembly, and
HONORABLE MEMBERS OF THE ASSEMBLY
State Capitol, Sacramento

Gentlemen

In accordance with the provisions of House Resolution 710.20 of the 1965 General Session, your committee has investigated various aspects of transportation and commerce in California and herewith submits the final report of its activities during the interim following the close of the 1965 session

Contained herein are narratives of the committee's hearings, reviews of testimony received at those hearings and our committee findings and recommendations

Respectfully submitted,

TOM CARRELL, *Chairman*

FRANK P. BELOTTI
CHARLES E CHAPEL
JOHN F. FORAN
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ASSEMBLY INTERIM COMMITTEE
ON
TRANSPORTATION AND COMMERCE

1965–66 INTERIM HEARINGS

Tom Carrell, Chairman

August 18, 1965 Lake Tahoe	Snow Tread Tires
September 15–16, 1965 Los Angeles	Southern California Rapid Transit Financing
November 8, 1965 Los Angeles	Southern California Rapid Transit Financing
November 9, 1965 San Pedro	Completion of Harbor Freeway to Link With Vincent Thomas Bridge
November 22–23, 1965 San Francisco	Regional Operations of Airports and Development of Heliports
December 8–9, 1965 Los Angeles	Sources of Air Pollution Other Than Motor Vehicular
January 12, 1966 San Diego	Relative to P S A —San Jose Airport San Diego Rapid Transit
January 13, 1966 San Diego	Freeway Connections to Port of San Diego and Bridge Design and Construction
January 25, 1966 March 8, 1966 March 15, 1966 March 22, 1966 March 29, 1966 April 5, 1966 April 12, 1966 Sacramento	A Series of Interim Hearings on Air Pollution Control
August 5, 1966 Sacramento	Effects of Air Pollution Upon Agriculture and Reduced Visibility in Transportation
August 11, 1966 Sacramento	Division of Highways Auditing Procedures Part I
August 12, 1966 Sacramento	Division of Highways, Highway-Freeway Design and Signing Procedures
September 13, 1966 Los Angeles	Air Pollution Control
September 14, 1966 Los Angeles	Division of Highway Accounting Procedures and Design Practices
September 26, 1966 San Francisco	Mandatory Inspection of Motor Vehicles and Air Pollution Control
October 7, 1966 Chico	Driving Hours and Fees for Truckers
October 20, 1966 Berkeley	Department of Motor Vehicles, Berkeley Facility—Motor Vehicle Evaluation for Registration
October 21, 1966 San Francisco	Coordination of Transportation Heliports, Helicopter Potential, Bay Crossings, Rapid Transit and Related Matters
November 22, 1966 Sacramento	Driver Education and Training (Financing and Standards)
November 23, 1966 Sacramento	Financial Responsibility of Uninsured Motorists

By Assemblyman Mills·

HOUSE RESOLUTION NO. 710

Relative to constituting certain standing committees of the Assembly as interim committees

Resolved by the Assembly of the State of California, As follows

1. The following standing committees of the Assembly are hereby constituted Assembly interim committees and are authorized and directed to ascertain, study and analyze all facts relating to (1) the subjects and matters assigned to them by this resolution, (2) any subjects or matters referred to them by the Assembly; (3) any subjects or matters related to (1) or (2) which the Committee on Rules shall assign to them upon request of the Assembly or upon its own initiative:

. . . . . .

(t) (20) The Committee on Transportation and Commerce is assigned the subject matter of the Vehicle Code, the Streets and Highways Code, uncodified laws relating thereto, and other matters relating to transportation and commerce

PREFACE

The Assembly Committee on Transportation and Commerce conducted intensive hearings in the 1965–66 two year period on a variety of subjects, which are reported on in some detail in the following pages.

We were unable to consider many of the subjects which came under our jurisdiction because both the 1965 and 1966 legislative general sessions and extraordinary sessions lasted many more months than usual, curtailing our period of interim study.

Our accomplishments, we feel however, were considerable, and the committee can look back with satisfaction on the work completed, and to the successful passage of many of our committee bills.

Members of the committee wish to express gratitude to those who participated in the work during sessions and interim, and who provided valuable assistance in the gathering of material for our studies.

Testimony was presented by most capable representatives of state departments and agencies, by city and county officials, and by representatives of business, industry, labor, law enforcement, and by citizens offering the viewpoint of the general public. Without the knowledge, material and testimony supplied by these witnesses, our work could not have been accomplished.

Sincere appreciation is given for the diligent work and considerable accomplishment of the committee staff.

AIR POLLUTION CONTROL

AIR POLLUTION CONTROL

The committee felt that the subject of air pollution control was of primary and urgent importance A great deal of the interim study time was devoted to the subject and hearings were held in Los Angeles on September 13, 1966, and December 8–9, 1966, in San Francisco on October 6, 1966, as well as in Sacramento spanning a period from January 25, 1966, to August 5, 1966

Since air pollution control was on special call for legislation in the 1966 session, hearings were aimed toward working out legislative proposals for used car smog devices, regional aspects of control, setting standards by Department of Public Health, and enlarging jurisdiction of the State Air Pollution Control Board

Hearings brought out the need to change law to make it possible to require devices on used cars if only one is manufactured, provided it cost $65 or less per vehicle and the manufacturer agrees to cross-licensing and/or price control to protect the buyer During the 1966 Extraordinary Session this change in law was passed Several other minor changes also were made in the law

Testimony presented at hearings made apparent the need for reform in the total air pollution program as individual air pollution control districts had not been formed in areas where pollutant problems exist and many districts in the state were not meeting the need to control present smog problems or prepare for potential ones

Hearings were devoted primarily to the two areas of the state now identified as having the worst air pollution problems, Los Angeles basin and the Bay Area The Bay Area counties are included in the framework of a regional air pollution control district, although several of these counties do not effectively participate in extensive controls The six counties comprising the Bay Area Air Pollution Control District are Alameda, Contra Costa, Marin, Santa Clara, San Francisco and San Mateo.

In the Los Angeles Basin, Los Angeles County has led the way in effecting control over pollutant sources, and a regional effect is gradually being achieved as San Bernardino, Riverside and Orange Counties are adopting regulations similar to those governing stationary sources in Los Angeles.

Dr Morris Neiburger, of the University of California at Los Angeles Meteorology Department, described to the committee how air pollution from Los Angeles and the bay area now is spreading throughout the state and blending with local sources of smog in areas previously believed free of pollution, such as Imperial Valley He recommended a statewide approach if such air pollution spread is to be controlled and decreased

At hearings in Sacramento, Department of Agriculture spokesmen said crop damage from air pollution now has been identified in all but a small part of the state and only one small part of the major agricultural areas is without this damage

The problem has been to train farm advisers to recognize the crop damage due to pollution and this program is now underway

Pilots of aircraft testified how widespread the area affected by air pollution has become in recent years. The total loss to California agriculture is estimated to run into millions of dollars each year through reduction in size of produce and yield as well as through total loss in some of the more sensitive agriculture crops such as lettuce, spinach, chard and others

The reporting system of damage from air pollution is in the formative stage. The report will be kept in a simple form and the interpretation of the reports will be standardized at a state level. It is expected that such work will be done in relation to the regular field observations and work of county personnel.

Agriculture's contribution to air pollution was reported to be not large by Dr. Ellis F. Darley of the Air Pollution Research Center, University of California, Riverside However, he reported, surveys showed that all burning of rice stubble, trimmings, and agricultural waste occur in short periods of the year and on an individual day-by-day basis. There are times when burning is a major source in the Sacramento and San Joaquin Valleys. He said burning of less than 1,000 acres of rice stubble at a time does not contribute greatly; burning of 6,000 acres in a day is a major contributor.

William Paynter, veteran pilot and president of the Union Flights Corporation, Sacramento, said air pollution has become a threat to air safety He attributed much of the problem to agricultural burning, in that it reduces visibility even if it does not include gases and chemicals which are a threat to the public health.

As a result of these hearings, the following bills were introduced:

Assembly Bill 72—Soto, Chapter 108
Inspection and certification of motor vehicle smog control devices and their installation.

Assembly Bill 73—Carrell, Chapter 82
Defines requirements for and certificates of requirements for motor vehicle smog control devices.

Assembly Bill 74—Carrell, Chapter 140
Provides that the State Department of Public Health shall establish and publish criteria on levels, duration and frequency of occurrence of contaminants in the atmosphere from all sources of air pollution.

Assembly Bill 75—Carrell, Chapter 91
Requires commercial vehicles be inspected by California Highway Patrol for smoke emissions

Assembly Bill 98—Carrell, Chapter 111
Establishes minimum cost of motor vehicle pollution control device and requires cross licensing of device manufacture to insure fair competition.

AJR 10—Carrell
Memorializes U S Secretary of Health, Education and Welfare to prescribe the emission standards for blowby and exhaust and any other source defined by the California State Department of Public Health as the national federal standard. These standards would include control of emissions of oxides of nitrogen and

hydrocarbons AJR 10 was adopted and copies sent to the Secretary of Health, Education and Welfare, and to each California Senator and Member of Congress.

All of the above-mentioned bills were signed into law in 1966.

Assembly Bill 99—Carrell
This bill did not pass. It provided for annual inspection of motor vehicle pollution control devices on 1963 or later year model autos. It was a controversial bill and at the author's request was held in committee for further study. It may be introduced again in the next legislative session.

Assembly Bill 112—Carrell
This bill passed the Assembly, but failed in the Senate It required the State Department of Public Health to define and publish boundaries of major air basins throughout the state and to establish these basins or zones as air pollution zones

Assembly Bill 117—Carrell
This bill was held in committee and may be reintroduced after further study. It changed the name of the Motor Vehicle Pollution Control Board to the (State) Air Pollution Control Board and gave this board the authority to regulate air pollution from all sources, including motor vehicular and all others

Assembly Bill 119—Carrell
This bill was held for further study and possible reintroduction It provided for authorization of the Air Pollution Control Board to declare air pollution control areas, after issuance of criteria by the State Department of Public Health, and to regulate pollutant emissions in those areas

Committee Recommendations:

1. The State Health Department should set minimum standards for all types of pollutants as technology permits
2. A board should be established within the State Department of Public Health to adopt regulations and rules applicable to and effective for the entire state The board should have authority to move into any area if local air pollution control districts are not taking adequate steps to control pollutants to the minimum standards.
3. Districts should be formed on an air basin basis rather than on existing geographical boundaries of cities and counties These districts should have the power to adopt stricter regulations than those of the state to meet local situations.
4. The statewide board should have jurisdiction over *all* pollution sources and the present Motor Vehicle Pollution Control Board should be renamed Air Pollution Control Board with this broader jurisdiction and wider base of interests.
5. The regional or air basin district boards should have the authority to raise money on a property tax or through another form of revenue.
6. The regional boards should have authority to require registration of air pollution sources and charge a fee prorated and scaled to the

size of the air pollution source. It also should be authorized to accept grants from private and government sources.

7 The statewide board should be empowered to recommend changes in legislation to the Legislature either for statewide rules (i e ban backyard burning) or to strengthen enforcement.

8 Both the state board and regional boards should have powers to require permits, charge violators with misdemeanors, and seek court action through civil injunctions to require pollution sources to meet standards.

9 Provisions in the law should be provided for variances to be granted to stationary sources of pollution for valid reasons in the same manner as they are granted in the Los Angeles control area

10. Any state agency given jurisdiction over air pollution control should have the responsibility of setting rules and regulations on agricultural burning. This should include determining when burning permits may be issued for burning rice fields, orchard prunings, etc, and set a maximum amount on acreage or area that may be burned in one day.

AVIATION

REGIONAL OPERATION OF AIRPORTS

At the hearing November 22 and 23, 1965, in San Francisco, testimony presented brought out the fact that San Francisco and Los Angeles International Airports have supplied major airport needs—not only for California but for many adjoining states Yet each is supported by only a small group of taxpayers

The San Francisco Airport pays taxes to San Mateo County and has to provide much of its own police and fire services; services normally provided by San Mateo County.

In addition to a tax problem, spokesmen pointed out there is a limited amount of airspace Therefore, it will become increasingly important to integrate operations of all airports in the bay area so that the needs of general aviation as well as commercial flights within California, the United States and international points can be accommodated

Ultimately, the three major airports in the bay area (San Francisco, Oakland, and San Jose) will be competing for the same airspace and this limitation probably will be greater than the competition for the air passenger and airlines.

Since local governments at the city or county level either cannot afford the large capital outlay or do not have the vision to take leadership in acquiring and maintaining airports, aircraft officials urged state leadership and a form of state subsidy.

Coordination of the airports can avoid duplication of costly facilities which might have limited use. Coordination can also help maintain air safety.

A major problem facing aviation is the loss of many airports Property values of small, privately owned airports in urbanized areas now are so high that many are being abandoned and subdivided Unless action is taken soon, the smaller airports necessary for the air transportation industry will disappear and spokesmen told the committee they foresee a time when costly new airport acquisition will have to take place.

Protection of airports through zoning and restrictions on height of buildings in flight approaches also cannot depend upon local government In many instances the airport of one city is in another county or city Arthur E. Johnson of the Fullerton Airport pointed out adjoining cities permit encroachments which bring complaints about noise and cause airport problems.

At hearings in San Francisco on November 21, 1966, and in Sacramento on December 5, 1966, witnesses emphatically stated that zoning to preserve existing airports and create new airports must begin at the state level and that state legislators should exert leadership in passing laws to resolve zoning problems at the local level.

Committee Recommendations:

That legislation be introduced to resolve airport zoning problems and that 1966 bills which failed to pass during the last hours of the session be reconsidered for reintroduction in light of new aviation developments and the testimony presented at our interim hearings relative to regional planning for airports.

HELICOPTERS AND DEVELOPMENT OF HELIPORTS

The committee held a two-day hearing, November 22–23, 1965, in San Francisco because this major California city has no heliport and, as testimony emphasized, there is urgent need for one

A heliport located in the city would greatly improve service to the airport located miles distant and would relieve traffic congestion, airport parking problems and reduce travel time drastically.

Figures of nine million passengers going through the San Francisco International Airport for the 1964–65 fiscal year were quoted by James Carr, General Manager, P U.C , City and County of San Francisco. Air freight going through amounted to 282 million pounds, air express 13½ million pounds, mail 86 million for this period and increasing rapidly, passenger traffic tripled and air freight is six times greater than in 1954.

Carr stated that San Francisco International Airport is fourth largest in the United States and fifth largest in the world.

Carr spelled out in detail why responsibility for air passengers should not end when they land at San Francisco International Airport A system of coordinated transportation should bring the traveler to his downtown destination at the least cost, in the fastest time, and with the least inconvenience A heliport would help accomplish this.

Twelve possible heliport sites in the city were under consideration Cost, as well as Federal Aviation Agency safety rules and noise factors, make location of a permanent heliport difficult Other factors limiting some proposed sites are availability to passenger traffic, structural strength to support weight, traffic access and parking

California leads the nation with more than 210 heliports, 50 percent of which are in Greater Los Angeles area Private industry has taken the lead in their development, although some city and county governmental agencies have heliports for use of their own helicopters, and neither of this type landing spot is open to the general public use Questions posed were · Are public-use heliports necessary? Who will use them and how often?

At present, helicopters are expensive transportation since their maintenance cost is higher than that of fixed-wing aircraft Experts in the aviation field foresee, however, that a combination of factors will come together to create lower costs and higher demand for mass passenger helicopter service

These factors are (1) technical development of a sky lounge or bus under the fuselage of the vehicle to carry large numbers of people from city to airport and to suburban communities in such areas as in southern California and the bay area-peninsula; (2) subsidization of heliport fares by the airlines, as is being done in San Francisco, Oakland helicopter services and in Los Angeles, (3) establishment of easily accessible heliports in major cities and satellite communities.

Melvin Burt, president, Southern California Aviation Council, emphasized in detail the reasons state government should take the initiative to coordinate with federal, city, county governments to create an authority between the many political entities which now have no

authority to act, or to finance airport and heliport development in planning, zoning and land use These activities have been conducted haphazardly and without any direction from a master plan to coordinate all transportation needs in communities throughout the state

Access and egress to airports and parking are so integral a part of planning and land use it cannot be divorced from the total approach to solutions for the future

Airport heliport use and facilities are not bound by county lines—another strong argument for coordinated authority at state level

It is agreed that San Francisco has a serious need to establish a heliport facility Several sites have been suggested by witnesses at our hearings as desirable locations for a heliport Two of these sites are on state-owned property—to wit (1) San Francisco Port Authority facilities and (2) East Bay Terminal Building

Committee Recommendations:

Legislation should be enacted calling for the fullest cooperation between the state and the City and County of San Francisco to explore and work out an agreement on the development of proposed sites or other possible sites for a heliport should be presented in the 1967 Regular Session.

COORDINATION OF TRANSPORTATION IN THE BAY AREA—BAY CROSSINGS, HELIPORT AND HELICOPTER DEVELOPMENT AND RAPID TRANSIT

The committee met in San Francisco on October 21, 1966 Witnesses included E R Foley, chief engineer, Division of Bay Toll Crossings; Alan Hart, district engineer for the Division of Highways, James Adam, general manager of the Golden Gate Bridge and Highway District; Arthur Jenkins, engineer for the Golden Gate Bridge and Highway District, Richard Zettel, director of Bay Area Transportation Study Commission (BATS); Clifford J Geertz, engineer, City and County of San Francisco, as well as representatives of aviation, bay conservation and homeowners.

E R Foley reported on the study authorized by the 1965 Legislature of tube and bridge crossings for both rapid transit and motor traffic needs The study was made in cooperation with the Bay Area Transportation Study Commission (BATS)

He stated that the coordinated Golden Gate Bridge and Highway District, BATS, and Division of Bay Toll Crossings reports will include data as to public preference on financing additional crossings

One of the major stumbling blocks to increasing the traffic load by adding a second deck is that both San Francisco and Marin County approach areas are already at near capacity Therefore, development of expanded approaches must be made before a rapid or mass transit system, a second deck, parallel bridge or other crossing proposals would be feasible at all

Alan Hart, District Engineer for the State Division of Highways, answered specific questions which had been submitted to him by the committee prior to the hearing:

1. Data on present vehicular traffic volumes and capacity on the Golden Gate Bridge

Mr. Hart cited the following figures

1965: 70,000 vehicles per day

1966 (to October 1966): 76,500 vehicles per day.

6,561 vehicles crossing bridge one way during peak hour. This is 1,640 vehicles per lane.

Projected capacity figures—Based on a single deck bridge, some toll-plaza improvements, a freeway system in San Francisco and some improvements on the Marin approaches.

1,875 per lane one way, normal hours.

7,500 per lane one way, peak hours.

116,000 capacity on average day

2. Distribution of traffic in San Francisco from bridge:

1965–66: 24,300 vehicles (35 percent of total vehicles crossing bridge) used Park Presidio, the first break off ramp after toll plaza.

45,700 vehicles (65 percent) used downtown off ramp.

14,300 vehicles used Park Presidio-Downtown combination.

3 Volumes and capacity of San Francisco streets

Mr. Hart asked that Mr. Clifford J. Geertz, city engineer for San Francisco, supply information on this question. Mr Geertz stated that corridor streets in San Francisco that serve the bridge are now almost to their ultimate capacity. We can expect an increase just from a rise in population without additional crossings or a second deck, and an adjustment in city street capacity will have to be made These adjustments would include adding another lane to Marina Boulevard, making certain other streets one way and no parking However, this type of adjustment would accommodate only a 10-percent increase in traffic. Geertz stated a freeway would provide the only real assistance in handling a greater traffic flow.

4 Traffic capacity of Golden Gate Bridge if it were double decked:

According to Mr. Hart, Arthur Jenkins of the Golden Gate Bridge District has advised that if the bridge should be expanded to five lanes on the upper deck and four lanes on a lower deck and six lanes be used for heavier traffic during peak hours, the bridge capacity, one way, will be about 9,600 and 4,800 (1,600/lane) vehicles respectively during the peak hour.

5. *Traffic Dispersion in San Francisco*

Mr. Hart asked Clifford Geertz, City Engineer of San Francisco, to supply figures on this question The figures showed that streets which at present are absorbing the flow of traffic from the bridge cannot absorb more than about a 10-percent increase in traffic volume and that a freeway is needed to direct the bulk of the flow to downtown San Francisco, the destination of most of the traffic.

6. *Existing and Projected Traffic Volumes and Dispersion in Marin County*

Field counts made during 1965 and 1966 showed on an average day 70,000 vehicles crossed the bridge to Marin, and of them 7,500 turned off at the Sausalito Lateral and the remaining 62,500 continued northerly to the Bridgeway Interchange at the foot of Waldo Grade.

Projections for expected increase in volume to the year 1985 indicated that 14,000 vehicles would use the Sausalito Lateral and 152,000 would continue on to the Bridgeway Interchange.

Assemblyman Charles Warren suggested that toll revenue funds be used to build parking lots in Marin or to provide free parking lots and from them base bus transit systems for transporting commuters across the bridge to downtown San Francisco, where the people could then be dispersed to their destinations.

L. E. Castner, president of the Golden Gate and Highway District, gave the following conclusions regarding the feasibility of a second deck:

1 The traffic capacity of the Golden Gate Bridge has now been reached and, unless relief is provided, traffic congestion will get to be more and more of a daily problem during peak hours

2. During recent years, the bridge district has expanded, modernized and improved existing facilities to the fullest extent possible in order to increase traffic capacity and speed up the flow of commuter vehicles. All such avenues, he stated, have now been exhausted

3. Rail rapid transit to Marin County over the Golden Gate Bridge has been definitely ruled out because of its potentially adverse effect upon structural safety and service life of the bridge.

4. The only remaining avenues of substantial relief are to build a new bridge, place a second deck on the existing bridge, or construct an underwater tube, either for vehicular traffic, rail transit, or a combination of these two.

Costs of a second deck on the bridge are estimated at, under two plans, for an additional three lanes, under a minimum cost plan, $41,500,000 ($13,800,000 per added traffic lane)

Varying estimates from engineering firms range from $35,000,000 ($17,500,000 per lane) to $97,600,000 ($48,800,000 per lane).

Committee Recommendations:

The committee recommends, relative to the question of additional bay crossings, that the Golden Gate Bridge and Highway District should withhold any final decision on adding further facilities to increase the traffic load of the Golden Gate Bridge, particularly with respect to construction of a second deck, until the Division of Bay Toll Crossings has completed its report, scheduled for release in May 1967. It further recommends that no decisive action be taken until the Bay Area Transportation Study Commission has completed and submitted its regional analysis of the overall coordination of bay area transportation problems and needs.

The BATS analysis is scheduled for release in January 1968 Both this and the above mentioned Bay Toll Crossing Division report represent analytical studies which will serve as the best guide for legislators

as to state level decisions for solving current transportation problems in the bay area and how best to meet future needs

These reports may rule out the feasibility of adding a second deck to the Golden Gate Bridge in favor of other means of transbay crossings.

These reports will also offer the best guidelines for implementing integral parts of regional and coordinated transportation, including handling of vehicular traffic, street and freeway planning, parking facilities, rapid and mass transit, air transportation and bay crossings

AVIATION—LEGISLATIVE NEEDS FOR 1967

At a committee hearing in Sacramento on December 5, 1966, Clyde Barnett, Director of the State Division of Aeronautics, testified again as to the need for adequate planning for airports throughout the state to handle the increased air traffic, and emphasized again the worsening problems of getting people to the airports, parking their automobiles, and getting them out of the airports to their destinations

Mr Barnett predicted that when the supersonic jet transport planes, which are as long as football fields and can carry more than 300 passengers, begin landing on California airfields, an immense demand will arise for short-haul feeder hops to disperse travelers and unclog terminal traffic jams

A variety of new aircraft has been developed to meet this need Examples are helicopters, vertical takeoff aircraft (VTOC), air buses, and people pods. In order to keep the lower airspace safe for all this shuttle commuting, state legislators should consider a million-dollar pilot study of a new navigation system.

This system was explained in detail by A. W. Bayer, member of the California Aeronautics Board. The system is that of General Precision Decca Systems, Inc. One master radio transitter and three slave stations beam out a signal on a common frequency which covers and overlaps a 500-mile-square grid. Equipment aboard the aircraft senses the impulses, plots the location on a computer, and gives the pilot a stylus-drawn picture of where he is at all times

Cal Ferris, of the National Aeronautics Association, said the system could be used successfully for precise aerial photography, agricultural seeding and spraying, forest fire retardation and civil defense applications

Clyde Barnett stated that such a system in effect would have been invaluable during air-sea rescue operations along the northern California coast during the 1964 destructive floods and that many lives would have been saved, property damage lowered, and aircraft losses minimized.

Ted Anderson, California Council of Aviation Associations, discussed the subject matter of several measures which were introduced in the 1965 General Session of the Legislature, and recommended that they be discussed and presented again for passage in the 1967 session

Provisions of these measures are discussed in detail on the following pages under committee recommendations

Committee Recommendations:

The committee recommends that, in line with Ted Anderson's testimony (representing the California Council of Aviation Associations) and that of Clyde Barnett, Director of the State Division of Aeronautics, the subject matter of those bills which failed passage in 1965 be reintroduced in the 1967 Legislative Session.

Provisions of these bills are as follows:

SB 329. Creates a joint airport zone board for airports affected by more than one legal jurisdiction The purpose of the bill would be to enable communities to join together when they have overlapping or multiple jurisdictions affecting the operation of an airport, so that the communities can work together to solve mutual problems.

SB 332. Would prohibit the construction of a structure or natural growth in the vicinity of any airport which is open to public use without a permit from the State Division of Aeronautics, if such obstruction exceeds Federal Aviation Agency obstruction and hazard criteria and the FAA declares such structure or growth a hazard to air navigation In 1965 this bill was passed by both the Senate and Assembly, but was lost because of lack of time for concurrence at the end of the session.

SB 335 Establishes a basic public policy that individuals residing in the vicinity of an airport must endure any inconveniences caused by normal aircraft operations not harmful to health or comfort.

SB 339. Provides that Division of Aeronautics will act as a state agent for channeling all funds distributed under the Federal Airport Act. The federal aid funds are available and there is much to be said about channeling these limited amounts to the end that they work in the very best way to establish a state system of airports. Heretofore, the bulk of the aid has gone to large metropolitan airports which serve only airlines. Proper channeling of funds would insure development of an equitable system of airports throughout the state.

AB 965. Provisions of this type of bill would prohibit the issuance of an insurance policy which excludes coverage because the aircraft is operated in violation of federal state or local laws. This was passed, in 1965, by both the Senate and Assembly and pocket-vetoed by the Governor. Under present law, a clause in insurance policies can sometimes be in violation of federal, state and local law, and the policy is then voided on a technicality. This escape route should be closed so that anyone buying aircraft insurance is assured of having effective coverage and anyone injured by an owner of aircraft is protected by the insurance policy.

AB 773. Provides a system of aircraft financial responsibility. Establishes an accident reporting system and requires aircraft operators to provide required security. Places upon aviation the same obligations that are placed upon drivers of motor vehicles.

Other suggested legislation which should be introduced for further consideration was outlined by Ted Anderson as follows:

1. Relative to condemnation proceedings for airport sites; at present, rentals must be paid in excess of normal, fair rental rates for property during a condemnation period. Under present conditions, if the owner of land chooses not to lease the property, airport construction or expansion is delayed up to two years. Right of immediate possession should be included in condemnation statute This recommendation is endorsed by the County of Los Angeles Aviation Division.
2. Marking of powerlines where those powerlines cross flyways in valleys or canyons where aircraft have to operate at low levels and powerline structures are at high elevation. Bright orange spheres suspended from the powerlines are standard indication of their presence. Perhaps a better marking requirement would be a transparent sphere illuminated from the corona radiated by the powerlines. The sphere would be filled with neon gases.
3. Amendment to new gas tax law to include airports in the joint powers authority and to permit funds to be used where feasible to guarantee bonds of local communities so that larger sums could be made available for immediate development or acquisition of an airport by a community. Where such a method of financing is feasible, this would greatly multiply the effectiveness of the limited amount of state funds available for airport development.

Mr. A. W. Bayer, member of the California Aeronautics Board, former vice president of Hughes Aircraft, and a foremost authority on vertical lift aircraft, explained a system of high accuracy navigation for vertical lift vehicles in California. The system he described is that of General Precision Decca Systems, Inc.

The committee recommends that in the public interest the Federal Aviation Agency be authorized to install a system such as Decca in California.

In view of testimony presented on the need for more and better access by motor vehicles to airports, and egress from them, the committee recommends that the State Highway Commission, the Department of Public Works and the Division of Highways be urged to plan for better access and egress highways and freeways leading to and from airports. A joint resolution to this effect should be adopted if no other legislation is deemed necessary.

HIGHWAYS AND FREEWAYS

SNOW TREAD TIRES AND CHAINS

At the request of officials and businessmen in the Sierra Mountain region, the committee met in the Tahoe area on August 18, 1965, to consider the problems connected with use of tire chains and snow tread tires in the California-Nevada areas where ice and snow on highways make their use a necessity many months of each year.

Testimony pointed out several areas for possible improvement in present requirements.

1. It was proposed the State Division of Highways adopt three approaches to requiring chains during winter storms The present policy either requires chains or permits automobiles to travel the highways with regular tires.

As an intermediate step, residents suggested signs should say "Chains *or snow tires* required" They pointed out that residents of snow country have snow tires whereas the visitor or tourist does not and must use chains. The concern shown by the Highway Patrol for the driver in an automobile equipped only with snow tires would not prove valid. The occasional driver into snow country automatically would need chains because he would not equip his automobile with snow tires.

Witnesses agreed there are times when vehicles should be permitted on the state highways only with chains. Most of the time, they contended, snow tires would provide adequate protection

The alternative, they contended, would create less highway and tire damage and provide greater convenience for permanent residents of the snow country They contended it is an inconvenience to have to take chains off and on several times in a short trip when snow tires would provide adequate safety to an experienced driver

They also pointed out Nevada uses the three alternatives and Nevada Division of Highways Superintendent E. D. Willis said Nevada highways are damaged by California drivers who come into Nevada and do not remove chains He said Nevada Division of Highway cars are equipped with snow tires.

2. Assemblyman Eugene A Chappie urged steps be taken to prevent overcharging of motorists for installing chains and removing them.

Chappie and other witnesses pointed out that ice and snow level points at which chains are required change frequently. He suggested the Highway Patrol and Division of Highways cooperate to get an early warning to motorists so they can buy chains before leaving larger towns and avoid paying higher costs charged by operators

They also suggested greater coordination between these state agencies might avoid tieups at the points where chains are required and eliminate accidents caused by vehicles lining up on the highway.

They also questioned the procedure because the "chain apes," those who install tire chains for fees, always have moved to a new location in advance of the "Chains Required" sign.

3. A. F. Noyes of B F. Goodrich Tire Company and Hugh Stilley of Firestone Tire and Rubber Company suggested California should approve a new snow tire equipped with metal studs to give greater traction.

Inspector Harold Jacobs of the California Highway Patrol testified that snow tires are being tested, but so far tests have not proved they

would provide the traction of chains. He also said there is a question of damage to highways from the metal studs which are being tested.

Committee Recommendations:

In view of the fact that some progress has been made since the date of our hearing on regulation of tire chain installation, our recommendations will not have to include aspects of authorization, price regulation, and location of chain installation crews.

SACRAMENTO BEE
November 29, 1966

Quote Price, Give Receipt

State Tightens Laws On Chain Services

Regulations on men who put on and remove tire chains for motorists traveling the trans-Sierra winter highways of U.S. 50 and Interstate 80 have been strengthened.

This was announced by the office of State Highway Engineer J. C. Womack. Motorists, who in the past complained of exorbitant charges or service performed by unauthorized chain crews, now must be advised by the chain handler in advance of the exact fee to be paid.

Receipts will be handed out, too, and the receipts must bear the permit number of the chain handler.

Chain installers who hope to operate in counties having business license restrictions must present their county business licenses in order to obtain a permit to operate along the roadways in those counties.

No chain-changing will be allowed in lanes carrying through traffic.

"Motorists will experience greater convenience and benefit through these added provisions," said Womack's statement.

Authorization for these small businessmen to operate, he noted, is contained in the State Streets and Highways Code. Fees are left to the discretion of the individual operators, all of whom are required to wear a round plastic badge in plain sight.

Violations or complaints should be directed to the State Division of Highways.

As indicated by the foregoing news items, the State Highway Engineer has acted to require business licenses of men who put on and remove tire chains Fees for installation and removal of chains must be clear in advance of the work and a receipt bearing the permit number must be issued.

Also, in the interest of traffic safety, no chain changing is allowed in highway lanes carrying through traffic.

The committee does recommend, however, that possible legislation could be offered in the interest of interstate cooperation on the matter of highway signs to permit use of snow tread tires by those residents of snow areas who have their vehicles equipped for the season with these tires and travel interstate in California and Nevada. As pointed out in this report, present California law conflicts with Nevada law in this respect and creates a hardship for many residents of the area.

COMPLETION OF HARBOR FREEWAY TO LINK WITH VINCENT THOMAS BRIDGE

FREEWAY CONNECTIONS TO PORT OF SAN DIEGO

Committee hearings were held on January 12–13, 1966, in San Diego on freeway connections to the port of San Diego and on November 9, 1966, on completion of Harbor Freeway to link with the Vincent Thomas Bridge in San Pedro.

Budgeting and construction of state highways are planned within a framework of highway needs. Testimony presented to the committee indicated there may be times when large expenditures of public funds by other public agencies do not produce maximum results for the taxpayer.

At the hearing in San Pedro it was pointed out the Harbor Freeway ends about a mile from the Vincent Thomas Bridge, creating a jumble of traffic in downtown San Pedro, curtailing full utilization of the bridge and many of the San Pedro Harbor facilities and state-provided recreation areas.

In San Diego, connection of freeways and completion of freeway routes were listed as essential to full and efficient use of the expanding port facilities.

Witnesses told the committee that completion of connections to the port facilities as they are developed would alleviate traffic congestion on local streets, help the port obtain more shipping to and from the east, including the States of New Mexico, Arizona and Texas, and cut shipping costs.

HIGHWAY-FREEWAY DESIGN AND SIGNING PROCEDURES

The committee met August 12, 1966, in Sacramento to hear testimony from Division of Highways representatives and witnesses representing cities, chambers of commerce, the California Highway Patrol and the Automobile Club of Southern California

Mr. Fritz Zapf, member of the board of the Los Angeles Regional Transportation Study, past director of the League of California Cities and at present Engineer and Superintendent of Streets, City of Pasadena, listed the objectives of the committee study very succinctly:

California, under a pay-as-you-go program, has one of the finest freeway systems in the world and its service to the motorist has permitted tremendous growth throughout the state The advances, research design and construction by the Division of Highways are known throughout the field of transportation The Division of Highways has shown progressive improvement in the design of its freeways during 25 years of freeway operation

However, we must continue to remember that proper freeway and highway design has a tremendous effect upon the safety and smooth flow of traffic on the freeway proper, the city streets crossed by freeways, and also the connections between the city street systems and the freeways

The following problems were considered at the committee hearing and corrective solutions discussed

Freeways. There are a number of elements of freeway design that are becoming critical as more and more freeways are constructed through urban areas with tremendous volumes of traffic, both through and local, using the freeway

Lanes Attention should be given to position of on-ramp and off-ramp lanes In many cases on older freeways, the on ramp brings oncoming traffic into the fast lane of the freeway In other cases, an on ramp brings traffic into lanes of autos which are maneuvering into the right-hand lane for exiting from the freeway on an off ramp Also, new freeways must have additional lanes in order to reduce attrition between these vehicles entering and leaving the freeway and those going straight through. Any factor which results in the slowing down or stoppage of traffic presents a potential hazard for self-evident reasons

Curvature Due to problems in freeway acquisition, such as missing major buildings, etc , it has been necessary quite often to use smaller radii than is desirable. This has been a major engineering problem, since use of larger radii would cost more in right-of-way and construction. Thus, economy has often dictated tighter design

Signing. Freeway signing is good in most areas, but there is still much to be desired in providing sufficient information fast enough to motorists unfamiliar with the area Some signing problems are related to the freeway design The committee had many suggestions as to adequately indicating the destination of freeways It was pointed out that the San Diego Freeway in Los Angeles does not go to San Diego and there is no adequate directional sign on any freeway on how to find the correct route to the Los Angeles International Airport. It was agreed that both freeway names and signs giving the state route or interstate route number are desirable.

Lighting. Although steps are being slowly taken for additional lighting on freeways, considerable progress yet remains toward what is really needed Full, continuous lighting of freeways is needed, particularly in urban and metropolitan areas There has been hesitancy in this direction because of the use of gas tax funds, which must be overcome

Landscaping. The planting of banks adjacent to freeways has added greatly to the beauty of California and this aspect of freeway and highway design is most commendable Problems, however, have arisen in certain specific cases where landscaping has grown and eventually the shrubbery has made it difficult to see oncoming traffic on a curve from an on ramp Foresight as to future growth of plants creating possible traffic hazards should be included in landscaping design

Median Width Recent trends in median barriers have brought forth problems of insufficient median width where motorists could pull off sufficiently beyond the through lanes For example, the state has begun its program of setting chain link fences 8 to 10 feet from the edge of through lanes

There is insufficient room for passengers to properly get out of disabled vehicles and/or repair flat tires adjacent to the through lanes It may be as simple as providing only a few more feet of clearance, but additional clearance is needed

Access to the Freeways Access to the freeway, generally directly accomplished by on ramps, has always been a problem Having access only at particular points of the freeway network oftentimes results in a considerable amount of circuitous travel on city streets to reach these points of ingress There should be much more consideration for some sort of parallel service or frontage roads which will collect freeway-bound traffic for subsequent funneling to the freeway at appropriate locations This would provide tremendous relief from a series of deadend cul-de-sac streets as well as concentrations of traffic As mentioned above, access to the freeway often requires an additional freeway lane until the merging traffic can be safely merged with through freeway lanes.

Egress From the Freeway. The greatest problem with egress from the freeway, aside from signing problems, is providing logical points of exit with sufficient storage lanes at the city street intersection Generally, the terminations of the ramps are controlled by a traffic signal Unless you have ample storage lanes on the ramps, you cannot remove the traffic from the ramp as fast as it is arriving. Similar requirements for dispersal of ramp traffic through parallel collector roads are as important as the collection of traffic for the freeway

City Street System There still should be more consideration in freeway planning for the city's system of streets and highways, with particular concern to the widths of these city streets over or under the freeway Additional width is necessary at the freeway and for some distance beyond the freeway in order to provide for turning movements and heavier through traffic volume, which result from a lesser number of streets crossing the freeway. The freeway crossings at interchanges are, in fact, extensions of the ramps, providing transition to and from points of traffic concentration. Greater width should be designed into streets and highways, especially at freeway crossings

in the event that additional capacity is required. Also, freeway planning must recognize select system of streets.

Oftentimes design considerations and financing of the freeway systems are confined to the freeways proper. However, consideration should always be made of the complete trip from the point of origin along city streets or county roads, on the freeway and back, and on the city or county streets to the point of destination. No portion of the system should be stronger or weaker than any other.

The problems of design and signing of highways, streets and freeways and their solution in future planning should be taken into consideration by the Division of Highways and by local city and county engineers and planners to provide adequately for projected increases in volume of traffic. Where possible, corrections should be made of major problems, as outlined, in existing thoroughfares and freeways.

Committee Recommendations:

1. A Highway Safety Advisory Committee should be set up to review all highway construction plans and make recommendations to the California Highway Commission before projects are approved by the commission and ready for calling for bids.

The committee shall be composed of:

One representative of CHP (or other officer enforcing traffic regulations)

One representative of research (Univeristy of California, UCLA or similar area where research is being done)

The committee should have authority to recommend research or data gathering so adequate review can be made on various highways to spot as early as possible any traffic hazards that may be due to design error.

It also should have authority to recommend to the Legislature and to the Califronia Highway Commission specific standards for highways.

This commission should be apart from existing highway engineers and so formed as to provide a "layman's" review.

DIVISION OF HIGHWAYS AUDITING AND ACCOUNTING PROCEDURES

The committee met in Sacramento on August 11, 1966, and again in Los Angeles on September 14, 1966, to consider this subject. The Auditor General, William Merrifield, continued testimony on details of his reports of the Division of Highways accounting and auditing procedures.

Merrifield stated, "Our report on our review of accounts receivable is divided into three parts:

1 The accounting work that is performed by the Division of Highways to record work done for the federal government and others.
2. The accounts receivable and revenue records that are maintained for rental of rights of way property required in advance of highway construction.
3 The organization of the accounting activity, with limited authority given to the comptroller of the Division of Highways."

Chairman Carrell, in his opening statement at these hearings, enunciated the aim of the committee:

"The major concern of this committee is to see that the more than $800 million budget of the department is producing the maximum for the taxpayer in economy and safety"

The primary concern of the committee was with auditing and bookkeeping practices Mr. William H. Merrifield, the Auditor General, was asked to answer the following questions·

1 Is the state getting a maximum refund from the federal government on federally financed highway projects?

2. Are adequate steps being taken to install and maintain efficient records?

3. Are rentals of buildings on rights-of-way handled properly or are they causing problems for local government?

Mr. Merrifield stated in summarizing his Report No 533 4 on review of inventories.

"As a part of our audit of State Highway Fund records, we review the accounting records for inventory in our visits to several of the division districts We found a confused array of inventory records and inventory procedures In a report dated May 21, 1963, a consultant employed to study computer applications within the division reported serious deficiencies in accounting for inventories Very little progress has been made toward the adopting of this consultant's recommendations Our report gives several illustrations, on pages 4 and 5, of inconsistencies in inventory recordkeeping in three districts. We have expressed the belief that these variations in inventory records will continue until responsibility for inventory policies and procedures are fixed on a statewide basis We found that no action is being taken in respect to over 200 field locations. We believe that the consultant's recommendations should be implemented expeditiously in all locations. This is a major problem and requires major effort

"The Division of Highways has made rather slow progress toward achieving this goal Four years ago we recommended that the division's accounting records be improved to the extent that current billing, concurrent auditing techniques could be used by the Bureau of Public Roads. We are still recommending that these improvements be made. As to work done for others exclusive of the federal government we found that present accounting practices of the Division of Highways violates several accounting principles And therefore the accounts do not show the true amounts of accounts receivable from these entities—the deposit liabilities to them, the reimbursements received from them, or the expenditures made on their behalf. We have made five recommendations to correct these deficiencies."

The second part of the report, starting on page 14, describes the deficiencies in accounting for accounts receivable and revenues from the rental of right-of-way properties that have been acquired by the Division of Highways to make way for future highway construction His findings as to this type of accounts receivable are as follows:

1. The accounts receivable control accounts have been out of balance with the detailed records for five years in the Los Angeles district

where right of way rental properties are concentrated most heavily. Until we reported this situation in 1965, virtually no effort had been made to achieve control and the out-of-balance situation still exists although efforts are being made to correct it. ———.

2 Tenants are allowed to have repairs made and maintenance work done and deduct the cost of this work from their rent payments This practice amounts to an expenditure of state money, but the controls over such money are much weaker than those over the expenditure of other state money.

Mr Merrifield had one final report The last report was on review of accounts receivable and related accounting activities. The review on accounts receivable is divided into three parts

First, the accounting work that is performed by the Division of Highways to record work done by the federal government and for others

Second, the accounts receivable and revenue records that are maintained for the rental of right-of-way properties that are acquired in advance of highway construction

Third, the organization of the accounting activity with limited authority given to the comptroller of the Division of Highways.

The first part of the report accounting for work done for others relates largely to the accounting that is maintained for costs which are reimbursable by the federal government as a part of the federal aid road program However, we have also included a discussion of work done for other state agencies, local governments and individuals and corporations As to the federal program we found the following:

1. As much as $100 million of California highway users' tax revenue has been used as advances for the federal government share of highway construction costs with long delays between expenditure by the state and collection from the federal government

2 These receivables could be billed and collected much more quickly if the Division of Highway's accounting system and records were improved to the point that the federal government could adopt the results of the accounting system after relatively brief tests of its effectiveness instead of time-consuming auditing of individual transactions making up the state's claim against the federal government.

"In the final section of our report, on page 36, we discuss the organization of the accounting activity in the Division of Highways because all the deficiencies described in the report are, in our opinion, attributable in a large part to the fact that the Comptroller of the Division is not given the authority to fulfill the responsibility of his position He is held responsible for carrying out the fiscal and accounting requirements of the division. But he had line authority over only a small number of employees engaged in these duties The accounting employees in the district offices are considered employees of the district engineers "

Mr Merrifield then stated that a recent occurrence should be brought to the attention of the committee as evidence of the need for better district accounting procedures He read from a letter he had directed to members of the Joint Legislative Audit Committee on September 6, 1966.

"During recent months, an employee of the Division of Highways, District 7, Los Angeles, embezzled rental collections belonging to the

state. This employee, whose employment with the state was terminated, was charged with grand theft and, after pleading guilty to the charge, was convicted "

From the same letter, Mr. Merrifield read the following:

"Under present procedures, rental agents do the following:

(a) Collect rent from tenants.
(b) Initiate repair and maintenance allowances which result in allowance credits to tenants' accounts
(c) Turn in rent collections from which allowances have been deducted
(d) Certify that the work for which the allowance was granted was performed.

The thefts carried on by this employee could have continued for some time if a tenant had not made an inquiry of the division regarding roof repairs This tenant was given a receipt by the employee for a cash rent collection, but the receipt showed a lesser amount than the cash payment The tenant questioned the difference between the amount paid and the amount receipted The tenant was informed by the employee that the prior tenant had vacated without paying for some roof repairs and the difference between the amounts paid and receipted would be used to pay the repairman. When the roof leaked, the tenant made a complaint which led to an investigation, and the disclosure of the employee's fraudulent activities "

This aspect of the Auditor General's report was amplified by committee member Assemblyman Joseph Kennick of Long Beach, who illustrated his point with pictures taken of an area in his district comprised of residences purchased several years ago by the state. These homes have been occupied by tenants paying rent to the state, or have remained unoccupied Kennick contended the state has become, in cases such as this, a "slum lord," not a landlord, and the photos he showed gave evidence of the disrepair of buildings, some of which had been vandalized or become garbage dumps

Assemblyman Kennick said these state-created slums—in his district they are in the heart of a fine residential area—become policing problems as vagrants convert empty buildings into a "skidrow," and surrounding property values decrease, adversely affecting the tax base of a major portion of cities

Kennick brought out other problems created for local governments through delays between acquisition of right-of-way and construction of highways He contended the Artesia Freeway, as proposed through Long Beach, has been in the planning stages for years and it will be at least 10 years from the time of purchase of right-of-way parcels to actual construction of the freeway.

The Division of Highways submitted several reports to the committee indicating their responses to the Auditor General's report on the division auditing, accounting and rental procedures Additionally, at the committee hearings the division was represented by Emerson Rhyner, Attorney and Deputy Chief, Division of Contracts and Rights of Way by John C Burrill, Comptroller for the Division of Highways, Richard Harris, Assistant District Right of Way Agent for District 7, and Rudolph Hess, Chief Right of Way Agent.

In his testimony before the committee, Emerson Rhyner stated, "Mr. Chairman and gentlemen of the committee, we want to keep good books. We have, as Mr. Merrifield indicated, accepted his recommendations, some wholly and some partially On others, we disagree as gentlemen will disagree, but we do want to keep good books and we appreciate the fact that Mr Merrifield is over there doing his job "

He also stated, "As far as this contract billing is concerned, it is our firm belief that it will not substantially speed up any payments from the federal government . . . and would not affect our budgeting processes . . . or enable us to add any jobs to the budget, as much as we would like it to . . . And it is my understanding that we have met the federal requirements for payment and we are changing the system in order to make it more efficient, but we have met the federal standards "

Mr. Rhyner continued, "I think the present rules have made the accounting people in the district subject to control by the district engineer, who is in turn subject to control by the state highway engineer, and Mr. Burrill, the comptroller, of course, works under the State Highway Engineer, . . but the director's office, after receiving Mr. Merrifield's report, established a committee and they are studying this. They will have a decision on it very shortly."

John C Burrill, Comptroller for the Division of Highways, stated, "We do have a *State Administrative Manual* in the Department of General Services for the State of California They have a division over there which prescribes general accounting procedures for the state When we make changes in our accounting procedures, we must clear those changes with that department "

Richard Harris, Assistant Right of Way Agent for District 7 (Los Angeles County), stated, "I will say now that as far as we in property management are concerned, we agree to a great extent with Mr Merrifield's statements. We believe, too, that records should be impeccable, and we want to do everything possible to avoid error "

Committee Recommendations:

Because under existing practices the fiscal officer in each district of the Division of Highways is responsible to the district engineer, the procedures should be changed so that the Comptroller of the Division of Highways shall have direct control over all fiscal matters of the Division and he himself should be responsible to the State Highway Commission

His authority should be commensurate with his responsibility

He should be responsible for maintaining records on inventories and expenditures of all district offices

Each fiscal officer in each district office should be accountable for his accounting practices to the comptroller of the division, not to the district engineer

Details of accounting procedures should be uniform in each district office and each fiscal officer should have uniform responsibility to the comptroller.

Recommendations as to changes in the actual recordkeeping procedures in the Division of Highways are:

1. Identification of items reimbursable from the federal government.
2. Identification of items reimbursable from other agencies
3. Identification of nonreimbursable items.
4. Reporting of full income by rental agents, then subsequent disbursement through district fiscal officers, accountable to the Comptroller of the Division of Highways.

The above changes should be prescribed by law with new legislation and the *State Administrative Manual* of rules and regulations must be changed accordingly.

MOTOR VEHICLES

DRIVER EDUCATION AND DRIVER TRAINING FINANCING AND TEACHING STANDARDS

The committee met in Sacramento on November 22, 1966, to look into the matter of financing state school programs of driver education and driver training.

During the 1966 Extraordinary Session of the Legislature, AB 105 (Chapter 85) was passed and signed into law. This bill provided financing for 1965 legislation, which set up a program of driver training and education by increasing traffic violation fines by $1 and allocating them to pay for these programs. There was a limitation, however, on the funding thus provided, and the provisions of the bill end on October 1, 1967.

The purpose of the November 22 hearing was to decide whether we should extend this limitation to future dates and whether there is any legislation necessary in this field

Testimony was also given as to the need for establishment of uniform quality standards of training and education programs for young drivers in the various schools throughout the state

Full and unqualified support was given both the financing and continuation of these programs as well as the need for uniform standards by representatives of Los Angeles City Schools, Oakland Public Schools, California Driver Education Association, California State College at Los Angeles, Governor's Safety Council, California Committee for Driver Education, California Traffic Safety Foundation, and other school and driver education groups.

Committee Recommendations:

The committee recommends that legislation be presented to the 1967 Legislature to place these programs on a basis of permanent financial support so that adequate funds will be available to provide every school with high standard education and training programs and that such standards be worked out with educators and the State Board of Education and be included in the legislation as a basis for funds allocated.

MANDATORY INSPECTION OF MOTOR VEHICLES

The committee met in San Francisco on September 26, 1966, to hear testimony on mandatory inspection of vehicles. Legislation presented in recent years to require this type of inspection in California has never passed. The subject has been studied in depth by different committees for several years.

One of the interests of the committee this year was to determine the feasibility of further legislation to expand the existing program of inspection which was provided by passage of Senate Bill 317 in the 1965 General Session

SB 317 provisions allow the California Highway Patrol to conduct periodic inspections of vehicles and this program in practice has so far been successful.

Committee Recommendations:

Legislation to require statewide mandatory inspection is recommended if it can be proved that present inspection programs do not provide adequate safety for California motorists.

FINANCIAL RESPONSIBILITY OF UNINSURED MOTORISTS

The committee met in Sacramento on November 23, 1966, to consider the problem of the uninsured motorist in California. There are many cases reported of hardship from the victims of accidents and collisions caused by drivers of uninsured vehicles

The committee heard arguments for and against a program of compulsory insurance. Witnesses included Joseph D. Thomas, Chief Assistant Insurance Commissioner, State Department of Insurance, representatives of Farmers Insurance Group, State Farm Mutual Insurance Companies, Southern California Automobile Club, and California State Automobile Association. A report from John P. Moody, attorney at law, San Diego, indicated a Gallup poll evidenced the American public in favor of compulsory automobile insurance.

Keith Ball, Department of Motor Vehicles, reported that the department has been making an intensive study of financial responsibility and related laws in other states and in Canada The report on this study will be released at a later date Mr. Ball also outlined briefly a proposal that had been made as an approach to providing compensation regardless of fault. The plan would compensate persons who are damaged or injured by motor vehicle accidents on California streets and highways, and establish a reduced rate of compensation to meet immediate medical expenses or a portion of the cost of repair to damaged property. Reimbursement would be made promptly without regard to fault, negligence, or contributory negligence, but would not relieve drivers or vehicle owners of their financial responsibility under the present law. Under such a proposal, a fund would be established from fees collected at the time of auto registration so that every motor vehicle owner would participate in the plan. A specific schedule of payments would be established.

This and other testimony brought out the fact that there is a real problem in the state, but no agreement was reached on a feasible solution at this time.

Committee Recommendations:

Since the committee study was aimed more at obtaining information than to formulating recommendations for legislation, our recommendation is that there could be a need for new laws to provide protection from the uninsured motorist, but that further study should be made during the 1967 Regular Session to gather additional facts on the entire subject.

DRIVING HOURS AND FEES FOR TRUCKERS

The committee met on October 7, 1966, in Chico to consider the problem created by existing state regulations concerning trucking companies and their drivers

Lorin Boots of the Boots Cattle Transportation Company, Red Bluff, was a chief spokesman for northern California truckers who contend they are facing unequal competition with out-of-state truckers

Basically three taxes are involved · the vehicle license fee, fees paid for Public Utilities Commission permits, and fuel taxes

Al Veglia, Registrar, Department of Motor Vehicles, explained the taxes are, in theory at least, equalized When a firm licenses its trucks, and 10 percent of its total hauling is in California and 90 percent in Oregon, then the license fee would be prorated at 10 percent for the California license fee and 90 percent for the Oregon fee

Similarly, the trucker pays P.U C. mileage and weight fees based upon mileage actually driven in either state.

Fuel taxes also are prorated A trucker from Oregon or Nevada may buy his fuel in his home state but later is subject to paying California taxes on fuel actually used in California This trucker also then qualifies for a refund on taxes already paid in his home state to avoid double taxation.

Bert Trask of the California Trucking Association and other witnesses indicated the problem may be solved by better enforcement of collections, including more auditing of interstate hauling

Lorin Boots contended firms in Klamath Falls and other Oregon cities pay a low vehicle license fee, and then do the bulk of their hauling in California.

Boots testified that a California trucker can get a permit only to haul interstate in Oregon or Nevada In contrast, the Oregon and Nevada trucker can come into California, pay the $150 fee for a permit issued by the Public Utilities Commission and then haul intrastate within California competing with California truckers The Oregon and Nevada trucker is permitted to pick up additional hauling fees, whereas the California trucker must have a full return load or drive back with an empty truck

Lyman Willard, chairman of the California Cattlemen's Association Transportation Committee, also pointed out that driving hour limitations of the existing Vehicle Code are hurting the livestock industry. Because of the special nature of the industry, he recommended an exception be made in the state law

The log of driving hours required to be maintained in each truck was termed a "liar's guide" rather than a true record of actual working time of truck drivers Witnesses said the records must conform to state law but do not reflect actual driving times

If existing laws were enforced completely, transportation costs for livestock would increase 25 percent, witnesses said Willard and C Roy Carmichael of Portola said this would destroy California's livestock industry.

Drivers now are limited to 12 consecutive hours in a 15-hour period in California and no more than 12 hours within a 24-hour period. In off-highway ranch pickups of cattle, this means a truck must have two

drivers or the loaded truck has to sit idle for eight hours, or, as an alternative, the animals must be unloaded and then reloaded This is very hard on livestock and means a loss of weight, calves separated from mothers, creating "bummers," as well as other damage to animals kept confined too long in the truck

Committee Recommendations:

1. The Auditor General should be instructed to survey the reciprocal agreements on trucking rates with adjoining states to see that California is collecting its fair share of taxes

After the Auditor General has checked records of various trucking firms and of the Board of Equalization, Department of Motor Vehicles, Public Utilities Commission and California Highway Patrol, further review should be made by the Legislature of his findings.

2. The law should be changed so the same distinctions are made in California that are made in adjoining states between permits for interstate and intrastate hauling An out-of-state applicant for interstate hauling should not be permitted to engage in intrastate hauling in California, particularly if the California trucker is not permitted to engage in intrastate hauling on an interstate permit issued in another state

3. The multiplicity of fiscal regulations should be eliminated and one agency should be assigned the task of seeing that out-of-state truckers pay their share of license fees, permit fees and fuel taxes

4 Consideration also should be given to including the agricultural check point stations operated by the Department of Agriculture in a coordinated program of trucking control

5 P U C permits should be clarified to eliminate existing inequities. If an applicant for an intrastate permit is required to show the need for another carrier before he is issued a permit, then an out-of-state trucker who will be competing for that same intrastate cargo should be required to show the same need before he can obtain the California permit

PROPOSED RELOCATION OF BERKELEY FACILITY

At the request of Alameda County Assemblyman Byron Rumford, the committee met at Berkeley City Hall Council Chambers on October 20, 1966, to look into the matter of the scheduled closing down of the Berkeley Department of Motor Vehicles office

Assemblyman Rumford explained that a budget proposal three or four years ago sought to effect an economy by combining Berkeley office operations with other Alameda County Department of Motor Vehicle offices and closing the Berkeley facility. Rumford's amendment to exclude this proposal was taken out on the Senate side during budget considerations.

Mr Rumford, Berkeley Mayor Wallace Johnson, members of the Berkeley City Council, the city manager, and representatives of the Berkeley Chamber of Commerce all presented arguments against the removal proposal and for retention of the facility based on the population growth, service to university students who number over 27,000,

and need for the conveniently located Department of Motor Vehicles office at its present location, where it has been for many years.

Keith Ball, Chief of Department of Motor Vehicles Field Office Division, presented statistical justification for the proposed relocation. Combining the Berkeley and Richmond offices would result in more efficient, economical operation and better service to the people in the area, he contended, and coordinate geographically better with other Department of Motor Vehicle locations in the East Bay area.

Mr. Ball stated that there would be a saving to the state of $25,000 annually that would take place as a result of consolidation.

Mr. Rumford and the Berkeley city officials stood firm that this would not outweigh the inconvenience to Berkeley residents and that since the location of a major Bay Area Rapid Transit station would be near the present Berkeley Department of Motor Vehicle office, it would increase in service and convenience.

Committee Recommendations:

While the committee could see no need for legislation, we do recommend to the Department of Motor Vehicles that they review the area carefully in the light of testimony brought out at our Berkeley hearing before making any permanent change in the Berkeley facility or combining its services with other offices.

EVALUATION FOR REGISTRATION OF MOTOR VEHICLES

At the committee hearing in Berkeley on November 20, 1966, Assemblyman Carl Britschgi brought out the fact that there seems to be some confusion on the classification of certain vehicles for purposes of registering them with the State Department of Motor Vehicles.

Mr. Britschgi cited an example of this: A person who purchased an English Ford Zephyr six, which is a model that has no "Blue Book" value listing, paid $650 for it. When he applied to the department for a license for the vehicle, he was told that its value was based on the reported cost of the car, which in this case was reportedly $2,800, which brought the registration fee up out of proportion to the actual cost and value of the auto.

Al Veglia, Registrar, Department of Motor Vehicles, explained that in the instance cited by Assemblyman Britschgi, the fee was established from information contained in the application; however, he agreed an adjustment should and would be made in this case, and the fee set at the actual purchase price evaluation.

During the testimony, Mr Veglia explained in detail some of the complications involved in classifying and evaluating vehicles and the need for a change in the law. He also stated that the department could legally make some needed changes, but he would like the approval of the committee and the Legislature to do so

After lengthy discussion by the committee on the ramifications of the present law and proposed changes, it was agreed that there is a need for change in the law but that the Legislature should have an opportunity to consider the entire subject to determine if legislation should be introduced to effect the needed changes.

RAPID TRANSIT

RAPID TRANSIT

The committee held intensive hearings on all aspects of rapid transit and its financing in Los Angeles on September 15–16, 1965, November 8, 1965, and in San Diego January 12–13, 1966

The major problem confronting the committee and discussed at these hearings was methods of financing rapid transit systems. The already overburdened property tax was believed to be impractical

The Southern California Rapid Transit District, as the largest in the state, received the major attention.

Since the item of rapid transit was on special call for the 1966 special session of the Legislature, legislation was introduced embodying those provisions recommended as a result of the many committee hearings

AB 39, worked out as a committee bill, was for "short-term financing" and was signed into law. It provided a means for the Southern California and San Diego Rapid Transit Districts to complete engineering studies, coordinate with communities which participated in the system and provide public information so a bond issue to build the rapid transit line could be presented to the voters for approval.

The second bill, AB 38, to provide a long-term financing base for the transit construction bonds, was denied passage in the Senate Transportation Committee. Thus the problem of long-range financing remains to be solved.

Taxes proposed to the committee were.

1. Gasoline taxes, either through a charge per gallon on all gasoline sold within the district, or through a refund to transit districts on taxes now paid.

The tax itself has constitutional problems The refund was not considered seriously, but the Assembly Revenue and Taxation Committee conducted separate hearings on this proposal The refund would have to be applied equally to transit districts. In the case of the Southern California Rapid Transit District alone, it would mean a refund of $780-000 a year.

2. A tax of 1 cent per pack on cigarettes was abandoned because the tax on cigarettes already is inequitably applied Charter cities now can impose an additional tax but general law cities and counties cannot, thus, permitting such a tax for rapid transit district financing would throw the tax more out of conformity

3. A business license tax, according to witnesses, would offer the best possibility for a tax base Martin Pollard, a former director of the Southern California Rapid Transit District, said this tax offered the best source for a new tax as it is the least used. He also said substantial benefit can be shown for businesses from a rapid transit system.

The tax would have problems of uniformity, as it is used now only by cities on an individual tax basis. To avoid duplication, a system should be developed for one business licence from one source rather than multiple business licenses.

4 A license tax upon parking lots was suggested and this was included in AB 39 as signed into law

5. A sales tax proposal was abandoned early because any authorization for a special district would throw the system out of conformity. This might jeopardize collection of the sales or use tax from sales made in other states for delivery in California. The sales tax also had other multiple claims upon it competing for statewide application

6. Don B Shields of the Highway Carriers Association recommended the Highway Transportation Tax of 1½ percent of gross receipts paid by small carriers be applied for short term financing and then discontinued completely

The tax raises about $15 million a year and it costs about $1 million a year to collect. The proposal was not given serious consideration, but during hearings it was suggested the tax might be extended to all trucking in the future and used to meet some of the transportation needs.

As population increases, it was pointed out by Assemblyman Frank Lanterman, the demands upon freeways for use by trucks will increase. This will mean some of the automobiles will have to be taken off freeways and the trucking industry would be the direct beneficiary of a rapid transit system which would be used by persons now crowding the freeways as they commute to and from work

7 A related tax was not considered seriously because it had additional demands upon it This was for an increase upon weight fees now charged commercial vehicles These fees, like gasoline taxes, traditionally have been limited to street and highway uses

8 Motor Vehicle license taxes were proposed both for a flat rate on each vehicle and on a percentage of value

Committee Recommendations:

Legislation similar to Assembly Bill 38 (1966) should be introduced in the 1967 Regular Legislative Session for the benefit of the Southern California Rapid Transit District.

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ASSEMBLY INTERIM COMMITTEE ON REVENUE AND TAXATION

A Final Report of the Assembly Committee on Revenue and Taxation

Part 1

PROBLEMS OF PROPERTY TAX ADMINISTRATION IN CALIFORNIA

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DECEMBER 1966

LETTER OF TRANSMITTAL

December 30, 1966

HON. JESSE M. UNRUH
Speaker of the Assembly, and
MEMBERS OF THE ASSEMBLY
State Capitol
Sacramento, California

Dear Speaker Unruh:

Transmitted herewith is Part 1 of the final report of the Assembly Committee on Revenue and Taxation for the interim period 1965–66.

This study deals with the administration of the property tax in California

The committee wishes to thank you and your staff for the support you have given us in our work.

Sincerely yours,

NICHOLAS C. PETRIS

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TABLE OF CONTENTS

CHAPTER

		Page
I.	Introduction	7
II.	A Public Trust	8
III.	Assessment Uniformity	20
IV.	A Bill of Rights for Property Owners	31
V.	Implementation of Tax Reform Legislation, 1966	38
VI.	Unfinished Business	41
	Value	41
	Notification	47
	Board of Equalization Trending	48
	Appeals	49
	Welfare Exemption for Homes for the Aged	60
	Charter City Duplication of Assessments	65
	Lien Date Change	71
	100-percent Assessments	72
VII.	Other Property Tax Matters	78
VIII.	Conclusion	79
Summary of Recommendations		81

APPENDIX

A.	Letter from Assistant Attorney General Ernest P. Goodman to Assemblymen W Byron Rumford and Carlos Bee, September 27, 1966	85
B.	Letter from Deputy Attorney General Marshall Mayer, to Hon. William E. Jones, Chairman of the Board of Supervisors, Riverside County, December 2, 1966	88
C.	Letter from Deputy Attorney General Marshall Mayer to Hon. Charles A. Quinn, Chairman of the Board of Supervisors, Santa Clara County, October 13, 1966	90
D.	Value as Defined for Property Tax Purposes in Different States	94
E.	Assessment Ratio by Class of Property, Selected Counties, 1965	107
F.	Homes for the Aged Exempted from Property Tax	115

LIST OF TABLES

TABLE NO.		Page
I.	Example of Assessments in Five California Counties, 1965	21
II.	Uniformity in Assessments, California Counties, 1963–65	26
III.	Coefficients of Dispersion of Ratios of Assessed to Full Cash Value of Locally Assessed Real Property, California Counties, 1963–65	28
IV.	Comparison of Trended Assessment Ratio With Actual Assessment Ratio for California Counties, 1960–65	50
V.	Activities of County Boards of Equalization, 1963–65	58
VI.	Value of Exempt Homes for the Aged and the Total Assessed Value of Counties for 1966, by County	63
VII.	Samples of Aged Housing in California; the Larger Homes With Over $2,000 of Assessed Value per Capita	64
VIII.	Assessment Ratios by Type of Property for Chartered Cities Doing Their Own Assessing, 1966	66
IX.	City of Richmond, Comparison of City Assessed Values With County Assessed Values for Tax Year 1965–66	68

I. INTRODUCTION

Events of the past year and one-half have clearly demonstrated the sorry state of property tax administration in California. Not a week goes by without newspaper headlines screaming about some assessor in legal difficulties or about a report of gross underassessment of certain parcels of property.

Two years ago, this committee, as part of a major study of the state's tax structure, published a comprehensive, 360-page report on the property tax. Many weaknesses in the tax were found to exist and considerable space was devoted to a discussion of the defects in administration This report on property tax administration will examine those weaknesses in retrospect. We do not intend to duplicate the earlier report but rather to supplement it

In reviewing the current state of property tax administration, there are clearly two separate and distinct problems: (1) corruption in administration and (2) inequality in assessments resulting in inequality in tax burden.

In this report, we will review the scope of these problems, the probable causes, the corrective measures which were taken in 1966 by the Legislature to improve tax administration and the problems which have not yet been resolved.

II. A PUBLIC TRUST

At this writing, the former Assessors of San Francisco and Alameda Counties, Russell Wolden and Donald Feragen, have been convicted of bribery. In San Diego, former Chief Deputy Assessor John Cox has also been convicted of bribery while his former boss, Assessor John McQuilken committed suicide after the scandals broke. In several other counties, investigations are still in progress Where there has been no criminal wrongdoing, there have been serious disparities in assessment, but this is not to imply that assessment administration has been slipshod in all counties It has not. Some assessors have done yeoman work under trying conditions

The basic goal of property tax administration and the basic responsibility of the assessor is to produce an equalized assessment roll. The California Constitution and major court decisions require that each and every property in each county be assessed in an equal proportion to its current full cash value The assessor must, then· (1) assess all property, (2) appraise at the current full cash value, and (3) use the same ratio of assessment on all property.

The Attorney General, in a recent discussion of assessment uniformity, stated:

> "The county assessor must apply a uniform ratio to all classes of real property whether used for residential, commercial or agricultural purposes He would violate the constitutional requirement of uniformity if he discounted the value of any class of property before applying the uniform assessment ratio "*

The Attorney General further stated:

> "In summary, since 1849 the California Constitution has required uniformity of taxation of real property While the use of fractional assessments is valid, the county assessor must apply these ratios uniformly to all classes of real property. The ratios must be applied to the full value of such property without any form of discounting. Particular classes of property may give rise to peculiar problems of valuation In that regard, the Legislature has provided certain guidelines to be applied in the valuation of agricultural property However, this does not negate the fact that under the California Constitution the county assessor must apply one ratio for all property, whether residential, commercial or agricultural."

Considering the clear intent of the law, how could a system of corruption and favoritism take root and flourish?

In the three counties where the assessor or chief deputy has been convicted, a rather ingenious system of fraud was devised. The assessors set themselves above the law and placed higher assessments on

* Letter from Attorney General Thomas C Lynch to Assemblymen W Byron Rumford and Carlos Bee, September 27, 1966. For full text of this letter, see Appendix A.

business properties than on other classes of property in the county. This in itself is clearly a violation of state law Virtually without legal remedies to protect themselves, some businesses then found that their assessment could be lowered to where it should have been in the first instance (and in some cases, much below) by use of the service of a tax consultant.

Although some tax consultants have had experience in assessing they have no legal or professional recognition The tax consultant would file the proper forms for the business client with the assessor's office —in many counties underreporting the value of taxable properties In the three counties in question, the tax consultant would negotiate a reduced assessment or receive a reduced assessment from the assessor or his designated agent

A percentage of the "tax savings" would be paid by the firm to the tax consultant, who would in turn pay a share of this to the assessor or to a third party who, after payment of taxes, would turn over a portion to the assessor.

The following dialogue between Francis W Mayer, Assistant District Attorney of San Francisco, and James C Tooke illustrates the nature of this racket:

> "MAYER: Now, so what were you led to believe was the general or ordinary scale of values that were to be used for assessing property?
>
> TOOKE· San Francisco normally informed commercial and industrial firms that they used 50 percent as an assessed value of their opinion of the market value on inventories And basically they used, usually their opinion of market value was based upon full cost or some cost in excess of this, due to some type of trade level concept.
>
> On fixed assets, machines and equipment, furniture and fixtures and so forth, the various companies were informed that their procedure was to use 25 percent of total original cost regardless of age or condition, as long as it was on the premises and still in existence
>
> MAYER· So I take it when you would get these figures from the various companies and you based an assessment on these percentages, you would figure out generally what the company under normal conditions would be assessed, is that correct?
>
> TOOKE. We would figure out what the company would be assessed if these factors were actually applied that the companies had been informed were normally applied
>
> MAYER: All right And when you would get these tax bills back concerning these various companies that I have called to your attention, did you find that these figures or these percentages were not applied?
>
> TOOKE: Yes, sir, in almost—I would say in a majority of cases the percentage that the companies had stated would be applied had not actually been applied.
>
> MAYER: Now, when you dealt with the company as to what was due you as a fee for your services, I take it you had a number of these companies on contingent fees?

TOOKE: Yes, sir.

MAYER: Based upon a tax saving?

TOOKE: Yes, sir, that is correct.

MAYER: And you also had some of these companies based upon fixed fees?

TOOKE: That is correct.

MAYER: So you had to show a result, is that correct?

TOOKE: Yes, sir.

MAYER: Now, how did you demonstrate to this company that you had gotten the result for their services—for your services?

TOOKE: Well, normally a company of this type would have experienced an audit by San Francisco at some time in the past and had been informed that these were the percentages that were, they normally applied. So the difference between this percentage that they had claimed that they applied and the percentage that they finally applied would result in what we would classify as an assessment saving, multiplied by the tax rate would result in what we would call a tax saving effected for the client due to the difference in the ratio that had been applied.

MAYER: Now, when you got these tax bills back did you ever try to figure out how Mr. Newstat arrived at the assessments?

TOOKE: Yes, sir. I attempted to, but normally the tax bills that you receive on unsecured tax bills only show a breakdown between solvent credits, total tax, one assessment, and then the actual tangible personal property would only show one total figure for all of the assets, including inventory and fixed assets. And it was very difficult to tell exactly what Mr Newstat had done, although on occasions we tried to, or attempted to make some type of allocation for our own measurements to figure out what he did

In other words, we were not supplied wth the detail of the assessments on each item that should have been assessed.

MAYER: All right. So in other words, Mr. Tooke, in San Francisco in your dealings with Mr. Newstat the breakdown that was given to your clients as to their personal property taxes basically was due to some unknown percentage being applied to the actual figures filed by the company?

TOOKE: That is correct, sir. We could only figure out the percentage based on the total assets that is taxable

MAYER: Now, for this consideration were you made aware of some agreement or arrangement that had been made with the Assessor's Office in San Francisco?

TOOKE: Towards—

MAYER: Prior to your entering this partnership?

TOOKE: Prior to my entering the partnership was informed that there were certain types of fees or political, so-called political contributions and at that time it was my understanding that was for the continuing campaign funds of Mr Wolden.

During the year 1959 Mr. Desmond was on the coast constantly and often guiding me in my first year's operation Then at the end of 1959 he compiled a complete list of all the accounts, showing the figures and calculations with a net amount of money that was to be paid for professional fees or what they sometimes referred to

as tax consultant fees that were to be paid to Mr. Newstat in the assessor's office.

MAYER: Now, were checks drawn in the East for payment to Mr. Newstat?

TOOKE: Yes, sir. During the time that I was with this as a partnership all records and controls of this type was maintained in the East The general ledgers, all checks had to have two signatures and all checks originated from the East There were a few occasions where they would forward a check out with one signature and I was to sign the other signature, but this only occurred when two other partners were absent from the offices in the East Coast.

MAYER: Now, were there any instructions given as to how Mr Newstat was to support the drawing of these checks?

TOOKE: Billings were prepared for Mr. Newstat's initialing for professional services and checks were written paying Mr Newstat for the services based upon the invoices that were rendered

MAYER: So actually these were complete fictitious billings as far as that work allegedly done by Mr Newstat?

TOOKE· Yes, sir. I would say they were. They were merely charging us a fee for working on our accounts.

MAYER. In other words, the assessor's office in San Francisco, you are talking about, was charging you a fee for working on your accounts?

TOOKE: Yes, sir, that is correct

MAYER: Accounts located in San Francisco?

TOOKE· Located in San Francisco, sir

MAYER: All right Now, let me ask you, basically how was the fee figured that was to be paid to Mr. Newstat at the conclusion of each tax year?

TOOKE: As long as billings were rendered the basic amount that was supposed to be given to Mr. Newstat was supposed to have been 50 percent of the total fee Now, there were times when Mr Desmond and them I believe made certain adjustments for—to try to compensate for some handling costs But at any rate, the basic agreement was supposed to have been 50 percent of the total gross fee that was collected by the partnership

MAYER. Of course, on the contingent fees, a lot of this would be dependent upon the amount of consideration given the client, is that correct?

TOOKE· That is correct, sir.

MAYER: Because you might have a percentage of what you saved the company on their tax amount, is that correct?

TOOKE· That is correct, sir.

MAYER· Now, did you ever get any instructions from Mr Newstat as to how accurate he wanted these figures that you were giving him during these years that you worked here?

TOOKE: Well, he wanted a summary sheet each year naming the companies and showing the amounts involved And Mr Newstat was also aware of whether the fees were fixed fees or contingent fees And from that point on Mr. Newstat could figure out

quite accurately or very closely as to the amount of money that was billed or collected." *

An excellent case study of how this technique worked relates to the Jack Tar Hotel in San Francisco:

MAYER All right. Now, Mr Tooke, did you have as one of your accounts a hotel known as the Jack Tar?

TOOKE: I did.

MAYER· And do you recall how you got that account?

TOOKE: Yes, sir There was a referral from, I believe it came from Mr Dillon in Dallas, who worked for Dawson, Desmond & Van Cleve, who referred Mr. Leach, who I believe was the president of the firm at the time and they were building a new hotel in the area and he suggested that Mr. Leach contact me when he came to San Francisco if he was—for someone to talk to him about his tax problems. Mr. Leach eventually did contact me and I worked out arrangements to handle their properties at that time with Mr. Leach.

MAYER· Now originally you—this was in around 1961?

TOOKE. I believe it was 1961, sir.

MAYER: And you originally had some sort of an agreement to handle both the real estate and the personal property, did you not?

TOOKE: My original contract did call for me to handle both real estate and personal property.

MAYER And after you had this contract did you receive some further information from Mr. Leach?

TOOKE: Mr. Leach at a later date wrote me, and I believe he called me before he wrote me, asking if I would release him from the contract concerning the real estate, but if I would continue to represent them on their personal property portion of the Jack Tar Hotel

MAYER: Now, did he indicate that he had talked with someone prior to the time you had made the contract to handle both and the time he told you to drop the real estate end of the agreement?

TOOKE He told me that he had met with Mr Wolden and had discussed the assessment and so forth and had decided to attempt to handle the realty himself directly with the assessor's office

MAYER: In fact, did he indicate that he was going to handle it directly with Mr Wolden?

TOOKE· I know he had several meetings with Mr. Wolden concerning this subject

MAYER· Now, when you handled this as to the first billing, 1961, did you handle this through some subsidiary corporation that you had at that time known as Goldleaf Properties?

TOOKE. Yes, sir, the billing was submitted with agreement of the other partners through a corporation called Goldleaf Properties, Incorporated.

* Transcript of proceedings before the Grand Jury of the City and County of San Francisco, "In the Matter of the Investigation of Russell L Wolden," August 2, 9, 23, 30, 1965 pp. 162–167.

MAYER: All right. Now, as to the—on that billing in 1961, was there some agreement as to how much your fee was to be with the Jack Tar?

TOOKE: It is my best recollection that the fee was to be one-third of the tax savings based upon the percentages that the assessor normally informs taxpayers that he uses.

MAYER. I see. Now, did you file a return on the personal property for the year 1961?

TOOKE: Yes, sir, I did.

MAYER. And after this, I take it, you received from the Jack Tar Hotel a fee?

TOOKE Yes, sir.

MAYER· For some considerable amount of tax savings?

TOOKE · Yes, sir, that is correct

MAYER And I will show you here some files that have been marked People's No. 16. You might need these [handing file to the witness].

These you recognize?

TOOKE · Yes, sir, I do

MAYER What do these represent?

TOOKE. One folder, one folder represents the record of the personal property tax filings and so forth in San Francisco The other folder represents a general folder that contains general correspondence concerning the account

And the next folder represents a "contracts, billings, and reports folder on the Jack Tar Hotel "

MAYER · Now, do those files indicate, do those files indicate the amount of the fee that you received in 1961?

TOOKE [Examining the file]

MAYER. Let me for your information call your attention to another file which has been marked previously People's 13 (indicating). Do you recognize this file?

TOOKE: Yes, sir, I do

MAYER: And is this likewise one of the files kept by you—I think you have already identified it—in the ordinary course of business?

TOOKE. Yes, sir. There is a billing here for 1961 services dated July 13th, showing the amount of $9,409 60

MAYER: All right That is in the Jack Tar file?

TOOKE. Yes, sir, contracts, billings and reports file, sir

MAYER· And this is the copy of the bill you sent to the Jack Tar Hotel (indicating)?

TOOKE That is correct

MAYER: And an official part of your records?

TOOKE. Yes, sir

MAYER · Now, that represented a tax savings of approximately $28,228 82 that you saved the Jack Tar Hotel?

TOOKE It represented a so-called savings of that amount, yes, sir

MAYER And was this return of the Jack Tar handled in the same way as the other accounts that you had previously testified to?

TOOKE: No, sir This was handled in a somewhat different manner.

The filing was made with Mr. Max Newstat Mr Max Newstat made the assessment but then at a later date I received a billing for approximately one-half, I believe it was exactly one-half of this amount, from Mr Orville Wright for professional services. And he was paid this amount.

MAYER: All right. Now, let me show you.

Let me ask you, prior to Mr. Wright receiving this money did you have a conversation with Mr. Wolden?

TOOKE. Yes, sir.

MAYER: Arriving at this arrangement?

TOOKE: Yes, sir, I did.

MAYER. Tell us about that.

TOOKE. Well, I was asked to visit Mr. Wolden's office and he asked the amount of the fee that was earned on the Jack Tar Hotel.

MAYER: This was his office in San Francisco?

TOOKE: That was in the assessor's office, in his own private office.

I told him the amount of the fee and sometime immediately after the discussion I believe Mr. Orville Wright entered the office and then about the time I was leaving we were standing just outside the door of Mr Wolden's office and Mr Wolden asked Mr Wright if he would please send me a billing for an amount that he had written down on a piece of paper, which amounted to 50 percent of this billing.

MAYER: This was after you had informed Mr Wolden of the fee that you had received from the Jack Tar?

TOOKE: That is correct.

MAYER: That year?

TOOKE: Yes, sir

MAYER: So this billing that was eventually sent by Mr. Wright represented 50 percent of your fee?

TOOKE: That is correct, sir

MAYER· Now, I will show you here some documents People's 9, I will show you here People's 9 (indicating). All right. Do you recognize this file?

TOOKE Yes, sir, I do

MAYER. And what does that file represent?

TOOKE: It says "Goldleaf Properties, Incorporated, Tax Division."

MAYER: And is this one of the official files kept by you in the ordinary course of your business?

TOOKE: Yes, sir, it was.

MAYER: All right. Now, in this file I am going to show you a communication which has been previously identified

Here is a bill from Orville Wright, Attorney at Law, San Francisco, to Goldleaf Properties, Incorporated, dated September 27, 1961, for professional services, $4,704 80. Did you receive this bill after this conversation with Mr Wolden?

TOOKE· Yes, sir, I did.

MAYER: And I notice there is some ink markings here It says "Error, 4,705."

Do you recall whose handwriting that is?

TOOKE. That is my handwriting, sir.

MAYER. And that was the—in other words, the half would have been $4,705?

TOOKE: I—

MAYER. In other words, was this the fee, was this the amount that was agreed to with Mr Wolden?

TOOKE: I believe it was agreed at $4,705, that is correct.

MAYER. I see. That agreement was made on the figures that Mr. Wolden wrote in his office?

TOOKE: That is correct

MAYER: All right. Now, after or pursuant to this bill, I will show you here a check which has been marked as People's No. 2, dated September 29, 1961, from Goldleaf Properties, Inc, 21015 Redwood Road, Castro Valley, California, payable to Orville Wright, $4,705, James C Tooke, President, drawn on the Bank of America, Castro Valley Branch, and bearing an endorsement "Orville Wright," and apparently some deposit in the Hibernia Bank

I will ask you if you have ever seen that check before

TOOKE. Yes, sir The check is in my handwriting.

MAYER. And did you mail this to Mr Wright?

TOOKE· Yes, sir, I did

MAYER: At his home here in San Francisco?

TOOKE: That is correct, sir.

MAYER And this represented one-half of the fee you received on the Jack Tar account?

TOOKE. Yes, sir, that is right

MAYER· And you received—this was a contingent fee, as you have explained, one-third of the tax saving?

TOOKE: At that time it was a contingent fee of one-third of the tax saving

MAYER: And you received—therefore this fee was a result of the consideration shown you by members of the Assessor's Office in San Francisco?

TOOKE Yes, sir

MAYER: Now, you recall, do you not, having sent a letter to Mr. Wright which has been previously marked as People's 1 and 1A, addressed from Hayward, California, September 29, 1961? You recall sending this letter with the check?

This has already been read into the record, People's 1, to Mr. Wright

TOOKE: Yes, sir. I recognize that I was, until I say that, I was under the impression the billing had been received prior to the payment, but it is obvious I paid Mr Wright based on the amount that was discussed with Mr Wolden And I requested that Mr. Wright render me a billing immediately thereafter

MAYER: I see So this is the letter in which the check was sent (indicating)?

TOOKE: Yes, sir, that is correct.

MAYER All right. Now, after this, in 1961, I take it this conversation—I notice that this check was issued to Mr. Wright in September 1961—this conversation you had with Mr Wolden in Mr Wolden's office and then this conversation between Mr. Wolden and Mr Wright, did that take place in the same month of 1961?

TOOKE: I believe it did. Normally when a discussion like this took place I either received billings immediately or I paid the amount immediately that I had been requested to pay

MAYER: All right. Was this the only transaction you had with Mr. Wright?

TOOKE That is the only transaction

MAYER: And Mr Wolden? I mean on this between Mr. Wright, Mr. Wolden and yourself?

TOOKE: That is correct, sir

MAYER: All right. Now, as to the Jack Tar account, did you retain it in 1962 and in 1963 and in 1964?

TOOKE: Yes, sir.

MAYER: And were there some arrangements made with Mr. Wolden as to what was to be done with the fee you received from that account for those years?

TOOKE: Yes, sir If I recall correctly, the fee was to be split in some manner, and if I recall correctly, billings were presented to me by Mr. Ralph Yeo after discussions with Mr. Wolden for the amount of the fee that he received

MAYER: Now were these likewise based, not positively, but basically supposedly about 50 percent?

TOOKE. They were supposed to have been 50 percent but I do not believe they worked out to be 50 percent because during this period of time I was in the process of changing the contractual arrangements from a percentage basis to some other basis, and I managed to conceal the amount of the total fee from the other individuals.

MAYER: Let me ask you, did you ever meet—did you ever meet Mr. Ralph Yeo?

TOOKE: No, sir, I have never seen Mr. Yeo. I have had possibly two conversations on the phone in one year. Prior to that time I had never spoken to Mr. Yeo. Prior to that time I had never spoken to Mr. Yeo even over the phone. I do not know the gentleman, only from a picture that appeared in a recent newspaper.

MAYER: And had Mr Yeo at any time rendered any services of any kind to you?

TOOKE: No, sir.

MAYER: Now, how was this arrangement made that Mr. Yeo was to bill you for this Jack Tar fee for the years 1962, 1963 and 1964?

TOOKE: Similar to other arrangements, Mr Wolden had wanted to know what the fee—and he told me that I would receive a billing from Mr. Ralph Yeo for the amounts

MAYER. And outside of these two phone conversations you had, that was your only connection with Yeo?

TOOKE · Yes, sir I will say two I am sure it could not have been over three And that was in the course of one year because of the process of staggering the amount of the billing And those are the only conversations that I ever remember having with Mr. Yeo by telephone.

MAYER: Now, in that connection I am going to show you some checks that have been previously identified as People's 10 And I am going to show you three of these checks

The first one is drawn on Goldleaf Properties, Incorporated, dated October 16, 1962, pay to the order of Ralph A. Yeo $2,500, signed by James C. Tooke

Did you sign that check [indicating]?

TOOKE. Yes, sir, I did

MAYER. And was that pursuant to a billing sent you by Mr Yeo?

TOOKE: That is correct

MAYER And do you know what this payment represented?

TOOKE: I believe that represents a portion of the fee that was received on the Jack Tar Hotel for that year

MAYER All right Let me show you —

TOOKE There should be some papers to support that

MAYER. Here, I will show you here People's 22 which is a photostat of some check stubs [handing exhibit to the witness] Do you recall, do you recognize these?

TOOKE · Yes, sir, I do

MAYER Now, do you see here a photostat of a check stub for this particular check, No 128?

TOOKE · Yes, sir, that is right

MAYER. And what does it indicate that this check was rendered for?

TOOKE: Professional services, Jack Tar Hotel

MAYER. And so far as 1962, apparently this check was issued based upon this fee which you were receiving, approximately 50 percent of it?

TOOKE Yes, sir, it didn't work out to be 50 percent, I don't believe, but it was supposed to have

MAYER · All right. Now, I will show you this check on Goldleaf Properties, November 1, 1963, Check No 164 to Ralph Yeo, $1550, signed James C Tooke [handing exhibit to the witness] Did you write that check?

TOOKE · Yes, sir, I did

MAYER And who did you send it to?

TOOKE Mr Yeo

MAYER · And was that a result of some billing?

TOOKE Yes, sir, it was a result of some billing submitted by Mr Yeo.

MAYER And, of course, as I say again, Mr. Yeo at no time did any work for you, professional or otherwise?

TOOKE · No, he did not

MAYER · Now, showing you again People's No 22, I will show you here a check stub 164 in the amount of $1,500 [handing to the witness].

What does this indicate that that check was rendered for what purpose?

TOOKE: Professional services, Jack Tar Hotel

MAYER: And was in fact that the purpose of that check?

TOOKE: That was a billing that I received from Mr. Yeo based on work that was—for billings that I had been told that I would receive for work that the assessor's office had done on the Jack Tar Hotel

MAYER: And this was pursuant to your conversation with Mr. Wolden?

TOOKE: Yes, sir.

MAYER: And I take it then every year you would go through this with Mr Wolden as to the Jack Tar, how much you were going to be billed for?

TOOKE: At least once a year I mean, Mr. Wolden would call me over and review these things.

MAYER: All right And lastly I will show you another one dated August 1, 1964, drawn on James C Tooke & Associates, Check No 260. This is in the amount of $1,750

Now, I will show you here part of People's 11 and I will ask you if this photostatic copy of a check stub refreshes your recollection as to the purpose of the issuance of that check to Mr Yeo?

TOOKE: Yes, sir, that check was also issued based upon the Jack Tar account

MAYER: And was that—that year you receive about $3,500, did you not?

TOOKE Yes, sir. The fee had been based on a flat fee at that time I believe it was $3,500 a year

MAYER So actually that did represent approximately 50 percent of the fee?

TOOKE. That is correct.

MAYER. And this likewise—were these checks all issued by you and sent to Mr Yeo?

TOOKE: That is correct

MAYER And again pursuant to these conversations with Mr Wolden?

TOOKE: That is correct, sir.

MAYER: And were all of those held here in his office here in San Francisco?

TOOKE That is correct, sir

MAYER: Now, also as a part of People's 10 is the check drawn on the Bureau of Property Research, Taxes and Accounting, it is No 170 with the amount of $1,650 to Ralph A Yeo I will ask you if you drew that check (indicating)?

TOOKE Yes, sir, I drew that check.

MAYER And was this pursuant to the same sort of understanding?

TOOKE: Yes, sir, it was." *

* *Ibid*, pp 176–189

Yet, as gamy and intriguing as this network of bribery and collusion might be, it is only part of the problem. Tax consultant James C. Tooke reported he did not have to bribe officials in a number of other California counties where he knew he could file fraudulent returns and never be audited.

Much more property tax revenue was lost to local government through underassessments due to underreporting than by bribery and collusion.

III. ASSESSMENT UNIFORMITY

Based on the latest available data from the State Board of Equalization, pure equalization of all assessments is more a myth than a reality. However, it is quite unlikely that property is assessed in a totally uniform manner in any assessment jurisdiction anywhere in the United States. The State Board of Equalization admits, "no assessor, even one given unlimited resources, could produce an assessment roll in which the appraisal of property was strictly current and precisely accurate in all respects "* The assessor is faced with an impossible task of completely and accurately appraising all property in his jurisdiction each year.

If it is impossible to achieve pure equalization, to what extent can diversity in assessments be tolerated? Here, we enter a virtual no-man's land; there are no standards as to what degree of uniformity can be achieved or what might be considered minimum tolerance limits But we believe that the taxpayers can expect a reasonably uniform assessment roll where most property is assessed at the same ratio and the balance falls within a tolerance zone of 15 percent on each side of the average assessment ratio. Thus if the countywide ratio is 22 percent any property valued from 18.7 percent to 25 3 percent would be considered within an acceptable range The committee desired a tolerance of 10 percent, or in the above case, from 19 8 percent to 24.2 percent but met with heavy resistance from the assessors during the 1966 legislative discussion of AB 80. Although it won't seem very fair to a taxpayer who is assessed 15 percent higher than the county average and 30 percent higher than others in the county, these tolerance limits represent an assessment utopia compared to the wide range of assessments found in many California counties today In some areas, a substantial number of properties are assessed at 50 percent or greater differentials from the average assessment ratio for the county.

To illustrate this diversity, we have selected a number of counties which have been checked recently by the State Board of Equalization. Glaring examples of inequities in assessments in these counties are listed in Table I This listing is not intended as a statistical cross section or model of the assessment roll of the county. The counties shown were not picked because of special inequities but merely to indicate the problem †

This data demonstrates conclusively that there are serious departures from the goal of uniform assessments in California. When the inequities are pointed out by the Board of Equalization the county

* California State Board of Equalization, *Property Tax Assessment—Yolo County*, (mimeo), 1962, p 3

† For those who are interested, the total sample of the State Board of Equalization has been charted for each of the five counties in which assessments have been used to show lack of uniformity in assessments This sample will give a clear picture of the uniformity of the county's assessment roll A note of caution While valid for the county as a whole, the model may not be valid for any one class of property where the number of samples may be inadequate The problems in Riverside County are further illustrated in the appendix by a letter from Marshall S Mayer, Deputy Attorney General, to Hon William E Jones, Chairman of the Riverside County Board of Supervisors (See Appendix B)

TABLE I

Sample of Assessments in Five California Counties, 1965

County, **Riverside**
Assessment Roll Year **1965**
Average Countywide Assessment Ratio: **20.2%**
Assessor **Eric L. Waite**

Type of property	Full value as found by State Board of Equalization	Assessed value	Ratio (in percent)
Home	$3,500	$485	13 8
Vacant land (residential)	18,000	1,330	7 4
Farm or rural	12,400	730	5 9
Vacant land (residential)	4,000	1,250	31 2
Vacant land (residential)	6,500	500	7 7
Home	13,400	4 160	31 0
Home	11,900	3,160	27 5
Home	13,000	2,070	15 9
Commercial	12,850	4,040	31 9
Apartment	8,500	2,620	30 8
Home	10 300	3,460	33 6
Home	11,800	3,540	30 8
Home	13,000	3,630	32 1
Home	7,750	3,040	39 2
Commercial	62,500	7,780	12 4
Home	23,000	3,000	14 0
Home	20,000	5,740	28 7
Commercial	6,500	3,650	56 2
Home	10,000	2 850	28 3
Farm or rural	42 500	2,570	6 0
Home	6,000	2,120	35 3
Home	11,150	2,970	26 6
Apartment	34,500	11,400	33 0
Commercial	38,000	13,140	46 9
Commercial	51,800	17,150	33 4
Farm or rural	109,500	31,750	29 0
Farm or rural	95,000	25,050	26 4
Commercial	249,550	37,130	14 9
Commercial	300,000	81,820	27 3
Industrial	4,685 000	780,840	16 7
Industrial	8,935,000	747 590	8 4
Industrial	12,657,700	1,612,300	12 7
Commercial	5,243,850	1,245,440	25 6
Industrial	6,404,560	1,037,450	16 2
Mineral property	47,210,000	7,437,520	15 8
Commercial (unsecured)	2,600	1,295	49 8
Commercial (unsecured)	111,400	9,140	8 0
Commercial (unsecured)	242,430	27,820	11 5
Industrial (unsecured)	358,000	59,940	16 7
Industrial (unsecured)	3,930,750	655,370	16 7
Commercial (unsecured)	7,670,420	1,144,250	14 9
Farm or rural	180,000	9,930	5 5

TABLE I—Continued

Sample of Assessments in Five California Counties, 1965

County **San Francisco**
Assessment Roll Year **1965**
Average Countywide Assessment Ratio. **18.6%**
Assessor **Russ Wolden**

Type of property	Full value as found by State Board of Equalization	Assessed value	Ratio (in percent)
Commercial	$63,000	$4,115	6 5
Apartment	32,000	2,185	6 8
Home	45,000	3,740	8 3
Home	45,000	2,555	5 7
Home	61,000	4,855	8 0
Home	45,000	2,495	5 5
Commercial	42,000	4,260	10 1
Apartment	47,500	3,885	8 2
Home	36,000	2,495	6 9
Apartment	31,000	2,310	7 4
Home	40,000	3,535	8 8
Home	41,700	3,170	7 6
Home	64,500	12,605	19 5
Commercial	31,000	11,910	38 4
Apartment	135,000	14,560	10 8
Home	80,000	15,825	19 8
Apartment	237,000	28 460	12 0
Commercial	200,600	29,205	14 6
Home	100,000	27,125	27 1
Industrial	183,000	25,315	13 8
Commercial	480,000	69,990	14 6
Commercial	560,000	250,055	44 6
Commercial	510,000	280,700	55 0
Apartment	500,000	137,490	27 5
Commercial	7,025,528	1,229,875	17 5
Commercial	7,000,000	2,879,960	41 1
Apartment	7,500,000	4,097,750	54 6
Commercial (unsecured)	19,100	1,975	10 3
Commercial (unsecured)	35,650	5,150	14 4
Commercial (unsecured)	6,520	3,298	50 6
Commercial (unsecured)	27,000	13,112	48 6
Industrial (unsecured)	82,500	13,973	16 9
Commercial (unsecured)	19,950	10,161	50 9
Commercial (unsecured)	26,000	14,201	54 6
Commercial (unsecured)	88,300	14,932	16 9
Commercial (unsecured)	36,000	21,743	60 4
Commercial (unsecured)	150,200	24,090	16 0
Industrial (unsecured)	24,300	27,706	114 0
Industrial (unsecured)	442,050	53,320	12.1
Commercial (unsecured)	1,123,250	557,563	49 6
Commercial (unsecured)	7,800 000	1,063,550	13 8
Industrial (unsecured)	57,000	2,625	4 6

TABLE 1—Continued

Sample of Assessments in Five California Counties, 1965

County **San Diego**
Assessment Roll Year **1965**
Average Countywide Assessment Ratio. **22.2%**
Assessor· **John McQuilken**

Type of property	Full value as found by State Board of Equalization	Assessed value	Ratio (in percent)
Home	$20 800	$4,340	28 4
Vacant land (residential)	7,500	3,000	40 0
Home	15 950	4,140	26 1
Commercial	21,500	4,030	18 7
Home	9,000	3,910	43 4
Apartment	17,900	3,270	18 3
Home	17,800	3,390	18 9
Home	14,600	4,305	29 5
Home	40,000	5,090	16 8
Vacant land (residential)	7,500	2,850	38 0
Apartment	28,500	5,210	18 3
Home	7,000	2,390	34 1
Home	7,600	2,270	29 9
Home	15,500	4,750	30 6
Apartment	13,400	4,200	31 3
Home	26,900	5,120	19 0
Apartment	37,500	6,980	18 6
Home	11,300	4 670	41 3
Home	37,500	4,800	12 8
Apartment	35,100	5,750	10 7
Home	35 400	5,980	16 9
Industrial	124,000	19,530	15 8
Commercial	95,500	17,120	17 9
Home	58,000	10 190	17 6
Farm or rural	140,000	13,860	9 9
Commercial	137,000	22,300	16 3
Home	91,500	26,510	29 0
Commercial	300 000	27,600	9 2
Farm or rural	310,000	25,960	8 4
Commercial	118 810	21 240	17 9
Farm or rural	235,000	81,000	35 7
Commercial	275 980	101 200	36 7
Industrial	3,417,000	651 380	19 0
Commercial	1,011,980	560 110	55 4
Commercial	4,595,860	911,770	19 8
Commercial (unsecured)	81,600	25 270	31 0
Commercial (unsecured)	545,000	51 290	9 4
Industrial (unsecured)	389,000	60,130	15 4
Industrial (unsecured)	4,623,750	825 000	17 8
Industrial (unsecured)	3,721,250	1,198 490	32 2
Commercial	55,000	4,030	7 3
Commercial (unsecured)	147,140	----	0

TABLE I—Continued

Sample of Assessments in Five California Counties, 1965

County **Stanislaus**
Assessment Roll Year **1965**
Average Countywide Assessment Ratio. **19.4%**
Assessor **Karylton Broadwell**

Type of property	Full value as found by State Board of Equalization	Assessed value	Ratio (in percent)
Home	$11,750	$1,880	16 0
Home	5 650	1,930	34 2
Home	5,500	700	12 7
Home	4,000	1,070	26 8
Home	3,000	790	26 3
Home	9,900	1,080	10 9
Home	5,620	700	12 4
Home	10,625	2,000	26 4
Apartment	18,500	2,360	12 8
Vacant land (residential)	11,640	3,160	27 1
Commercial	17,500	5,250	30 0
Apartment	14 400	3,750	26 0
Commercial	42,500	5,000	11 8
Home	14,850	3,610	24 3
Home	18,750	2 900	15 9
Apartment	12 350	1 730	14 0
Home	19 000	2,800	14 7
Home	9,300	2,260	24 3
Home	33,150	4,880	14 7
Home	29,000	6,810	23 5
Farm or rural	47 900	5,830	12 2
Farm or rural	9 200	3,210	34 9
Home	27 500	3 630	13 2
Farm or rural	53 500	5,930	11 1
Farm or rural	12 000	3 330	27 8
Farm or rural	22 500	6,000	26 7
Commercial	32 500	15,000	46 2
Commercial	90,000	15,000	16 7
Home	83,000	13 090	15 8
Commercial	43 500	25,380	58 3
Farm or rural	125 000	29,800	23 8
Farm or rural	195,000	27,090	13 9
Industrial	300 000	50 640	16 9
Farm or rural	280,000	69,600	24 8
Commercial	215,000	58,850	27 4
Industrial	771,500	190,150	24 6
Industrial	6,448,310	712,100	11 0
Industrial	10,515 000	2,439,000	23 2
Commercial (unsecured)	55,500	7,390	22 7
Industrial (unsecured)	212,700	34,820	16 4
Industrial (unsecured)	129,730	34,820	25 9
Industrial (unsecured)	218,050	57,110	26 2
Industrial (unsecured)	395,160	66,340	16 8
Industrial (unsecured)	1,954,850	231,860	11 9
Farm or rural	260,000	12,100	4 6

TABLE I—Continued

Sample of Assessments in Five California Counties, 1965

County **Trinity**
Assessment Roll Year **1965**
Average Countywide Assessment Ratio: **19.9%**
Assessor **Clarence H. Laffranchini**

Type of property	Full value as found by State Board of Equalization	Assessed value	Ratio (in percent)
Home	$5,000	$1,345	26 9
Home	3,550	1,180	33 2
Vacant land (residential)	1,300	50	3 8
Home	5 000	770	15 4
Farm or rural	37,000	760	2 1
Home	16 730	2,725	16 3
Timber land	6,600	5,680	86 1
Apartment	10,560	5,690	53 9
Farm or rural	32,000	2,875	9 0
Timber land	43 500	2,430	5 6
Timber land	24,000	2,805	11 7
Farm or rural	2 250	2,040	90 7
Farm or rural	54,270	4,830	8 9
Home	21,810	3,250	14 9
Farm or rural	8,300	2 765	33 3
Farm or rural	8,000	2 615	32 7
Commercial	20,110	2 680	13 3
Apartment	13,500	3,285	24 3
Home	17 780	2 690	15 1
Timber land	5,760	12,190	211 6
Timber land	24 000	11,360	47 3
Commercial	294,450	22 115	7 5
Industrial	315 000	69 720	22 1
Industrial	1,190 000	126 435	10 6
Industrial (unsecured)	2,400	1,640	43 3
Industrial (unsecured)	370,000	50,235	13 6
Commercial	65,500	1,000	1 5
Timber land	97,100	6,930	7 1

SOURCE Compiled by the committee staff from records of the State Board of Equalization.

assessor generally makes an adjustment in the roll for the next year. This is not true in all cases, however In San Francisco, Assessor Wolden ignored the state's findings. In Sonoma County, a winery with a full cash value of over $8,000,000 was picked up by the board in three successive samples In the first two the county assessor had it assessed at approximately 16 percent In the third sample the ratio was only 14 9 percent.

In no county are all assessments within 15 percent of the county average. As shown in Table II, Contra Costa County has the best record with only 24 4 percent of the properties sampled outside the 15-percent tolerance zone, while the worst performance was turned in by San Francisco County, where 89 2 percent of all properties sampled fell outside of a 15-percent tolerance range. In San Francisco County, 41.7 percent of the properties sampled were more than 50 percent above or below the county average assessment ratio. It can be fairly said that there was no equity of property tax in San Francisco through 1965

A good measure of assessment uniformity is the coefficient of dispersion, a statistical index of the extent which all assessments vary from the county average If all properties were being assessed at the same percentage of value, the coefficient of dispersion would be zero When the assessment practices in a county are very poor and a number of properties are assessed at a high fraction of full value while a

TABLE II

Uniformity in Assessments, California Counties, 1963–1965

County	Year of survey	Average county assessment ratio	Assessor	Number of parcels in state sample	Percent of sample properties outside 15 percent of average county ratio	Percent of sample properties outside 50 percent of average county ratio
Alameda	1964	19 9	Feragen	421	54 7	9 3
Alpine	1963	23 4	Wood	144	61 6	17 4
Amador	1963	18 6	Yager	216	69 4	22 7
Butte	1963	17 8	McLain	304	63 8	8 6
Calaveras	1963	18 9	Clark	214	74 2	25 7
Colusa	1964	18 9	McGrew	265	75 4	16 2
Contra Costa	1963	22 7	Wanaka	386	24 4	1 8
Del Norte	1964	23 6	Brickwedel	226	54 4	17 6
El Dorado	1965	20 6	Sigwart	276	52 5	8.3
Fresno	1964	20 8	Gard	365	34 5	3 3
Glenn	1963	20 8	Smith	248	54 8	10 4
Humboldt	1963	21 0	Paulson	306	41 5	4 5
Imperial	1963	19 2	Bowman	275	64 7	16 7
Inyo	1964	20 9	Maravalas	266	57 8	24 4
Kern	1965	18 6	Roberts	324	59 2	17 2
Kings	1963	20 9	Drew	269	60 5	11 5
Lake	1963	19 2	Santos	236	66 1	27 5
Lassen	1964	20 7	Nave	219	63 0	21 0
Los Angeles	1964	21 9	Watson	450	38 2	3 1
Madera	1965	17 6	Schwartz	262	73 2	20 6
Marin	1965	19 4	Broemmel	317	32 1	2 8
Mariposa	1964	18 3	Arndke	204	65 1	19 1
Mendocino	1964	19 2	Brown	255	67 4	17 2
Merced	1965	21 5	Hudgins	295	45 0	5.4
Modoc	1965	21 6	Brundige	220	52 2	7 7
Mono	1963	20 6	Bryant	235	67 2	17 4
Monterey	1963	21 2	Stewart	341	69 5	11 7
Napa	1965	17 6	Abate	273	58 9	9 1
Nevada	1965	18 3	Kitts	232	67 6	21 5
Orange	1963	19 9	Plumb	390	53 5	9.7
Placer	1964	19 7	Geraldson	262	64 8	15 2
Plumas	1964	18 6	Hard	215	73 4	26 0
Riverside	1965	20 2	Waite	357	67 7	13 4
Sacramento	1965	23 1	Blechschmidt	362	26 5	3 0
San Benito	1963	20 6	Rianda	256	74 2	17 9
San Bernardino	1963	20 5	Bevis	364	52 7	10.4
San Diego	1965	22 2	McQuilken	416	31 2	6.2
San Francisco	1965	18 6	Wolden	434	89 2	41 7
San Joaquin	1964	20 8	Leffler	335	65 4	9 3
San Luis Obispo	1964	20 8	Warnagiris	297	51 5	9 4
San Mateo	1963	19 2	Woodman	385	37 6	6 4
Santa Barbara	1965	20 7	Holmquist	301	50.4	5 3
Santa Clara	1964	23 4	Noll	390	25 8	3 0
Santa Cruz	1965	19 9	Kane	290	41 0	5 1
Shasta	1965	19 9	McMillen	264	46 2	8 3
Sierra	1963	21 0	McElheney	213	68 6	30 0
Siskiyou	1965	19 4	Taylor	254	63 3	16 9
Solano	1963	22 2	Williams	286	40 9	4 5
Sonoma	1964	19 5	McMullen	302	68 3	12 2
Stanislaus	1965	19 4	Broadwell	319	39 8	5 0
Sutter	1965	22 3	Allen	257	48 2	7 0
Tehama	1964	19 6	Burgess	247	57.4	13 9
Trinity	1965	19 9	Laffranchini	198	67 1	33.3
Tulare	1963	20 7	Lucas	311	70 0	12.2
Tuolumne	1963	22 2	Harthorn	234	53 8	12 8
Ventura	1964	21 6	Boller	313	45 6	8.6
Yolo	1964	21 2	Sigwart	283	43 1	4.9
Yuba	1964	23 2	Harvey	266	39.0	7.1

NOTE This table excludes residential personal property on unsecured rolls.
SOURCE Compiled from data furnished by State Board of Equalization.

number of properties are assessed at a low fraction of full value, the coefficient of dispersion will be high The procedure used to compute the coefficient of dispersion may be illustrated by the following example:

House	Ratio*	Deviation from median
A	10%	15
B	20%	5
C	25% (median)	-
D	35%	10
E	50%	25
Total of deviations		55
Average deviation		11
Coefficient—11/25 or		44 or 44%

* Ratio of assessed value to full value

Based on State Board of Equalization data, Santa Clara County with 12 percent and Contra Costa County with 13 percent have the best coefficients of dispersion in California, while Sierra County at 94 percent and Colusa County at 71 percent posted the poorest records on this score The coefficient for each county is shown in Table III.

It is interesting to note that Santa Clara County has the best coefficient of dispersion despite findings of a special investigation by the Attorney General which showed that

—"The assessor failed to apply a uniform ratio to all the property in the county.

—"Unauthorized assessment procedures were discovered in a majority of the accounts examined

—"The practices engaged in by the former assessor and by his successors are unquestionably illegal" *

Other investigations by the Attorney General's office are a further source of information about the lack of uniformity of assessments, particularly, as it relates to inadequate audits of business personal property. According to the Attorney General:

"1 *Kern County* An audit of 160 firms of all sizes disclosed that 123 firms failed to disclose property they owned County auditors discovered in excess of 4½ million dollars in property It was noted that some firms, whose headquarters were located outside of the county reported only one-fourth to one-half of their property Ten thousand firms remain to be audited.

"2 *Alameda County* Last year's audit of 1300 firms of all sizes disclosed that 45 percent of the firms audited underreported their property Assessable property discovered in the amount of $24,732,500

"3. *Contra Costa County* A pilot audit program of 22 medium-sized firms in the City of Richmond has disclosed escapes of nearly $3,344,651. These escapements if pursued by the county assessor would produce over $70,000 in taxes for the county.

* Letter from Marshall S Mayer, Deputy Attorney General, to Hon Charles A Quinn, Chairman, Santa Clara County Board of Supervisors, October 13, 1966 For full text of this letter, see Appendix C

TABLE III

Coefficients of Dispersion of Ratios of Assessed to Full Cash Value of Locally Assessed Real Property

California Counties, 1963–65

County	Survey year	Assessor	Coefficient of dispersion (in percent)
Santa Clara	1964	Nell	12
Contra Costa	1963	Wanaka	13
Sacramento	1965	Blechschmidt	15
Marin	1965	Broemmel	16
Los Angeles	1964	Watson	16
Yolo	1964	Baker	17
El Dorado	1965	Sigwart	17
Fresno	1964	Gard	18
Orange	1963	Plumb	18
Santa Barbara	1965	Holmquist	18
Santa Cruz	1965	Kane	18
Alameda	1964	Feragen	20
Humboldt	1963	Paulson	20
San Luis Obispo	1964	Warnagioris	20
San Mateo	1963	Woodman	20
Ventura	1964	Boller	20
San Diego	1965	McQuilken	21
Solano	1963	Williams	22
San Bernardino	1963	Revis	23
Merced	1965	Brown	24
Modoc	1965	Brundige	24
Butte	1963	McLain	25
Shasta	1965	McMillen	25
Sonoma	1964	McMullen	25
Stanislaus	1965	Broadwell	25
Tulare	1963	Lucas	25
Yuba	1964	Harvey	25
Napa	1965	Abate	27
Monterey	1963	Stewart	29
San Joaquin	1964	Leffler	29
Glenn	1963	Smith	30
Kings	1963	Drew	30
Riverside	1965	Waite	30
Nevada	1965	Kitts	31
Tehama	1964	Burgess	31
San Benito	1963	Rianda	33
Sutter	1965	Allen	33
Inyo	1964	Maravalas	34
Kern	1965	Roberts	34
Lassen	1964	Nave	34
Mendocino	1964	Brown	35
Siskiyou	1965	Taylor	35
Imperial	1963	Bowman	36
Madera	1965	Schwartz	36
Placer	1964	Geraldson	36
Tuolumne	1963	Harthorn	38
Mariposa	1964	Arndke	40
Calaveras	1963	Clark	41
Alpine	1963	Wood	43
Del Norte	1964	Brickwedel	46
Mono	1963	Bryant	47
Plumas	1964	Hard	49
Amador	1963	Yager	50
San Francisco	1965	Wolden	54
Trinity	1965	Lafranchini	56
Lake	1963	Santos	57
Colusa	1964	McGrew	71
Sierra	1963	McElhency	94

NOTE In computing the coefficient of dispersion residential personal property and low-value assessments ($50 per parcel or less) have been removed because of the extreme difficulties in measuring values and the negligible importance of these items in the total assessment roll It is believed with these items removed, a far better measure of the valuation practices and degree of assessment uniformity in a county is achieved.

SOURCE State Board of Equalization.

"4 *San Francisco County* A pilot audit program is discovering that 85 percent of firms audited have wilfully underreported property Tax recovery will run into the millions of dollars †

One problem which still persists is the paucity of information about assessment uniformity The best information is derived from the samples made by the State Board of Equalization's Division of Inter-County Equalization; however, the board looks at each county every third year, does not look at prior years' assessments, and the assessor knows in which year the state will make its survey

It has been suggested that this interval be reduced to two years Herbert F Freeman, the board's executive secretary, has said

"Biennial surveys in California will increase the chances of detecting underassessments by increasing the number of board-appraised properties by something in the order of 50 percent We now make approximately 6,000 appraisals a year Currently, over a three-year period, we appraise the property in about one-quarter of 1 percent of all commercial assessments and about 1 percent of all industrial assessments While the board's commercial and industrial property appraisals are very small fractions of all such properties in the state, the samples are so designed that considerably bigger fractions of the larger property holdings are appraised This heavier concentration on large accounts practically assures that the added cost of biennial surveys will be more than recovered in added local tax revenues

"Since we independently appraise properties with little or no reference to assessors' records, we are seldom able to distinguish cases in which apparent underassessments result from underreporting by taxpayers and those which result from differences in opinions of the board's appraisers and the assessors' appraisers Within the last few days, by special review, however, we were able to identify 14 cases in nine different counties (not including any counties where assessment personnel have been indicted) in which we are fairly certain that there was underreporting to assessors of costs of improvements or personal property . . . Had these properties alone been assessed as high as the 1965 statewide average assessment level (21 8 percent) and taxed at the 1965–66 statewide average tax rate ($8 50 per $100), the added assessed value would have been $4,582,450 and the added taxes $389,500—far more than the added annual cost of biennial surveys " *

However, even a two-year survey would leave a gap in which there is no "audit" of the office of the assessor The state board could be required to spot check assessments for the preceding year Perhaps the most desirable solution would be to have the board take the responsibility for more of the auditing of personal property for the counties on a cooperative basis This plan would drastically reduce the burden on the businessman who now faces audits by the state and up to 58 local assessors Another suggestion for improving assessment uniformity

† Statement of Marshall S Mayer Deputy Attorney General, to Assembly Committee on Revenue and Taxation, Oakland, October 17, 1966

* Memorandum by H F Freeman, Executive Secretary, California State Board of Equalization, to Hon John T Knox, dated March 29, 1966

has been made by Los Angeles County Supervisor Kenneth Hahn He proposes that counties be authorized to establish Tax Review Boards in each county to search out and review underassessments This idea also has a great deal of merit A system of checks and balances could be established locally to keep the assessor's office on its toes A dispute between the assessor and the Tax Review Board could be taken to the assessment appeals board for adjudication. This would also be a better avenue for citizens who now attempt to improve equalization generally through presentations at assessment appeals hearings A possible drawback to the approach would be the added expense, although it is quite likely, considering the evidence presented above, that much if not all of the cost would be recaptured through the reassessment of underassessed property

Recommendations

1. We recommend that further investigations of assessment practices be made by the Subcommittee on Assessment Practices of this committee We further recommend that this subcommittee be authorized funds to conduct adequate investigations

2 We recommend that the State Board of Equalization make sample assessments in each county every two years and spot check certain of the sampled properties to determine its assessment for the prior year We urge the Legislature to provide the funds necessary for this purpose

3. We recommend that the State Board of Equalization conduct all out-of-state audits for counties on a contract basis The Board of Equalization maintains a full staff of sales tax auditors in our Chicago and New York offices who could perform this additional duty at great savings to the individual counties

IV. A BILL OF RIGHTS FOR PROPERTY OWNERS

In 1966 the State Legislature took action to improve the administration of the property tax. A bill (AB 80) was passed setting new standards designed to insure more uniformity in assessment and correcting the defects in existing law which allowed corruption to flourish undetected for so long in several California county assessors' offices Contributing factors to both the assessment scandal and the lack of uniformity in assessments were the absence of an adequate appeals procedure for the taxpayer, the many provisions for secrecy with which the acts and operations of the assessor were shielded from public scrutiny, and the lack of any requirement for effective review of the assessor's operations and performance The laws were also weak where the assessor was authorized to obtain information from taxpayers.

For many years, California's property owners have paid their ever-increasing property tax under a set of laws written primarily by the assessor and for the assessor's greatest convenience There was no central agency with authority for the implementation of the property tax law, and each of the 58 assessors interpreted the rules developed by the State Board of Equalization as he thought best The taxpayer was at the mercy of the tax administrator and without recourse to the courts except in the case of an obvious violation of one of the confusing sections of the tax code The state had reserved most of its effort in the tax field to those levies which actually support state government and had long overlooked the thorough review which the property tax needed Whenever a constructive proposal was made to the Legislature a spokesman for the Assessors' Association, which was controlled for many years by Assessor Russell Wolden, was on hand to vigorously oppose change. As these assessors were the only "experts" to appear before legislative committees, they usually got their way.

This situation changed when the Assembly Committee on Revenue and Taxation began its in-depth studies of the property tax in 1963 By 1965 the Assembly had passed a number of property tax reform measures but the State Senate was not yet ready to accept the proposals In July of 1965, the San Francisco *Chronicle* released its story of payoffs to several assessors for favored treatment A subcommittee of the Revenue and Taxation Committee, headed by Assemblyman Leo Ryan, and the Committee on Municipal and County Government, chaired by John Knox, both held hearings on this subject By the beginning of 1966, legislation was prepared to remedy an intolerable situation

The scandal provided the impetus for passage of the sweeping changes this committee had deemed necessary from its study during the previous year The new bill, AB 80 by Assemblymen Petris, Knox, Unruh and Ryan, and coauthored by 30 other Assemblymen, was introduced early in the 1966 session and was one of the major bills of that session. During the early stages of the hearings on the bill, As-

semblyman John Williamson and his staff worked with the authors to improve the measure, and many important provisions appearing in AB 80 were suggested by Mr. Williamson. The bill was approved by both houses after extensive study and hearings and was signed by the Governor.

There are 13 major areas of improvement in this comprehensive reform measure

1. **Standard Ratio.** Each year through 1970–71, the assessor must assess all taxable property in his county at a uniform rate of value He may choose any figure from 20 percent to 25 percent, but he must announce the figure and he must apply that figure to all property regardless of its class Beginning with the 1971–72 fiscal year, all locally assessed property must be valued at 25 percent of its value

2. **Zoning and Other Use Restrictions.** When valuing property the assessor normally assesses at his opinion of the property's "highest and best use" Now he will be directed to consider zoning or other enforceable land use restrictions which act on the property and effect its value if there is no plan to change the restriction in the foreseeable future

3 **Restrictions on Tax Exemptions.** (a) The welfare exemption to the property tax will be limited to those organizations "irrevocably dedicated" to religious, charitable, scientific, or hospital purposes and further limited to organizations within this group who may receive contributions which are deductible from the personal income tax The Board of Equalization in Sacramento will be the final arbiter of an organization's eligibility. Formerly the local assessor could overrule the board's denial and grant exemptions as he saw fit.

(b) In the future all claims for the veterans' exemption must be signed under penalty of perjury.

4. **Appraiser Qualifications.** Each appraiser in the county assessor's office will have to possess a valid appraiser's certificate demonstrating a competence to perform his duties The men must attend a minimum of 24 hours of training approved by the State Board of Equalization each year to keep the certificate valid.

5. **Conflicts of Interest.** (a) The assessor will not be allowed to hold the office of county auditor or county tax collector, whether appointive or elective, while he is county assessor. This "multiple office holding" occurs in some counties and in effect puts a public official in the position of checking on himself, defeating the very idea of audits

(b) The members of the State Board of Equalization and their employees as well as the county assessor and his employees will be prohibited from engaging in any gainful profession which is incompatible with their duties in the administration of property tax laws

6 **Taxpayer Appeals.** (a) Although taxpayers may now file assessment appeals if they feel their property is valued too high, the period for filing has been extended from 10 days to two months Starting in 1967 petitions may be filed from the third Monday of July, when the supervisors begin their hearings as a board of equalization, until September 15. (In Los Angeles County these dates will be from the fourth Monday of September to the fourth Monday of November)

(b) At the appeal, the taxpayer may request the board to give a written statement of its findings If the ratio of assessed to full cash value of the taxpayer's property deviates by more than 15 percent from the state board's findings of the average ratio for that county, it is prima facie evidence of an inequitable assessment, and the board *must* adjust the taxpayer's assessed value.

(c) All counties may establish separate appeals boards to hear assessment appeals Qualifications have been established for membership on such boards

7 **Open Records.** (a) The assessor must allow any taxpayer to see all the information and records on which the assessor has based that taxpayer's assessed value As an additional safeguard, the taxpayer may use a court order to force the assessor to disclose information on which the assessor based his judgment of value for other similar properties if the court feels the information is necessary in an appeal

(b) The assessor must permit law enforcement agencies, grand juries, the board of supervisors, and legislative groups to have access to his records

8 **Publication and Notification.** (a) In every three-year period, the State Board of Equalization conducts an intensive sampling of assessed values in all 58 counties of the state These samples are used to determine the "average ratio" of value used by the county assessor (regardless of the assessment ratio he may announce) The state board is directed, by the new law, to make public the average ratio for each county This figure may be used in a taxpayer's appeal and is the basis for finding the inequitable assessment discussed in 6(b) above

(b) The assessor must send notice to every property owner whose assessed value he has increased during the year The notification may be by individual postcard or by publication of lists of changes in newspapers The board of supervisors in each county will determine if this notice will be mailed or published. The mailed notice must go to the owner of the property—not to the mortgage holder or the address of the property itself where it may be received by a tenant and never get to the owner

9 **Tax Bill Information.** The tax bill must include the full cash value of the property, the assessed value of the property, and the ratio which the assessor is using

10 **General Law City Assessors.** The office of assessor has been abolished in general law cities and the duties transferred to the county This has been an expensive and unnecessary operation and will bring some tax relief to local jurisdictions

11 **Periodic and Mandatory Review.** The assessor is directed to make periodic inspections of all property to substantiate his judgment of the parcel's full cash value At least once in each four years, he must audit the records of any firm having tangible personal property with a full cash value of $50,000 or more.

12 **All Money to Treasury.** Under the new law, the assessor will be required to turn over to the treasurer all the fines he collects Prior to this change, the assessor was allowed to keep one-half of the fines for his own use

13 **Supervision of the Local Assessor.** The State Board of Equalization is given enlarged responsibilities for the administration of the

property tax and supervision of local assessors This check will make it much more difficult for the assessor to grant lower assessments to his friends and supporters or for bribes

(a) The board is required to survey each assessor's office once every six years to determine the extent to which equalization has been achieved

(b) The board is required to provide for a standard personal property form and issue rules and regulations on assessment practices which must be followed by the assessor All the regulations will be mandatory

(c) The board may establish an independent appraisal commission in any county where one-half of the properties sampled are more than 20 percent from the county average

(d) An Office of Appraisal Appeals has been established to give the local assessor an avenue to appeal the sample board appraisals with which he disagrees

In order to most clearly indicate the impact of this property tax reform, we have separated the provisions of the bill into four areas of interest Some provisions overlap into two of the subject headings and are therefore discussed in both so that the reader will have a full understanding of the bill. The four areas we have chosen are: taxpayer responsibilities and rights, State Board of Equalization duties, county assessor duties, and county boards of assessment appeals (Board of Equalization)

Taxpayer Responsibilities and Rights. The taxpayer will be supplied with more information on which to base his assessment appeal and a longer time in which to file the appeal The appeal itself may well be heard by a new board independent of the county board of supervisors The new information will consist of the average ratio of assessment within his county as determined by the State Board of Equalization in its detailed sampling process This average ratio figure will be published by the board, and the taxpayer may use it in his appeal The assessor must announce the ratio at which he intends to assess the property in his county, but the state board, by its statistical sampling process, will determine the average ratio he actually applies If any taxpayer finds his value to be more than 15 percent outside the state board's findings of the average ratio, the taxpayer is deemed to be inequitably assessed and the appeals board will be *required* to reduce the assessment As a further protection for the taxpayer, his property tax bill will show his assessed value, the full cash value, and the assessment ratio the assessor uses

The taxpayer is granted the right to inspect the records and information on which the assessor based his valuation of this taxpayer's property If necessary, the taxpayer will be able to seek a court order forcing the assessor to release information on the basis of assessment of other properties so that they may be compared

Hereafter, the taxpayer will be required to fill out his own personal property statement This duty applies primarily to business firms and amended the existing code which allowed the assessor to complete the form for the taxpayer's approval. Since no taxpayer will dodge an opportunity to have his taxes as low as possible, this section was often

abused in practice The assessor and taxpayer would agree in advance to the incorrect figure to be shown on the tax form, and the assessor would fill it in. The taxpayer would agreeably sign the form and could not be charged with willfully undervaluing his property since this is really the assessor's duty The assessor would not include this property in his audit—indeed few assessors have an audit program

Under the changes made by AB 80, every corporation must make available for the assessor a true copy of its business records relevant to the amount, cost and value of all property that it owns, claims, possesses or controls within the assessor's county. Furthermore, the firm must complete its own personal property statement, and the assessor must audit every firm possessing tangible personal property with a full cash value of $50,000 or more at least once each four years Even though the firm may employ a tax consultant to handle their property tax valuation problems, they must have an officer of the firm sign the personal property statement.

Every person, whether corporation or individual, who willfully states anything which he knows to be false in the oral or written statement is subject to imprisonment for up to six months or a fine not exceeding $500, or both. The same penalties apply to a person who, after written demand, refuses to make available for examination information regarding his property If the guilty party is a corporation, it may be punished by a fine of $100 for each day it refuses to comply. Penal assessments on property which has been concealed from the assessor are set at 50 percent of the property's value for the first offense and 100 percent if a second offense by the same person within five years following a prior offense

County Boards of Assessment Appeals (Boards of Equalization). Although the local board of supervisors has been the group which normally conducted equalization hearings, this process has become so detailed and time consuming that the boards are seeking ways to share the responsibility. Los Angeles County has been granted permission to establish separate appeals boards to do nothing but hear assessment appeals The format which they follow has proved to be a marked improvement, and it is planned that most counties will shift to this method of equalizing property assessments To prepare for the shift and to strengthen the existing procedure where no shift is made, AB 80 extended the period during which appeals may be heard The present term is two weeks from the first Monday in July to the third Monday in July. In the future, this period will be from the third Monday in July until the job is completed but at least two full months, and the time for filing a petition for assessment review will be open from the third Monday in July to September 15 (In Los Angeles County these dates are the fourth Monday of September to the fourth Monday of November) The taxpayer who goes before the board may use the State Board of Equalization's findings of the county average assessment ratio in his appeal In the past, this figure was not generally known and when known could not be used If the taxpayer's assessment deviates from the board's findings of the countywide average by more than 15 percent, this is prima facie evidence of an inequitable assessment, and the board *must* reassess the property The reassessment must be the lowest of (a) the county assessor's announced

ratio, (b) 115 percent of the state board's findings, or (c) an assessment in which the value will be the same as all property in the county.

The equalization group may subpoena witnesses and records and take evidence, but they must provide written transcripts and a written judgment on the taxpayer's appeal at the taxpayer's request

County Assessor Duties. The county assessor is directed to use a uniform statewide assessment ratio Until 1971–72, he can choose his own figure although it must be between 20 percent and 25 percent of value Beginning with 1971–72, each assessor in the state must value property at a 25-percent ratio There are to be no exceptions In making his assessment, the assessor will have to consider zoning or other enforceable use restrictions which have a bearing on the value of the property; "highest and best use" alone will not be the criterion of value Taxpayers may request the zoning authority for a "letter of intent" that they do not intend to change the zoning on a property for the foreseeable future Assessors will be required to notify every property owner whose assessed value has been increased of the extent of the increase. Two methods of notification have been approved—by postcard or by publication in a newspaper of general circulation in the county If mailed, the notice must go in care of the owner of the property, not to the mortgageholder and not necessarily to the property address where it might be received by a tenant and not passed along to the owner. The assessor is further directed to periodically view all property to substantiate his opinion of its value

In some counties of this state, the assessor also holds other offices of local government, notably tax collector AB 80 prohibits this dual service Furthering this desire to lessen conflicts of interest, there are provisions in the law which will forbid the assessor or his staff from engaging in gainful occupations which conflict with their official duties Violation of these rules shall be grounds for dismissal

The appraisers in the assessor's office will be certified for their jobs by the State Board of Equalization To retain a valid certificate, the appraiser will be required to attend at least 24 hours of classes each year sponsored by the Board of Equalization

The records maintained by the assessor are to be opened to grand juries and other investigating bodies in the proper course of a survey of the assessor's office The board of supervisors may, at the request of the assessor, contract with private counsel to aid the assessor in the completion of his duties The assessor is given the right to seek a court order to subpoena the records of any taxpayer who fails to make them available in the course of an assessment review Certain fines are specified when the taxpayer refuses to comply with written requests for specific information Henceforth, these fines will be placed fully in the county treasury, and the assessor will not be allowed to keep one-half for his own use as under the prior law The assessor is directed to audit every firm with tangible personal property of $50,000 or more in full cash value at least once each four years

For many years, the assessors have complained of the lack of an appeal process for themselves AB 80 established an Office of Assessment Appeals in the Board of Equalization to which the assessor may appeal the board's individual samples which go to make up his county's average ratio.

The provision that required counties to pay the expenses of assessors at their annual convention has been repealed

State Board of Equalization Duties. Many of the provisions of AB 80 which deal with the assessor apply also to the State Board of Equalization Among these are the sections dealing with office records being open to grand juries and official investigating groups, the conflict of interest sections, and appraisers qualifications The Office of Assessment Appeals, discussed under county assessor duties, will be supervised by the State Board of Equalization. The board will be required to survey each assessor's office once in six years to determine the adequacy of the physical equipment and the extent of the equalization of assessments within the county The reports which flow from these studies will be widely distributed.

The administration functions of the board are expanded to include a pool of auditor-appraisal personnel who will be available to the smaller counties to aid in obtaining just assessments The board will be required to audit the books of out-of-state firms which are included in the intercounty equalization sample, all forms used by the assessors will be processed through the board to determine their adequacy and completeness Some of the questionable practices uncovered during the assessor scandal revolved about these forms and the ambiguous or incomplete nature of their questions. All claims for property tax welfare exemptions will be checked by the board to insure uniform application of these laws in every county Under prior law, each assessor had the final determination of whether an organization came within the letter of the law and was eligible for an exemption The land owned by a city and within the borders of another county will not be counted in calculating the average assessment ratio for the state to use in its school apportionment formula if it exceeds 10 percent of the total assessed value of the county This calculation has always been a duty of the board Finally, the board's regulations in the field of property taxation will be mandatory on each of the 58 assessors

V. IMPLEMENTATION OF TAX REFORM LEGISLATION, 1966

While the passage of Assembly Bill 80 (1966) is the necessary first step in improving property tax administration the effectiveness of the bill will hinge on how well its provisions are implemented by state and local officials. They now have the tools to see that the property tax is administered fairly, with justice and equity for all taxpayers

Of particular importance to the success of the new legislation is the leadership provided by the State Board of Equalization To date, we have been impressed with their efforts to implement the bill and as the effective dates of many more of its sections approach it is vital that the Legislature provide the board with financial assistance to enable them to carry out their duties fully during the next fiscal year. The Legislature has a continuing role to play in this effort by making such technical changes as may be necessary in the bill, by enacting additional reform measures designed to improve tax administration and, through legislative oversight insuring that the law is administered effectively. AB 80 is in no sense a comprehensive solution to all the problems of our property tax administration, but it improves vastly on the prior law A number of still unresolved problems are discussed in a subsequent section of this report.

Some technical defects in AB 80 have been discovered and their correction merits immediate attention Section 619 1 of the Revenue and Taxation Code now requires that where the tax bill is sent to a person other than the property owner any notification of an increase in assessment be sent to both this party and the owner. This should be corrected so that the notification of an assessment increase need be sent only to the owner Section 619 requires a notification of any increase in assessment. Where the increase in assessment is due solely to a change in the ratio used by the assessor the notification is not necessary. In this case, the full cash value of the property has not changed and all properties in the county are being raised proportionately Section 1716.1 allows the Board of Equalization to establish an independent appraisal commission in counties where one-half of all of the properties sampled by the board deviate from the county average by 20 percent or more. The bill is not specific as to how the independent appraisal commission is to be financed.

Implementation of the new assessment reform act will not be an easy task There are still some pockets of resistance to the key features of the bill. For example, it has been alleged by acting Alameda County Assessor C J. Hearn that AB 80 will shift property tax burdens from businessmen to homeowners because he has been using two assessment ratios—28 percent for business and 21 6 percent for homeowners This charge is groundless. Deputy Attorney General Ernest P. Goodman, in a letter to Assemblymen Rumford and Bee states.

> "Since 1849 the California Constitution has required uniformity of taxation of real property.

. . AB 80 did not change these constitutionally established standards. Rather, AB 80 requires the assessor to inform the public of the fractional ratio he intends to apply Because of this disclosure requirement, taxpayers are in a better position to check on whether the constitutional standard of uniformity has been followed." *

Contradicting the assessor's contentions, Deputy Attorney General Marshall S. Mayer has said·

"I believe that these assessors are failing to assess a substantial amount of the property in the county. The assessors of Alameda and Contra Costa Counties have no idea of the total amount of business property that should be on the tax roll as they have grossly inadequate audit programs There is no question in my mind that if this property were added to the tax roll and the underassessed vacant land were properly assessed that an equalized tax roll would not add one penny to the taxes that homeowners must pay."†

The observation is substantiated by the report of the Alameda County Grand Jury, released on November 9, 1966 In routine checking the jury found millions of dollars in underassessments of nonresidential property Statistics of the State Board of Equalization also indicate the probability of vast underassessments of speculative land in Alameda County. Although the number of samples of this type of property were insufficient to draw a firm conclusion, the average assessment ratio on the properties included in the board's sample was 4 2 percent

Despite the guerrilla action being fought against AB 80, there can be no turning back to a discredited system which allowed the assessor to play "Robin Hood " We must look ahead to strengthening the new system and to instituting some measure of property tax relief It is the duty of the State Board of Equalization and our county assessors to enforce the provisions of AB 80 Theirs is a new role—that of administrator of a law which benefits and protects the taxpayer rather than silent observer of inequities and slave to tradition AB 80 contains California's first enforceable property tax law not written by assessors The secrecy provisions of this section have at last been breached and the taxpayer may once again have confidence in the fairness of the tax he pays.

The committee wishes to reaffirm its support of AB 80 and urges the next Legislature to implement its provisions and strengthen the law where necessary

Recommendations

1. We recommend that Section 619 of the Revenue and Taxation Code be amended to require notification to the property owners only when the change in his assessed value is due to a change in the full cash value of the property.

* Letter from Deputy Attorney General Ernest P. Goodman to Assemblymen Rumford and Bee, September 27, 1966

† Statement by Marshall S Mayer, Deputy Attorney General, before Assembly Revenue and Taxation Committee, Oakland, October 17, 1966

2. We recommend that Section 619 1 of the Revenue and Taxation Code be amended to require mailing of assessment change notice to only the owner of the property and at his permanent address

3. We recommend that Section 1716.1 be amended to indicate that the cost of an independent appraisal commission shall be a charge upon the county concerned.

VI. UNFINISHED BUSINESS

Value ---- 41
Notification ---- 47
Board of Equalization Trending ---- 48
Appeals ---- 49
The Welfare Exemption for Homes for the Aged ---- 60
Charter City Duplication of Assessments ---- 65
Lien Date Change ---- 71
100-percent Assessments ---- 72

Value

What is value? What is the elusive figure which should be applied to any given piece of property as a representation of its worth? Each year the county assessor swears that he has assessed all the property subject to assessment

> ". . . according to the best of my judgment, information, and belief, at its *value* ." *

Real estate agents, home buyers, and home sellers too all have a concept of the process, either visceral or cerebral, which helps them choose an amount they would offer or accept for a piece of property No one really expects the three to agree at first discussion on the proper "value" and *none* of them would agree with the unfortunate civil servant from the county who must select an amount which represents a particular property's worth and, therefore, the property owner's share of the county tax burden There is a value for sale purposes, or value which a purchaser may offer, a value on which an agent hopes to take a commission, a value apparent to the unskilled buyer, another for he who knows the zoning will soon change, and different values for the same person depending on whether he is taking cash or long-term payments

Yet the Constitution calls for taxation of all property in proportion to its value † The methods and the moods which guide the appraiser in his judgment of value for tax purposes are extremely important in determining what each property owner ultimately pays as his share of the local government budget State support taxes are fixed on more rigid bases—a flat rate per gallon of fuel, a fixed 3 percent on purchases, or a given rate on reported income

But the property tax has neither a fixed rate nor a definite base to which its steadily rising rate may be applied The base is the worth of your property measured in dollars with that value being determined by the local assessor The "value" does not necessarily represent "sale

* Revenue and Taxation Code, Section 616, emphasis added
† Constitution of California, Article XIII, Section 1

value" nor does it have to, for there are many indicators of value and different values for different purposes Property rezoned from agricultural to residential use or from residential to commercial use has different values on two successive days and a buyer or seller with this advance information has different rules for possible transactions

Without some guidelines the assessor is free to set his own standards for determining value The statutes indicate that "value," "full cash value," and "cash value" mean the amount at which property would be taken in payment of a just debt from a solvent debtor;* and in *A. F. Gilmore Co v Los Angeles County,* 186 Cal App 2d, 471, the court says

> "Full cash value" is the price that property would bring to its owner if it were offered for sale on an open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other; it is synonymous with market value "

But market value may be very difficult, if not impossible to determine, when there are no sales of similar parcels in similar locations The absence of an "actual market" for a particular piece of property does not mean that it has no value; it means that the assessor must use all the skill at his command, under any guidelines set for him, to determine a value In *Kaiser Co v Reid,* 30 Cal 2d 610, the court suggested that replacement cost and future income be determinants in these cases What criteria does the assessor follow in valuing agricultural land which is in the path of urban development? Or, for that matter, what factors play on the decision in assessing controlled-rental housing projects where no sale has taken place, nor will take place, and construction costs do not reflect the tenants ability to pay Specific reference is made here to units financed under Section 221(d)(3) of the National Housing Act These multiple-family, limited-income-occupant units are made possible by long-term, below-market-interest rate, federally secured loans The federal mortgage insurance is limited to a stated cost per dwelling unit dependent upon the number of bedrooms, and may provide as much as 100 percent financing at 3 percent for 40 years on new construction However, the completed projects appear to have considerably higher "value" until the long-term, low-interest loan becomes evident. There is no market for the sale of an entire 221(d)(3) complex, which run from 30 to 550 units each here in California, and the actual replacement cost is not a true indication of value because the low rate rentals will not capitalize to this amount in a normal loan period The assessors refuse to accept income as a proper approach to value for these units because it is artificially low compared with similar housing conventionally financed The tenants of 221(d)(3) projects are carefully selected by income class to be certain they fall below the maximum standards set for such units.

Another problem in arriving at value is the one where a sales figure reflects long-term financing Private parties in sales to speculators may receive high paper values but little real money in their transactions, yet each of these sales can influence the taxable value of adjacent properties which may be reassessed on their new potential value

* Revenue and Taxation Code, Section 110

based on the speculative sale These transactions are not representative of true value Such a situation is evident in the Canoga Park area of the San Fernando Valley where single-family homes and the land on which they rest are experiencing dramatic increases in assessment Open space, now in farm use, has been master-planned for future industrial development and a ring of residential properties surrounding this open land has been rezoned for apartment development Although the industrial use is not expected for as long as 25 years, the single-family homesites are immediately assessed as apartment sites Several of the sites have been converted to apartment use but population density will not support them and they remain largely vacant Along one main through street leading to this area other single unit sites have also been rezoned Part of the master plan calls for conversion of the through street from two lanes to four lanes, and as the lots are converted to higher-density use 40 feet of depth at the front of the lot is severed and dedicated for street purposes This has resulted in a sawtooth pattern where every other lot is in apartment use with the intervening homes seemingly set out into the street and separated from each other by one-lot-wide by 40-foot-deep parking bays In the meantime the full lot is being assessed at potential apartment use even though 40 feet of it must be dedicated to street purposes when converted to the new use One hapless owner of a corner site is taxed on his full lot at potential apartment use but faces the loss of 40 feet on two sides with the widening of the streets and this loss will reduce his site below the minimum square footage necessary for apartment use yet he has been unsuccessful in his attempts to have the assessment reduced to reflect these facts In most cases of sales in this sector the offers are made for long terms with low downpayments and usually by land speculators The former owner is forced out when his assessment increases by as much as 10 times and he is forced to take the only terms he can get Foreclosures follow and the former owners are left without property or profit although the assessor says he is obeying the letter of the law

Value may be defined as a price at which a product will be exchanged in a competitive market, and it follows that actual market value is the best indication of value When sales of a selected class of property are recorded in *sufficient* numbers a market price or value may be fairly judged This practice holds true for sales in new subdivisions where many homes are offered at once and negotiations between seller and buyer vary from the advertised prices But once the home is purchased does its value change?

Within the definition offered by the statutes the answer must be "no," for the Revenue and Taxation Code holds the meaning of value to that found in a debtor-creditor relationship Very little property is taken by creditors to satisfy debts, so there remains much doubt of any property's worth in satisfaction of a debt and therefore much doubt should remain of any parcel's value However, the assessors have chosen and the taxpayer has gone along with, a concept of value outside the statutory definition The generally accepted practice is an assessment for tax purposes based upon a percentage of the amount a seller could expect from a buyer if both were willing participants in the sale and both had full knowledge of all the facts about the property and its potential As a result of this approach to establishing value

a "buyer-seller" concept has gradually replaced the "creditor-debtor" relationship mentioned in the statutes.

According to Ronald B Welch, assistant executive secretary for property taxes, State Board of Equalization, the appraisal of property will turn on the answers to three questions:

"1 What are like properties selling for on the open market? The answer to this question will tell him what buyers appear to be willing (and able) to pay for the property under appraisal and what sellers will apparently hold out for This is what appraisers call the market comparison approach to value

"2 What will it cost to replace the reproducible property under appraisal, and how much less will a buyer be willing to pay, and a seller be willing to take for the property under appraisal by reason of whatever depreciation the property has suffered? This is the cost approach to value

"3 What will an investor be willing to pay for the right to receive the net income that this property is expected to yield from the date of purchase to perpetuity? This is the income approach to value

"If correctly employed under ideal conditions, all of these approaches to value will produce the same result When they do not, the appraiser knows that some of his data are wrong Perhaps the prices paid for his 'comparables' are distorted for one of a variety of reasons Perhaps the differences between his comparables and the subject property have not been adequately recognized and evaluated Perhaps his physical depreciation allowances are excessive or inadequate Or he may not have allowed for obsolescence which the property has suffered He may have capitalized income at too high or too low a rate He may have capitalized income without allowing for the capital gains that are anticipated by buyers and sellers These are only a few of the more important reasons why the three approaches to value may yield different results and why some of the results are more reliable than others in some instances

"One of the questions we have been asked is whether the income approach should be the primary approach to value My answer to this is that none of the three approaches should be designated by law as the primary approach as long as the property tax is supposed to be imposed in proportion to value There are many properties for which the income approach is poorly suited Single-family residences, for example, are rented so infrequently as compared to the number sold that it is seldom worth the assessor's time to collect rental data Properties whose use is about to change —what we commonly refer to as transitional properties—are not well suited to appraisal by the income approach because the *future* income, *which is the only income that is relevant to the valuation process,* is too difficult to predict Of course, income is the best approach to value under other circumstances—for example, when the future income is expected to closely resemble the past income, when the property has suffered heavily from physical depreciation-

tion or obsolescence, and when the property is not easily compared with properties recently sold " *

Since no two parcels are exactly alike, it would be a time-consuming and fruitless task for the Legislature to attempt to write a set of guidelines covering in detail every possible situation which might confront an assessor However, it is expected that the State Board of Equalization, under its rule-making power, shall adopt more detailed guidelines to the determination of value Yet there is still need to change from the debtor-creditor concept of Section 110

Welch observes that, "Section 110 of the Revenue and Taxation Code is not one that is meaningful to taxpayers generally," and suggests a change to a definition of value, "to refer to buyers and sellers rather than creditors and debtors."

Andrew Hinshaw, Assessor of Orange County, makes it quite clear that he favors a redefinition of the statutory provisions on value:

"I believe that we do need a redefinition of the term 'value ' There have been many fine dissertations on value which appraisers and assessors use throughout the country I refer you specifically to Mr Dixwell Pierce's dissertation (former Secretary, State Board of Equalization, delivered to the State Association of County Assessors, 1943)

"Those of us who are in property tax work, property assessment work, and those of us who are in fact appraisers, know exactly what we are talking about when we talk about market value One appraiser to another, and, hopefully, one assessor to another also knows what we mean by "market value " But unfortunately, there are many persons who would seize upon the wording in the Constitution of "full cash value" and also seize upon the terminology used in Section 110 of the Revenue and Taxation Code, to either create or to perpetuate confusion regarding the value being sought by the assessor

"It is my view that we should redefine full cash value and, while the term full cash value is used in the Constitution, I don't believe that we would need any constitutional amendment and substitution for the language in the Constitution We have ample court decisions which refer to full cash value and define that to mean "market value " It is my opinion that a simple statutory change of Section 110 of the Revenue and Taxation Code and also a change in Section 401 of the Revenue and Taxation Code would accomplish the desired goal of providing more clarity in what the assessor is required to do when it comes to seeking value.

"I personally have always thought that two of our California decisions regarding value are among the best which I have ever read in any of our valuation literature, or any of our court cases The one which I personally prefer is the *Sacramento Railroad Co v Heilbron* (1909), 156 Cal 408 at 409, which goes like this: Market value is 'the highest price estimated in terms of money which the land would bring if exposed for sale in the open market, with a reasonable time allowed in which to find a purchaser, buying with

* Statement of Ronald B. Welch to the Committee on Revenue and Taxation, Los Angeles, July 28, 1966

knowledge of all the uses and purposes to which it is adapted and for which it was capable' of being used

"The other definition of value which I like is *De Luz Homes, Inc v County of San Diego* (1955), 45 Cal 2nd 456, which goes like this: ' It provides, in other words, for an assessment at the price the property would bring to its owner if it were offered for sale on the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other . ' "*

Los Angeles County Assessor Philip Watson joined in supporting a change of Section 110:

"I think it ought to be clear to the committee by now that the definition of market value as contained in Section 110 of the Revenue and Taxation Code is really not a definition which is followed by appraisers or assessors generally That definition has been largely superseded by court decisions " †

For a discussion of "value" as it is used in other states see Appendix D

Recommendations

We recommend that Section 110 of the Revenue and Taxation Code be amended to read as follows:

Section 110 "Value," "full cash value," "true value in money," and "actual value" mean the price at which property would transfer for cash or its equivalent between informed parties in the open market if both were seeking to maximize their gains and neither was in a position to take advantage of the exigencies of the other In arriving at value, the assessor or the board shall consider any or all of the following where applicable:

1 The price at which the property or comparable properties have recently sold, including the price of fractional interests in such properties as represented by shares of stock and prior claims upon the taxable assets

2 The amount that has been invested in the property

3 The cost of replacing reproducible property with new property of similar utility and location or of reproducing the property at its present site and at present price levels

4 The extent to which the value of the property has been lessened by physical deterioration or obsolescence

5 The amount that investors would be willing to pay for the right to receive the anticipated income from the property

6 The trade level at which the property is situated

We recommend that property financed under Section 221(d)(3) of the National Housing Act be assessed on a capitalization of projected income basis

For residential property which is in transition to another use, we feel that some change in the law is needed to protect the homeowner

* Statement of Andrew J. Hinshaw to the Assembly Committee on Revenue and Taxation, Los Angeles, July 28, 1966

† Statement of Philip E Watson to the Assembly Committee on Revenue and Taxation, Los Angeles, July 28, 1966

from losing his home because of an inability to pay taxes predicated on highest use assessments We recommend a constitutional amendment which will provide that all single family dwellings occupied by their owners as the principal place of residence on the lien date be assessed on the basis of residential use.

Notification

In order to act intelligently on the validity of an assessment, the property owner must know what his assessed value is. Waiting until his tax bill arrives makes him too late to file an appeal and he is forced to pay a tax greater than his fair share And in all too many cases the tax bill does not reach the taxpayer but goes to a bank or other lending institution which has no concern about the fairness of the assessment The mortgage holder simply adds the tax to the monthly payment

Under the provisions of the Revenue and Taxation Code, California assessors were required to notify the assessees of real property when the taxable value of their property was increased by 25 percent or more over the value shown on the tax roll for the previous year The code further provided that the local board of supervisors could publish the relevant information in a newspaper of general circulation as the means of notification. The percentage limitation was raised from 10 to 25 in 1963, in effect allowing the assessor to increase the value of any or all property in his jurisdiction by 24 percent per year without advising the owner The first notice a taxpayer would receive in this case was the tax bill itself, and this would come long after the close of the appeals-filing period

To remedy this situation AB 80 (1966) called for notification to all property owners on any increase in assessed value The notice must include the assessment ratio in use by that county, and the assessor must direct the notice to the assessee at his latest known address rather than to the mortgage holder A statement explaining the method of filing the appeal must also be printed on the notice. In 1963, a special section applicable only to Los Angeles County was added to the notification portions of the code allowing that county to purchase space in newspapers for the listing of assessed value changes and for listing of one-fifth of the entire county assessment roll each year The rate paid for this listing has been placed at that charged for all official advertising, although the newspapers set no type and do no proofreading They simply photograph machine-prepared lists supplied at county expense and run them, for the most part, illegibly

It is every taxpayer's right to receive a notice of change in his assessed value, delivered to his address, with pertinent information conveniently displayed and fully explained in the most economical manner so that he may file a timely appeal if one is warranted The newspaper lists are not the best solution to this need They are not delivered to the known address of each property owner listed; and in case of owners living outside the county, they are probably never seen The method forces a taxpayer to purchase a paper, spending money to obtain public information the county must pay to have run for him There is no control over the day of publication or distribution so that a family away on vacation may miss the publication entirely.

A notice mailed would be waiting for their return Lists of all surrounding properties naturally force an owner to compare his values with his neighbor's, but appeals cannot be based on these comparisons An appeal must be based on the value of the individual property in question without regard to nearby similar units

Unfortunately, a provision allowing for alternate notification by newspaper publication in counties of over 1,000,000 population which are contiguous to counties of over 4,000,000 population was included in 1966 legislation A somewhat similar provision allows choices—of mailing or printing of changes only for all counties on the approval of the board of supervisors This section does not allow the additional burden of publishing one-fifth of the total county assessment roll

Basically, it is the property owner's responsibility to complain when his assessment is too high, but he must have proper information on which to base the appeal, and he must have the information early enough in the year The provisions of AB 80 which call for mailed notice to each property owner at his home address accomplish this goal No cheaper or more satisfactory solution has been found

Recommendation

We recommend that legislation be enacted to guarantee that every property owner be notified by mail whenever there is an increase in his assessed valuation due to a change in the full cash value of the property.

Board of Equalization Trending

The trending techniques of the State Board of Equalization are a critical part of the process of determining each county's assessment ratio each year. Each county is physically sampled once every three years by personnel in the board's Division of Intercounty Equalization In these counties a stratified random sample of properties on the county's last completed roll is selected, and the full value of these properties is determined by the board's appraisers The sample is obtained by dividing the assessments on the local roll into a series of groups For example, all property assessed at less than $2000 on the secured roll constitutes group 1 Properties are then picked at random from among those in each of the groups A relatively smaller percentage of properties in the lower value group is selected, while a higher percentage is chosen from the lightly populated, high value groups. By expanding the findings from this sample an estimate is made of the full cash value of all locally assessed property within the county

The full cash value is then compared with the value shown on the county's assessment roll to determine the assessment ratio for the county. Between triennial physical samples the board projects the full value estimate by using a statistical process known as trending Since full cash value is determined by the economy of the area, three indicators of economic conditions are employed to trend the property value. These are—school enrollment, retail sales, and wages These indices are processed into a multiple regression equation to forecast the full cash value of a county for a given year It has been an article of faith with

county assessors that the state board's trending is too high and they are quick to criticize the county assessment ratio which is determined in this manner However, an examination of the data show that the Board of Equalization trending is too low rather than too high

We can compare the trended ratio for the third year after sample with the ratio derived from the physical appraisals made for the same year to show that the trended ratio is higher than the actual assessment ratio in most cases (The lower the trending, the higher the trended ratio) In the last three years the trended ratio was higher than the actual ratio in 57 out of 58 counties. In the past six years, the record shows only 10 instances where a county's trended ratio was lower than its actual ratio (116 samples). Where there is low trending, the taxpayer sees the inflated, trended ratio rather than the actual assessment ratio If his assessment is not greatly in excess of this trended ratio, he is relatively happy—secure in the feeling that he is paying his fair share of the tax burden This is a delusion Because the actual ratio is lower than the trended ratio, often significantly lower, he is actually overassessed without knowing it

Beginning in 1967 a taxpayer has a right to have his assessment reduced to 115 percent of the state board's ratio finding for the county if he is overassessed Because of high trending, he may not be getting the assessment reduction to which he is entitled to bring him into reasonable equalization with other properties in the county. Because the likelihood of error in trending is greatest in the third year, it was proposed in early drafts of AB 80 that the Board of Equalization sample each county every two years rather than every three years This part of the reform package was deleted because of the increased cost of a two-year sample (estimated at $312,000 by the Legislative Analyst)

As noted earlier, the Attorney General and the State Board of Equalization said a two-year survey program would turn up enough underassessed properties to more than pay for the additional costs A comparison of the official third year trended county assessment ratio for each county and the actual ratio of assessment for the same year as found by the subsequent survey of the Board of Equalization for the past six years is shown in Table IV.

Recommendations

We recommend that the Legislature and the Board of Equalization set up a joint task force to develop ways and means of improving the trending process

We recommend that intercounty equalization surveys be conducted every two years rather than every three years as at present And, we urge the Legislature to provide the funds necessary for this purpose

Appeals

Deeply rooted in the Anglo-Saxon tradition of government is the concept that citizens shall have effective means for the redress of grievances. In viewing remedies available to the property taxpayer, the Advisory Commission on Intergovernmental Relations has stated

> "Under the equal protection and due process provisions of the Federal and State Constitutions the property taxpayer is entitled

TABLE IV

Comparison of Trended Assessment Ratio With Actual Assessment Ratio for California Counties, 1960–1965

County	Trended ratio of Board of Equalization	Actual ratio	Percent error
1960			
Orange	19 8	22 2	12 12 low
Contra Costa	21 5	21 7	93 low
Alpine	23 3	23 5	85 low
Mono	21 6	21 7	46 low
San Mateo	21 1	20 7	1 89 high
Monterey	24 2	23 7	2 06 high
Sierra	26 6	25 7	3 38 high
Solano	23 6	22 6	4 23 high
San Benito	24 6	23 2	5 69 high
Imperial	20 1	18 9	5 97 high
Butte	20 4	19 1	6 37 high
Tulare	23 8	22 1	7 14 high
San Bernardino	22 7	20 8	11 45 high
Glenn	24 1	20 8	13 69 high
Humboldt	24 1	20 8	14 67 high
Kings	27 0	22 6	16 29 high
Calaveras	23 6	18 8	20 33 high
Tuolumne	22 7	18 0	20 70 high
Amador	21 7	16 9	22 11 high
Lake	23 2	17 1	26 29 high
1961			
Mendocino	20 7	22 3	7 72 low
Yolo	20 3	21 6	6 40 low
Inyo	23 0	23 3	1 30 low
San Joaquin	21 8	21 8	0
Yuba	24 0	23 7	1 25 high
Los Angeles	24 4	24 0	1 68 high
Colusa	21 9	21 4	2 28 high
Tehama	19 7	18 7	5 07 high
Fresno	21 3	20 1	5 63 high
Santa Clara	26 3	24 5	6 84 high
Lassen	22 9	21 2	7 42 high
Sonoma	25 3	23 0	9 09 high
Alameda	24 1	21 6	10 37 high
Ventura	25 0	22 2	11 20 high
San Luis Obispo	22 6	19 5	13 71 high
Del Norte	26 5	22 5	15 09 high
Placer	24 4	20 0	18 03 high
Mariposa	23 3	18 0	22 74 high
Plumas	25 4	19 5	23 22 high
1962			
Sutter	20 9	22 9	9 56 low
Napa	21 6	22 0	1 85 low
Riverside	23 8	23 4	1 68 high
Stanislaus	19 8	19 1	3 53 high
San Diego	24 8	23 3	6 01 high
Modoc	25 6	24 0	6 25 high
Siskiyou	23 8	22 2	6 72 high
Santa Barbara	20 4	18 9	7 35 high
Sacramento	25 8	23 1	10 46 high
Marin	22 3	19 9	10 76 high
Merced	22 5	20 0	11 11 high
Kern	23 7	21 0	11 39 high
Madera	21 9	19 6	11 41 high
San Francisco	24 2	21 3	11 93 high
Santa Cruz	24 9	21 4	14 05 high
El Dorado	24 1	20 4	15 35 high
Shasta	23 7	19 5	17 72 high
Trinity	23 3	18 9	18 83 high
Nevada	23 8	18 6	21 84 high

TABLE IV—Continued

Comparison of Trended Assessment Ratio With Actual Assessment Ratio for California Counties, 1960–1965

County	Trended ratio of Board of Equalization	Actual ratio	Percent error
1963			
Tuolumne	22 4	22 2	89 high
Glenn	21 2	20 8	1 88 high
Contra Costa	23 1	22 7	2 99 high
San Bernardino	21 3	20 5	3 75 high
Mono	21 6	20 6	4 62 high
Imperial	20 9	19 2	8 13 high
Solano	24 6	22 2	9 75 high
Alpine	26 1	23 4	10 34 high
Lake	21 7	19 2	11 52 high
San Mateo	21 8	19 3	11 93 high
Kings	24 3	20 9	13 99 high
Butte	20 2	17 3	14 35 high
Tulare	24 7	20 7	16 19 high
Orange	23 9	19 9	16 73 high
Humboldt	25 3	21 0	16 99 high
Monterey	25 8	21 2	17 82 high
Amador	22 9	18 6	18 77 high
San Benito	25 6	20 6	19 53 high
Sierra	27 1	21 0	22 50 high
Calaveras	24 4	18 9	22 54 high
1964			
Del Norte	23 7	23 6	42 high
Fresno	20 9	20 8	47 high
Lassen	21 4	20 7	3 27 high
Los Angeles	22 7	21 9	3 52 high
Yolo	22 0	21 2	3 63 high
Santa Clara	24 5	23 4	4 48 high
Tehama	20 8	19 6	5 76 high
San Luis Obispo	22 2	20 8	6 30 high
Ventura	23 4	21 6	7 69 high
Colusa	20 5	18 9	7 93 high
Alameda	21 7	19 9	8 29 high
San Joaquin	22 7	20 8	8 37 high
Mariposa	20 1	18 3	8 95 high
Plumas	20 7	18 6	10 14 high
Yuba	25 9	23 2	10 32 high
Inyo	23 5	20 9	11 06 high
Placer	22 8	19 7	13 59 high
Sonoma	22 6	19 5	13 71 high
Mendocino	24 9	19 2	22 89 high
1965			
Stanislaus	19 2	19 4	1 04 low
Sutter	22 4	22 3	44 high
Santa Barbara	20 9	20 7	95 high
Sacramento	23 9	23 1	3 34 high
Merced	22 3	21 5	3 58 high
El Dorado	21 8	20 6	5 50 high
Shasta	21 4	19 9	7 00 high
San Diego	23 9	22 2	7 11 high
Kern	20 1	18 6	7 46 high
Santa Cruz	22 0	19 9	9 54 high
Modoc	24 1	21 5	10 37 high
Nevada	21 0	18 3	12 85 high
Marin	22 4	19 4	13 19 high
Siskiyou	22 4	19 4	13 19 high
Riverside	23 5	20 2	13 61 high
Madera	20 8	17 6	15 38 high
San Francisco	22 2	18 5	16 21 high
Trinity	23 8	19 9	16 38 high
Napa	22 0	17 6	20 00 high

to fair treatment in the apportionment of the tax burden and to a reasonable opportunity to be heard if he believes that there is error or inequity in his assessment, but protection under these rights is chimerical if the burden of proving his case is too onerous and the tribunal to which he must appeal is not well-constituted for the

purpose. The small taxpayer, in particular, is helpless if he has no simple, inexpensive, and dependable recourse. While the provision of remedies has a long history, the states are only beginning to find any that are truly effectual." *

One of the major factors contributing to the breakdown in property tax administration in California has been the lack of an effective means for administrative appeal and judicial review of assessments All taxpayers have a vital stake in an independent and impartial property assessment appeals procedure, and one of the best ways of insuring uniformity in assessments is through an effective appeals mechanism Sound standards of review must be established and maintained in order to protect the taxpayer from arbitrary assessments and from an unusually constituted Board of Equalization which is not capable of true equalization. This same system must also protect the nonprotesting taxpayers from being saddled with a larger property tax burden because of reductions in assessments that are given to others for reasons other than merit. The appeals process must be relatively inexpensive for the taxpayer and expeditious so that the taxpayer and local government know the extent of their financial capacities

Californians who believe their assessment is unfair will normally first talk to the assessor and attempt to convince him that a change should be made Failing this, they can appeal to the county board of equalization (which is the county board of supervisors) or an assessment appeals board If a taxpayer is not satisfied by the county board of equalization, he may pay his tax under protest and sue to recover This suit will be tried by the superior court on the record—not de novo —and only questions of law will be decided by the court Value is a question of fact, not of law, and therefore, is not germane to the appeal †

Several important procedural improvements in the appeal process for California property owners were made by AB 80 in 1966

1 Equalization hearings are no longer limited to a two-week period in July They begin on the third Monday of July and continue until equalization is finished ‡

2 Appeals may be filed from the third Monday of July until September 15 §

* Advisory Commission on Intergovernmental Relations, *The Role of the State in Strengthening the Property Tax*, Vol 1, June 1963, Washington, D C, p 131

† In *McClellan v Board of Supervisors*, 30 Cal 2d 124 (1947), the court said "It is well settled in this state that to the authorized county board of equalization has been confided the duty of determining 'the value of the property under consideration for assessment purposes upon such basis as is used in regard to other property, so as to make all the assessments as equal and fair as is practicable', that in discharging this duty, 'the board is exercising judicial functions, and its decision as to the value of the property and the fairness of the assessment so far as amount is concerned constitutes an independent and conclusive judgment of the tribunal created by law for the determination of that question,' adjudicating necessarily that 'the property is assessed at the same value proportionately as all other property in the county', that such adjudication 'cannot be avoided unless the board has proceeded arbitrarily and in willful disregard of the law intended for their guidance and control, with the evident purpose of imposing unequal burdens upon certain of the taxpayers or unless there be something equivalent to fraud in the action of the board', and that 'mere errors in honest judgment as to value of the property will not obviate the binding effect of the conclusion of the board' "

‡ In Los Angeles County, equalization begins on the fourth Monday of September and continues until the last day of March

§ In Los Angeles County, appeals may be filed from the fourth Monday of September until the fourth Monday in November

3 Provision has been made for the release of the State Board of Equalization's preliminary average countywide assessment ratio.

4. Taxpayers are assured of a reduction of their assessed value if it exceeds:

a The ratio announced by the assessor, or

b. 115 percent of the state's ratio finding for that county, or

c The average ratio of assessment in the county (which would have to be proven by the appellant independently of the two findings above).

5. All counties may establish assessment appeals boards

6 The appeals board must furnish written decisions if requested by the appellant.

It is worthy of special note that the provisions which allow the State Board of Equalization's assessment ratio findings for each county to be used for intracounty equalization purposes is probably the most important single reform in AB 80 Prior to this change, the taxpayer was required to show that he was assessed at a higher ratio than the general level of assessments within a county in order to win a reduction This he could not do without extensive surveys which would be prohibitive in cost. It is absurd to give the taxpayer the right to appeal and then completely frustrate this right by requiring him to make impossible proofs. In 1958, the National Tax Association in endorsing the use of state assessment ratios in local hearings, said.

> "If . . . the official assessment ratio findings of the State Research agency were published, and if they were given some force in law, the taxpayer would be provided with the kind of machinery he deserves to have He would be relieved of the ridiculous necessity of determining his own facts for the presentation of protest, and the property tax would be relieved of what has, historically, been one of its heaviest burdens." *

The committee strongly endorses the use of the board's ratio in local equalization hearings and vigorously opposes any proposal which will meaningfully restrict this newly won right In counties where the state's ratio will be used in equalization hearings, it is the intent of the legislature that only those taxpayers who are overassessed are entitled to a reduction It should also be evident that all taxpayers cannot be assessed at the assessors' announced ratio which is considerably higher than the average ratio found by the state and it must be presumed that in fact, property in the county was assessed at the state-found ratio.

In order to clarify this provision of law, we would have no obection to establishing a presumption for equalization purposes that all property in a county is actually assessed at the state-found ratio rather than at the ratio announced by the assessor. We feel that this can be read into the statute as it is written

However, AB 80's changes did not alter the framework or system in which the appeal is made. Outside of Los Angeles, the vast majority

* Report of the Committee on State Equalization of Local Property Tax Assessments, *Proceedings of the Fifty-first Conference on Taxation*, National Tax Association, 1958, pp 33–34

of all appeals will still be heard by the county board of supervisors sitting as a board of equalization. And their decision will be final. Structuring the county board of supervisors as a quasi-judicial body to hear assessment appeals is not entirely satisfactory, since political pressures, fiscal considerations, lack of experience and lack of time often interfere with the ideal functioning of the appeals procedure Many appeals involve complex problems of valuing large subdivisions in various stages of development, condominiums, shopping centers, undeveloped land in transition, possessory interests, viewsite property, motels and apartments with large vacancy factors, etc Supervisors often do not have the expertise to fully understand the subtleties of these problems.

Writing in the *Journal* of the State Bar of California, Francis J. Carr observed:

> "Whether property has been unequally assessed is not a policy-laden issue It is, rather, a highly technical question which the members of the board quite generally lack the expertise to consider properly. Perhaps at the time California's Constitution was adopted, the assignment of the equalization function to the county boards of supervisors was wise. At that time, the process and methods of valuation of property were neither as scientific nor as complicated as they are today. Now with industrialization, improvements, and sophistication in assessment practices, higher taxes, and a panoply of other characteristics which distinguish 1964 from 1879, the inappropriateness of having the board of supervisors sit as the board of equalization stands out in bold relief
>
> Moreover, the vulnerability of the local board members to political influence by virtue of the elective nature of their office increases the likelihood that inequities will arise The immediate concern of the board members with the preparation and execution of the budget may tend to predispose them to a certain reluctance to reduce individual assessments Such predisposition is also influenced by the fact that publicity and the taxpayers' interest are focused primarily on the tax rate rather than the assessment itself These are but further indications of the unsuitability of this body for the function of equalization." *

On this same subject, Marin County Supervisor Peter Behr states:

> "It has always been true that the present system is not fair to the larger taxpayer or the small one either. Neither is it fair to the board of supervisors, and I will testify that it certainly is not During equalization hearings, county business comes to a halt." †

Homer Livingston, Assistant Assessor of Los Angeles County, makes much the same point in advancing reasons why Los Angeles County established an assessment appeals board

> "A more basic consideration was the conflict of interest implicit in having the county's governing body act as arbiter in disputes over a mechanism (in this case, the assessment roll) of which they

* Francis J Carr. *Protest, Appeal and Judicial Review of Property Tax Assessments*, Journal of the State Bar of California November–December, 1964, pp 883, 884
† Statement by Supervisor Peter Behr to Assembly Committee on Revenue and Taxation, San Mateo, December 13, 1965

were the beneficiaries Inevitably, this flawed the fairness of the entire equalization procedure to the public, who harbored the suspicion that they would not get a fair hearing because (1) the county needed the revenue, and (2) the larger the increase in the roll, the lower the increase in the tax rate. Undercutting public confidence further was the possibility that assessment cuts could conceivably be used for painless political reimbursements. The Los Angeles County Board of Supervisors was ultimately no less glad than the public to relinquish this function and cited its dearth of expertise and its lack of time." *

Ironically, the limitations in the appeals process can also work to the disadvantage of the county assessor If the assessor thinks the county board of equalization has wrongfully reduced an assessment because of political or other extraneous circumstances, he is effectively foreclosed from any judicial remedy, other than through a suit which he could file as a citizen and taxpayer of the county (See *Stams v Board of Supervisors*. 233 Cal App 2d, 256) Problems of this type were brought to the attention of the committee by two county assessors—Frank J Brickwedel of Del Norte and Andrew J Hinshaw of Orange It is not the intention of this committee to enter into the equalization process and pass judgment on the validity of any particular decision The two cases which follow are illustrative in nature—designed only to show that a problem exists

Approximately $500,000 was lopped off the Del Norte County assessment roll by the supervisors during equalization hearings in 1966 Assessor Brickwedel felt strongly enough about these reductions to notify the State Board of Equalization that the county assessment roll was out of equalization † And as a result he traveled 300 miles to bring his problem to the attention of this committee of the Legislature.

Assessor Brickwedel alleges that the reductions were made illegally, that the assessed value of agricultural land was reduced without regard to the value of the property, and that many friends and relatives of the supervisors were granted reductions to which they were not entitled Fifteen parcels of property owned by one supervisor or one of his relatives (seven in all) were reduced by an aggregate total of $40,805

According to Brickwedel:

"A large group of farmers hired an attorney and for $0 25 an acre had their protests considered jointly, so that when the board of supervisors allowed a 40-percent reduction in assessed value they all received the same without any consideration of individual equity Such action not only reduces these people below the market value of similar properties in the county appraised by the same method but also favors this class of property by a lower assessment ratio In addition, other reductions were given to friends, relatives, and business associates by using a double set of standards at equalization " ‡

* Statement by Homer C Livingston to Assembly Committee on Revenue and Taxation, San Mateo December 14, 1965
† Letter of Frank Brickwedel to H F Freeman, Executive Secretary, State Board of Equalization dated August 24, 1966
‡ Statement of Frank Brickwedel, Assessor of Del Norte County, to the Assembly Committee on Revenue and Taxation, Oakland, October 17, 1966

In the equalization hearings, the supervisors allowed mass protests, rather than individual ones; ruled that the applicants would not have to present value of comparative properties; and waived personal appearances of applicants * To improve the equalization procedure, Brickwedel urged improved rules of procedure, mandatory appeals boards, and suggested that the State Board of Equalization be allowed to review the changes in an assessment roll made by the County Board of Equalization

The situation in Orange County is substantially different Only one parcel is involved—a rather large landholding. Since 1961 the Orange County Grand Jury has annually criticized the county assessor for underassessing large landholdings, particulary in the southern part of the county When Andrew J Hinshaw was appointed assessor in 1965, a new program of reassessment of these lands was instituted In 1966 the assessed value of the Irvine Co lands was increased by over $15 million The Los Alisos, Mouton, and Segerstrom properties received assessed value increases of over $1 million each According to Hinshaw all the major property owners in the affected areas concurred with the program of the assessor save one—Laguna Niguel

On the final day for filing appeals, this corporation filed a protest of its assessment A reduction of $138,780 in assessed value was granted by the supervisors sitting as a board of equalization under circumstances that can best be described as extraordinary:

—The protest was filed using 1965 rather than 1966 assessed values

—According to the assessor, the corporation failed to complete the petitions as required by the rules of the board

—An opinion of market value was not furnished by the applicant as required by the board's rules (and as required by AB 80 in 1967 for all counties).

—Representatives of the petitioner testified that they knew the market value of the protested parcels were more than four times the assessed value placed on the property by the assessor

—One supervisor told the assessor he had decided to grant a reduction prior to the completion of the testimony

According to Hinshaw

"This case is more far reaching in its economic, political and legal ramifications and consequences than may be realized at first glance

"As a result of the action taken by the county board of equalization in reducing the assessed values in the Laguna Niguel case, we can anticipate and will witness a flood of protests next year. Our publicly supported six-year program of equalization has suffered irreparable damage " †

Hinshaw suggests (1) that the State Board of Equalization look into disputes between the assessor and the county board of equaliza-

* Minutes of the Del Norte County Board of Equalization, July 5, 12, 1966
† Statement by Andrew J Hinshaw to Assembly Committee on Revenue and Taxation, Oakland, October 17, 1966

tion, (2) that the assessor be given the right to hire private counsel in cases where there is a dispute within the local board of equalization, and (3) that a supervisor or appeals board member should automatically disqualify himself where a relative's property is on appeal.

To repeat, so there is no misunderstanding, the cases cited above are reviewed by the committee to illustrate a possible defect in law requiring some correction

A remedy for this type of problem—where the assessor strongly feels that the county board of supervisors put the assessment roll out of equalization—will possibly be the same as the remedy for the taxpayer, i e, an improved assessment appeals process. The assessor must have the same access to the appeals system to protect his professional integrity and to protect the interests of the many taxpayers whose assessments have been equalized The importance of the appeals procedure is illustrated by the increasing numbers of assessment appeals in California In 1963, 2,838 assessment protests were heard; by 1964, this jumped to 7,291; a further increase to 8,368 was experienced in 1965. In 1966, over 17,000 appeals were filed in Los Angeles County alone.

The patterns of decisions of the boards vary significantly by counties as shown by Table V In some, most if not all the protesting taxpayers get some reduction El Dorado has turned down only 7 of 61 protests filed in a three-year period. In others, virtually all applications are denied. In Santa Clara only one appeal out of 40 in the same period was approved Statewide, a taxpayer has a 50-50 chance of getting some reduction if he appeals his assessment, based on the actions of appeals bodies during the past three years. California is somewhat unique in its provisions for property assessment appeals There are only a handful of other states where one's opportunity to appeal the assessor's value ends with the local board of supervisors or assessment appeals board Over one-half of the states allow the taxpayer to appeal his assessment to a state agency In addition, an appeal to the judiciary on a question of fact is possible in at least 25 of the states Federal and California income-tax payers and California sales-tax payers also have recourse to the judiciary on the question of the measure of the tax. Yet, the long-suffering California property-tax payer is denied the legal rights now afforded the income and sales-tax payers.

As a minimum in California, the property-tax payer should be able to have his assessment appeal heard by a disinterested assessment appeals board Where no such boards exist, judicial review or an appeal to the State Board of Equalization on questions of fact is entirely appropriate.

We recommend that county supervisors establish assessment appeals boards in their respective counties.

We recommend that the State Board of Equalization be empowered to review decisions of county boards of equalization

We recommend that, in counties where appeals boards are not constituted the taxpayer be empowered to appeal the question of value to the superior court or the State Board of Equalization

TABLE V

Activities of County Boards of Equalization 1963–65

County	1963				1964				1965				
	Protests heard	Assessments reduced	Total reductions	Notification option*	Protests heard	Assessments reduced	Total reductions	Notification option*	Protests heard	Assessments reduced	Total reductions	Percent reduced of those heard	Notification option*
Alameda	47	27	$290,450	B (10%)	46	20	$452,150	B (10%)	25	15	$236,084	64	B (10%)
Alpine	0	0	0	A	0	0	0	A	0	0	0	0	A
Amador	0	0	0	None	3	1	2,750	B (25%)	0	0	0	0	A
Butte	4	0	0	A	3	1	4,059	A	19	2	9,260	11	A
Calaveras	0	0	0	No info	3	2	825	No info	1	0	0	0	B (all)
Colusa	0	0	0	A	0	0	0	A	8	3	4,340	38	A
Contra Costa	11	2	2,710	B	24	6	3,330	B (25%)	31	4	22,430	13	B (all)
Del Norte	14	10	146,720	A	4	1	2,500	A	15	1	6,730	7	B (all)
El Dorado	17	12	92,200	None	10	8	175,810	B (25%)	34	34	104,900	100	A
Fresno	11	0	0	B (10%)	17	2	4,090	B (10%)	20	2	31,250	10	B (25%)
Glenn	1	1	35	B (10%)	0	0	0	B (10%)	0	0	0	0	B (10%)
Humboldt	20	9	5,070	A	9	1	380	A	15	1	52,270	7	A
Imperial	10	3	5,869	B (10%)	8	6	13,965	B (10%)	82	56	148,592	68	B — 10% + all reappr
Inyo	1	1	2,380	A	4	2	19 410	A	3	2	2,680	67	A
Kern	24	1	19,920	B	32	1	300	B (25%)	7	5	16,980	71	B (25%)
Kings	1	0	0	B (25%)	1	0	0	B (25%)	1	0	0	0	B (25%)
Lake	7	1	1,370	A	2	1	3 000	A	3	0	0	0	A
Lassen	2	0	0	No info	12	3	7,610	No info	3	0	0	0	A
Los Angeles	914	821	10,494,200	No info	4,884	2,640	18,434,370	B 621 R&T	4,874	2,233	12,201,470	48	
Madera	0	0	0	B (25%)	1	0	0	B (25%)	3	0	0	0	B (25%)
Marin	85	77	365,240	A	384	244	595,140	A	832	456	772,890	55	B (all)
Mariposa	0	0	0	B (25%)	1	0	0	B (25%)	0	0	0	0	B (25%)
Mendocino	115	55	63,520	A	2	0	0	A	0	0	0	0	B (all)
Merced	13	2	13,350	B (25%)	11	0	0	B (25%)	3	0	0	0	B (25%)
Modoc	12	0	0	A	0	0	0	A	0	0	0	0	B — 25% (or $200)

Mono	5	3	10,050	B (25%)	6	2	3,130	B (25%)	8	1	90	13	B (25%)
Monterey	3	1	3,750	None	24	9	102,910	A	3	1	23,950	13	B (all)
Napa	0	0	0	A	2	1	680	A	1	0	0	0	A
Nevada	3	0	0	None	54	13	3,610	B (35%)	7	2	3,280	29	A
Orange	435	318	1,007,242	A	207	59	589,640	A	204	82	384,750	40	A
Placer	179	95	203,715	B (25%)	354	346	130,545	B (25%)	177	92	369,065	52	A
Plumas	0	0	0	B (25%)	0	0	0	B (25%)	0	0	0	0	B (25%)
Riverside	67	22	89,740	None	82	3	6,760	B (25%)	744	510	1,340,740	69	B — 25% + all reappr
Sacramento	213	85	440,940	B (all)	145	72	397,650	B (all)	208	64	83,280	31	B (all)
San Benito	6	0	0	B (10%)	0	0	0	B (10%)	1	0	0	0	B (10%)
San Bernardino	144	36	72,740	A	156	46	76,880	A	154	75	107,930	49	A
San Diego	61	35	105,120	None	150	73	180,940	B (25%)	173	74	268,050	43	B (25%)
San Francisco	26	12	1,786,400	None	30	21	825,755	B (25%)	24	13	913,312	54	A + B — 25%
San Joaquin	13	3	10,030	A	12	5	3,500	A	10	6	6,305	60	A
San Luis Obispo	60	15	17,450	None	80	40	27,110	A	31	9	11,900	29	A
San Mateo	10	3	2,785	B (10%)	29	5	513,250	B (10%)	624	338	2,110,092	54	A
Santa Barbara	29	3	191,926	A	32	1	750	A	35	1	2,420	3	A
Santa Clara	4	0	0	None	28	1	1 250	A	3	0	0	0	A
Santa Cruz	113	14	36,910	A	12	2	1,690	A	24	9	213,050	38	B (25%)
Shasta	1	0	0	B ($200)	12	1	4,000	B ($200)	3	0	0	0	B — 25% (or $200)
Sierra	2	1	64,600	B (25%)	0	0	0	B (25%)	0	0	0	0	B (25%)
Siskiyou	120	3	31,000	A	22	18	48,250	A	6	3	2,330	50	A
Solano	5	1	460	B ($300)	9	0	0	B ($300)	19	2	6,650	11	B ($300)
Sonoma	5	1	250	None	1	0	0	A	11	2	7,285	18	A
Stanislaus	1	0	0	B (25%)	16	0	0	B (25%)	4	0	0	0	B (25%)
Sutter	0	0	0	B (25%)	0	0	0	B (25%)	2	0	0	0	B (25%)
Tehama	0	0	0	None	0	0	0	None	26	11	36,260	42	B (25%)
Trinity	2	0	0	A	8	1	3,615	A	2	0	0	0	B (25%)
Tulare	5	2	4,000	B (25%)	9	7	5,010	B (25%)	14	3	103,850	21	B (25%)
Tuolumne	0	0	0	None	6	0	0	B (20%)	0	0	0	0	B (20%)
Ventura	14	12	57,540	None	237	5	32,950	B (25%)	39	5	82,950	13	B (all)
Yolo	0	0	0	B (all)	71	5	23,060	B (all)	3	1	16,688	33	A
Yuba	3	1	465	B (10%)	0	0	0	B (25%)	9	0	0	0	B (25%)
TOTALS	2,838	1,693	$15,631,057		7,391	3,683	$22,708,164		8,368	4,118	$19,709,073		

* Method used to determine which assessees are notified of a change in assessment under Section 619 of Revenue and Taxation Code

SOURCE Compiled by the State Board of Equalization

THE WELFARE EXEMPTION FOR HOMES FOR THE AGED

History of Study

The welfare exemption for homes for the aged was called to the attention of the Committee on Revenue and Taxation by the 1961 appellate court decision [*Fifield Manor v County of Los Angeles* (188 Cal App 2d 1)], which broadened previous court interpretations of the meaning of "charitable purpose," as used in Section 214 of the Revenue and Taxation Code "Charity" was interpreted to include care for the aged rich as well as the aged poor.

The committee's 1963 report,* dealing with the homes for the aged who engage in life-care contracts, found that the majority of those homes were small institutions with simple furnishings However, there were a few very large and opulent homes which accounted for the majority of the total assessed value of life-care homes in California The committee recognized that a tax exemption for these institutions was in fact a subsidy by other taxpayers to the particular individuals who could afford to live in these homes The 1963 report stated that

> . the public should not be required to subsidize the operation of institutions for the aged which charge fees which are beyond the means of the average man—beyond the means, indeed, of any but the wealthy.†

The committee recommended at that time that the welfare exemption to life-care homes be limited to "$1,000 of assessed value for each aged resident of the institution "‡ AB 641 in the 1963 General Session attempted to accomplish this, but it was referred for further interim study AB 1190—Mills (1965 General Session) attempted to accomplish a similar objective, but it based the percentage of a home's assessed value eligible for exemption on the average income of the residents of the home—the lower the average income, the greater percentage of the assessed value exempt This proposal was not passed into law

In the committee's major tax study of 1963–65, the subject of the welfare exemption for aged housing was again taken up in conjunction with a study of all exemptions from the property tax § In that report, it was recommended that organizations receiving this exemption be required by law to include an express irrevocable dedication clause in their articles of incorporation This recommendation became law with the passage of AB 80 in 1966 (Chapter 147, Statutes of 1966) Section 214 01 was added to the Revenue and Taxation Code, which reads in part

> "For the purpose of Section 214, property shall be deemed irrevocably dedicated to religious, charitable, scientific or hospital purposes only if a statement of irrevocable dedication to only these purposes is found in the articles of incorporation of the corporation . ."

* California Legislature, Assembly, *Final Report of the Assembly Interim Committee on Revenue and Taxation*, Sacramento State Printing Office, January 1963
† *Ibid*, p 20
‡ *Final Report of the Assembly Interim Committee on Revenue and Taxation*, 1963, *op cit*, p 11
§ California Legislature, Assembly, *Taxation of Property in California A Major Tax Study*, Part 5 (Sacramento State Printing Office, December 1964), pp 82–88

The State Board of Equalization was made responsible, also as the result of AB 80, for the administration of the welfare exemption Previously the board had merely recommended to the county assessor approval or denial of a claim for the exemption, and the assessor made the final decision The amendment to the Revenue and Taxation Code became Section 254 5 and reads in part.

> "The assessor may deny the claim of an applicant the board finds eligible but may not grant the claim of an applicant the board finds ineligible "

It should be emphasized that these changes in the code affect not only homes for the aged but also all the other organizations receiving the welfare exemption.

Administration of the Welfare Exemption

The initial determination of eligibility for the welfare exemption will be made by the Assessment Standards Division of the Board of Equalization. The division's functions will remain basically the same as they were prior to AB 80 This office was responsible for reviewing each application for the welfare exemption forwarded by the county assessors, and returning it to the county assessor with a recommendation There was no power to actually approve or deny an application However, now its judgments will have an authoritative character The assessor will make the field inspection and initial review, which will be forwarded by him to the Division of Assessment Standards. That office will then make its determination, and return it to the county assessor He will continue to have the power to deny an application the board has approved, but he may no longer approve one the board has denied

The Board of Equalization at the writing of this report is in the process of establishing an appeals procedure by which the taxpayer or assessor may have recourse to the elected Board of Equalization from the staff determination to deny an exemption It is also the board's responsibility to require that organizations receiving the welfare exemption have met the requirement for an express irrevocable dedication clause in their articles of incorporation or other basic document by the 1967–68 assessment year Although the exact figure is not known, it is estimated that fully one-half of the organizations now receiving the exemption do not have the express irrevocable dedication clause. Previously the courts had determined that it was not necessary * The board informed all concerned organizations in October of 1966, by letter, of this new requirement

Not all organizations must make this change Under AB 80, charitable institutions which have operated in the state for 30 years or more do not have to have such a provision implied or expressed This is an increase from a 20-year limitation previously in the law Again, this will be first operative for the 1967–68 assessment year

The Amount of Assessed Valuation in 1966

On January 1, 1964, there were 141 homes for the aged receiving property tax exemptions in California The aggregate assessed valuation was $25,495,525. As of January 1, 1966, there were 146 homes re-

* *Pacific Homes v County of Los Angeles* (1953), 41 Cal 2d 844

ceiving the exemption; but the aggregate assessed value had increased to $42,514,200 * This is a $17,018,675 increase in two years This has been mainly the result of (1) overall increased assessment in California generally and especially in the areas where these homes tend to locate, and (2) the completion of several large homes which were under construction at the time of the 1964 study. A notable example is the Channing House in Palo Alto In 1964, it was valued at $628,210 when the construction was not complete In 1966, it was assessed at $2,081,380. In 1964, Sacramento County had one exempt home valued at $15,500. The completion of two large homes plus the increase in the assessment of the old one brought the value exempt in 1966 to $403,250

The Pattern of Property Tax Exemption

Two patterns in the tax exemption of homes for the aged should be noted. First, the assessed value of exempt homes for the aged from 1964 to 1966 has increased by 40 percent, while the increase in total assessed value has increased by only 15 percent † It is a fact that California attracts retired people in increasing numbers This has certainly many favorable effects upon the economy, but also the increased exempt valuation puts strain on local taxing authorities The total amount of property exempt as the result of aged housing is increasing over twice as fast as total assessed valuation in California

The second pattern is even more serious That is the varying effect this has on different counties Table VI lists the counties which have exempt aged housing with their exempt assessed valuation and the total assessed valuation in the county ‡ In the Counties of Riverside, Sacramento, San Bernardino and San Luis Obispo, exempt housing for the aged makes up from 0.002 percent to 0 03 percent of total assessed value, while the Counties of Santa Clara, Santa Barbara, San Diego and Alameda have between 0 2 and 0 3 percent of their total assessed value exempt as aged housing Furthermore, the latter counties tend to be counties with a large amount of other property exempt. Santa Clara and San Diego Counties are second and third in terms of total exempt property in California Santa Clara has $143,521,000 of its assessed value exempt (6 percent) San Diego has $113,956,000 of its assessed value exempt (5 percent) Large exemptions such as these place a serious extra burden on the taxpayers of these counties

Luxury Homes for the Aged

The thrust of the committee's previous criticism and of AB 641 (1963 General Session) was against not the homes of relatively low value who are providing accommodations and services for aged people of low and moderate incomes, but against those homes which are accessible only to the very rich On the basis of the data available with the Board of Equalization and the Department of Social Welfare, we endeavored to distinguish between the luxury homes and the others The figure thought to be the best single indicator is per capita assessed value (the quotient of the assessed value divided by the capacity of the home) A complementary index would be the per capita cost of care,

* For a complete list of homes for the aged receiving a welfare exemption see Appendix F
† These calculations are based on Board of Equalization statistics
‡ *Ibid*

TABLE VI

The Value of Exempt Homes for the Aged and the Total Assessed Value of Counties for 1966 by County *

County	Amount exempt	Total assessed value	Percent
Alameda	$4,852,300	$2,001,875 000	2
Fresno	1,905,504	971 287,000	1
Kern	27,970	917 061 000	003
Los Angeles	15,653,860	16,296,808,000	09
Marin	449 580	499,503,000	09
Monterey	1,988 680	537,493 000	.4
Orange	1,248,050	2,651,945,000	04
Riverside	312,500	1,037,499 000	03
Sacramento	403,250	1,231 889 000	03
San Bernardino	27,920	1,388 835 000	002
San Diego	5,199 600	2,153,296,000	2
San Francisco	1,942 090	1,858 058 000	1
San Joaquin	75,925	625,619 000	01
San Luis Obispo	17,256	248,544 000	006
San Mateo	2,193,945	1,547,950 000	1
Santa Barbara	2,099,300	606 126 000	3
Santa Clara	4,907,180	2,234,998 000	2
Santa Cruz	95,730	272,930 000	04
Solano	200,200	276,851 000	07
Stanislaus	282,500	339 170,000	08
Ventura	351,290	902,971,000	03

**SOURCE* Total assessed value by county from Board of Equalization

although it would be unreliable as a single indicator, as the figure would reflect the varying needs of medical care among residents of different homes Unfortunately, the data on per capita assessed value was available for only those homes licensed by the State Department of Social Welfare Further, the per capita cost of care figure was available only for life-care homes

Of the 46 life-care homes included, the mean per capita cost of care was $2,566 Of a total of 90 homes licensed by the State among the homes getting the welfare exemption, the mean assessed value per capita was $2,487 It was felt that any homes, therefore, that had in excess of $3,000 per capita assessed valuation could be strongly suspected of opulence. This suspicion might be further confirmed if the per capita cost of care were also high. Table VII lists 15 of the larger homes with over $3,000 of assessed valuation per capita

In analyzing taxation of aged housing, there are two conflicting considerations. (1) the pressing needs of local government, which must finance so many important government functions through the property tax, (2) the need to insure that aged people of low and moderate fixed incomes are provided with adequate housing and other needed services There is no compelling social obligation on the part of the public to subsidize housing and services for those aged persons who can afford to pay *

One approach the committee has proposed in the past, not in regard to homes for the aged but for aged homeowners, has been the reimbursement for a portion of the amount that has been paid in property taxes † Under this program, there would be a schedule of property tax relief paymets for those 65 and older The schedule would range

* For a more complete discussion of this point and further analysis of luxury life-care homes, the reader is referred to the committee's two previous reports on the problem, *Final Report* in 1963 and *The Property Tax in California* in 1964

† California Legislature, Assembly, *A Program for Tax in California A Major Tax Study, Part 12* (Sacramento Office of State Printing, July 1965), pp 31–32

TABLE VII

A Sample of Aged Housing in California

The Larger (1966 Figures) Homes With Over $3,000 of Assessed Value per Capita

1 Lake Park (California-Nevada Methodist Homes)
Assessed Value $1,607,200
Capacity 400
Location Oakland
Per Capita Cost of Care $2,894
Per Capita Assessed Value $4,018

2 Quaker Gardens (California Friends Home)
Assessed Value $652,180
Capacity 200
Location Stanton
Per Capita Cost of Care $3,251
Per Capita Assessed Value $3,260

3 Wesley Palms (Pacific Home)
Assessed Value $1,182,450
Capacity 350
Location San Diego
Per Capita Cost of Care $2,284
Per Capita Assessed Value $3,378

4 Casa de Mañana (Pacific Home)
Assessed Value $830,930
Capacity 266
Location La Jolla
Per Capita Cost of Care $2,284
Per Capita Assessed Value $3,123

5 White Sands of La Jolla (Southern California Presbyterian Home)
Assessed Value $1,047,070
Capacity 300
Location La Jolla
Per Capita Cost of Care $3,057
Per Capita Assessed Value $3,490

6 The Heritage (San Francisco Ladies Protection and Relief Society)
Assessed Value $568,070
Capacity 97
Location San Francisco
Per Capita Cost of Care $3,804
Per Capita Assessed Value $5,856

7 The Sequoias
Assessed Value $1,131,810
Capacity 300
Location Portola Valley
Per Capita Cost of Care $3,379
Per Capita Assessed Value $3,772

8 Wood Glen Hall
Assessed Value $392,200
Capacity 72
Location Santa Barbara
Per Capita Assessed Value $5,447

9 Channing House
Assessed Value $2,081,380
Capacity 408
Location Palo Alto
Per Capita Cost of Care $4,590
Per Capita Assessed Value $5,101

10 Sunny View Manor (Lutheran Home)
Assessed Value $320,500
Capacity 102
Location Cupertino
Per Capita Cost of Care $3,817
Per Capita Assessed Value $3,200

11 The Alhambra (California Lutheran Home)
Assessed Value $676,150
Capacity 211
Location Alhambra
Per Capita Cost of Care $3,755
Per Capita Assessed Value $3,204

TABLE VII—Continued

A Sample of Aged Housing in California

The Larger (1966 Figures) Homes With Over $3,000 of Assessed Value per Capita

12 Fifield Manors (Pasadena)
Assessed Value $532,690
Capacity 175
Location Pasadena
Per Capita Cost of Care $3,231
Per Capita Assessed Value $3,043

13 Eastern Star Homes of California
Assessed Value $449,990
Capacity 103
Location Los Angeles
Per Capita Assessed Value $4,308

14 Fifield Manors (Hollywood)
Assessed Value $339,160
Capacity 90
Location Los Angeles
Per Capita Cost of Care $3,231
Per Capita Assessed Value $3,768

15. Manning Avenue Nazareth Home
Assessed Value $333,360
Capacity 94
Location Van Nuys
Per Capita Assessed Value $3,546

from an exemption of 95 percent of the first $5,000 assessed value for those with an adjusted gross income of less than $1,000, to a 1 percent exemption for those with adjusted gross incomes between $3,325 and $3,350. The homeowner would pay the tax, but would get a reimbursement from the state. One solution to the aged-housing exemption problem would be to reimburse homes for aged for portions of the property tax paid, based on the average income of residents of the home

Another possible solution, which the committee has recommended in the past,* would be to enact a legal maximum exemption for homes for the aged exempt under Section 214 of the Revenue and Taxation Code of $1,000 per resident of the home Thus, a home assessed at $100,000 with 100 residents would get a full exemption A $200,000 home with 100 residents would only get one-half of its assessed value exempted This solution would allow homes providing low cost accommodations for people of moderate means to retain tax exempt status while the more luxurious homes would be required to pay a share of property taxes.

Recommendation

The committee feels that the most equitable solution would be to allow a maximum exemption from property taxes of $1,000 per resident as of the lien date of assessed value for all homes for the aged covered under Section 214 of the Revenue and Taxation Code

Charter City Duplication of Assessments

Property in 16 of California's charter cities is assessed for tax purposes by both the city and the county Provisions of the assessment reform bill passed by the Legislature in 1966 prohibit general

* *Final Report of the Assembly Interim Committee on Revenue and Taxation*, 1963, *op cit*, p 11

law city assessing after 1969; however, without a constitutional change, charter cities may continue to duplicate the work of the county assessor indefinitely

In at least four of these charter cities there is a serious question as to the legality of the assessments made in 1966 The State Constitution and rulings by the Attorney General require the uniform assessment of all classes of property In Pasadena, Long Beach, Santa Barbara and Palo Alto there is serious question if this constitutional mandate is being met Cities and counties both are required to submit annually, the total assessed value of each class of property, to the State Board of Equalization The two figures can then be compared to see the treatment given each class When the assessed value of land for both jurisdictions is approximately the same but where the city's assessed value of personal property far exceeds the county value, it can be concluded that, in fact, the city has applied a different ratio to this class of property

Table VIII shows that in Pasadena land is assessed at approximately the same ratio as used by Los Angeles County Assessor Philip Watson. However, personal property in the city is assessed at 327 percent higher by Pasadena than by Mr. Watson Long Beach, Santa Barbara and Palo Alto show significant disparities between land and personal property, although smaller than that in Pasadena † The net effect of this practice is to shift the city tax burden from the holders of land to the owners of personalty

Where the ratio for each class varies by a small amount it can be attributed to a difference in opinion as to value between the city and county assessors

Even where classes of property appear to be assessed uniformly, use of the county figures as a comparison will show substantial dif-

TABLE VIII

Assessment Ratios by Type of Property for Chartered Cities Doing Their Own Assessing—1966

City	In percent				City levies in 1965–66 fiscal year
	Land	Improvements	Personalty	Total	
Alameda	*99 8	*99 6	*119 1	*102 0	$1,960,793
Albany	100 0	100 0	100 0	100 0	479,159
Long Beach	125 0	110 7	174 9	127 0	13,465,254
Marysville	160 0	160 0	160 0	160 0	495 922
Merced	100 0	100 0	100 0	100 0	679,772
Napa	120 0	119 3	122 3	120 0	760,516
Palo Alto	108 3	102 8	190 4	120 0	1,880,850
Pasadena	99 5	134 8	327 6	145 0	5,192,294
Piedmont	120 0	120 0	120 0	120 0	836,403
Porterville	100 0	97 2	108 9	100 0	332,856
Richmond	120 0	101 4	119 2	109 0	5,937,184
San Luis Obispo	100 0	98 9	93 3	99 0	626,832
San Mateo	140 5	180 0	154 7	152 0	2,339,969
Santa Barbara	105 0	166 3	224 0	137 0	2,208,637
Visalia	68 0	103 8	116 7	100 0	601,259
Watsonville	100 0	99 7	101 0	100 0	562,882

* Ratio of city assessment to county assessment

SOURCE State Board of Equalization

† Because of its city charter, Santa Barbara will be required to use a uniform ratio as provided in AB 80 Other charter cities are not affected by this requirement

ferences in individual assessments between the city and county. This is confusing to the taxpayer It tends to undermine confidence in assessment administration and the property tax generally and can lead to serious inequities in the proper distribution of the tax burden

The City of Richmond has been selected to illustrate the differences between city and county assessed values This study, made by Miss Evelyn Love, formerly of the committee's staff, indicates that the city assesses some properties at more than two times the figure used by County Assessor E F Wanaka while others are assessed at less than three-fourths the county value.

Her report follows:

> "In 1965–66, the Richmond City assessment roll was 8 percent higher than the county assessment roll for the same properties. But not all property on the city roll is uniformly 8 percent higher. Some properties are assessed by the city at twice the county level Some are assessed at less than the county value.
>
> "Of particular interest is the assessment of the Standard Oil Company properties in Richmond, as they comprise more than 25 percent of the city tax base The city assesses Standard's properties at a figure slightly higher than the one used by the county, but only about one-half of 1 percent higher
>
> "Since Standard's properties represent such a high percentage of the city tax base and are assessed at only 1 004 percent, other properties must be assessed quite high to bring the citywide average up to 1 08 percent. Due to this lower ratio of assessment $100,000 of taxes are shifted from Standard to other property owners in the city If the assessment function were transferred from the city to the county, this tax shift would be eliminated and most residential property owners would receive a tax decrease.
>
> "The validity of the Contra Costa County assessments has been well demonstrated. This assessor is rated by the State Board of Equalization as having one of the lowest dispersion ratios of any assessor in the state. This means that all property he values, regardless of its use classification, is within a very close range of the assessment ratio he has chosen."

Attached to this statement is a sample of residential, commercial and industrial property assessments comparing the Richmond City assessments with those of the Contra Costa County Assessor

In addition to controlling the distribution of the taxload, cities maintain separate assessing functions to play "hocus-pocus" with the taxpayer The city can hold the tax rate constant or artificially lower it by factoring county assessed values upward At a glance it will appear that the city has a low tax rate, but the truth of the matter will be evident when the tax bills arrive However, it is useful in promotional advertising and during local elections to point to a low tax rate

This duplication of assessments by charter cities is costly and confusing to the taxpayers In addition to the costs of separate assessments—which include the salaries of appraisers, the maintenance of maps, records, and data on property transfers—these cities must send

TABLE IX

City of Richmond Comparison of City Assessed Values With County Assessed Values for Tax Year 1965–66

I Residential Property	Assessment by city assessor	Assessment by Contra Costa County Assessor	City assessment as a percentage of county assessment
550-130-007	$600	$340	176 4
550-130-008	600	340	176 4
560-042-007	380	190	200 0
524-110-021	4,720	4,370	108 0
371 S 39th St	6,240	5,390	115 7
361 S 39th St	6,240	5,390	115 7
351 S 39th St	6,460	5,500	117 4
3912 Wall St	3,830	3,750	102 1
384 S 34th St	2,370	1,880	123 9
4411 Taft St	5,140	4,920	104 4
4345 Taft St	4,970	4,750	104 6
4339 Taft St	4,970	4,750	104 6
4325 Taft St	5,000	4,880	103 6
4317 Taft St	5,140	4,920	104 4
4301 Taft St	5,280	4,920	107 3
4229 Taft St	5,280	4,920	107 3
4225 Taft St	5,280	4,920	107 3
4221 Taft St	4,790	5,460	105 0
4213 Taft St	4,970	4,750	104 6
4207 Taft St	5,060	4,880	103 6
4201–03 Taft St	6,380	5,880	108 5
331–335 S 42nd St	6,400	5,880	108 3
351–355 S 42nd St	7,440	7,900	94 1
361 S 42nd St	5,060	4 820	103 6
365 S 42nd St	4,970	4,700	105 7
Alvarado Tract			
910 26th St	5,270	4,750	110 9
2600 Esmond	4,190	3,810	109 9
Andrade Addition			
2880 McBryde	3,990	3,630	109 9
2726 Lincoln	3,610	3,200	115 5
Andrade Boulevard Tract			
2350 McBryde	3,820	3,380	113 0
2526 Humphrey	5,220	4,560	115 5
Bay Shore Tract			
551 Casey	8,530	7,760	109 9
348 Western	8,700	8,120	107 1
125 Western	10,040	8,750	114 7
111 Western	10,010	8,750	114 4
100 Bishop (land only)	2,440	1,500	162 6
55 Western	14,170	12,500	114 4
Richmond Park Tract			
556 5th St	1,840	1,670	110 1
586 5th St	2,170	1,970	114 1
590 5th St	2,030	1,850	109 7
Turpin's Addition Tract			
676 2nd St	6,350	5,080	125 0
680 4th St	1,710	1,550	110 3
Belvedere Tract			
534-041-001	650	590	110 1
Richmond Boulevard Tract			
1311 Pennsylvania	1,090	1,000	109 0
643 18th St	2,330	2,130	109 3
Highland Tract			
822 10th St	3,190	2,900	110 0
Santa Fe Tract			
100 S 6th (land only)	1,480	760	194 7
533 S 9th	2,450	1,890	129 6

TABLE IX—Continued

City of Richmond Comparison of City Assessed Values With County Assessed Values for Tax Year 1965–66

I Residential Property	Assessment by city assessor	Assessment by Contra Costa County Assessor	City assessment as a percentage of county assessment
Nystroms Addition			
262 S 12th	$2,780	$2,510	110 7
Meeher's Addition			
1639 Hoffman	2,340	2,070	113 0
Wall's Harbor Center Tract			
1733 Ohio	3,520	3,000	117 6
2121 Virginia	3,190	2,700	118 1
Richmond Center Tract			
430 22nd St	5,020	4,560	110 0
Spaulding-Richmond Pullman Townsite			
331 43rd	4,060	4,560	89 0
526 42nd	3,080	2,880	106 9
Grand View Terrace Tract			
748 30th	5,150	4,750	108 4
749 39th	4,130	3,750	110 1
Schapiro Central Tract			
2701 Downer	2,420	2,220	109 0
Metropolitan Square Tract			
232 25th St	5,760	5,220	110 3
Wall's Addition Tract			
4101 Ohio	3,440	3,130	109 9
110 S 42nd St	2,230	2,030	109 8
129 S 35th St	4,340	3,950	109 8
339 S 36th St	2,940	2,570	110 5
4611 Overend	4,830	4,590	114 3
Union Tract			
4402-04 Ohio	4,860	4,350	110 9
Upland Tract			
4315 Wall	2,750	2,500	110 0
3327 Waller	2,750	2,500	110 0
Pullman Townsite			
513-161-005	1,510	1,370	110 2
East Shore Tract			
4300 Potrero	2,940	2,680	109 7
Town of Stege			
982 Carlson	2,510	2,280	110 0
San Pablo Avenue Addition to Pullman			
513-340-023	3,300	2,250	146 6
Bay View Park			
5417 Highland	4,630	3,880	119 3
508-011-006	960	870	110 3
El Cerrito Terrace			
549-140-007	1,580	750	210 6
549-140-023	15,200	13,640	111 4
Harbor Gate Sub.			
560-140-015	370	190	194 7
560-140-014	800	500	160 0
Richmond Annex			
508-061-017	4,310	3,570	120 7
1140 Mariposa	4,030	3,470	116 7
508-281-006	4,080	3,990	117 2
1728 Mendocino	5,770	4,880	118 2
5625 Panama	4,240	3,630	116 8

TABLE IX—Continued

City of Richmond Comparison of City Assessed Values With County Assessed Values for Tax Year 1965–66

I Residential Property	Assessment by city assessor	Assessment by Contra Costa County Assessor	City assessment as a percentage of county assessment
Richmond Annex—Continued			
5603-11 Panama	6,360	5,500	115 6
2837 San Mateo	2,200	1,750	125 7
2903 San Mateo	4,870	4,120	118 2
2911 San Mateo	4,850	4,120	117 7
Parchester Village			
408-012-037	2,570	2,130	120 6
Wall's Second Addition			
431 Sanford	1,520	1,380	110 1
De Anza Vista Unit No 2			
4545 Gregory Way	8,800	8,000	110 0
Fairmede Subdivision			
2955 Groom Dr	4,630	4,000	115 7
2949 Groom Dr	4,630	4,000	115 7
College Highlands Unit No 2			
3275 Anapolis	5,870	5,370	109 3
3712 Shane Dr	5,040	4,630	108 8
Whitecliff Park Unit No 2			
3123 Sheldon Court	6,840	6,500	105 2
Fairmede Unit No 8			
2952 Gomer Dr	4,800	4,620	103 8
El Dorado Gardens Unit No 1			
4884 Santa Rita Rd	9,770	8,800	111 0
Whitecliff Knolls Unit No 1			
3000 Hull Dr	6,100	5,320	114 6

out a separate tax bill Savings in postage alone should make it attractive for the city to adopt the county assessment roll and tax collecting machinery These cities are also burdened with administrative procedure which duplicate county programs Applicants for the welfare exemption (this includes schools, churches, charitable organizations) and the veteran's exemption must file both in the city and the county. In some cases, a man eligible for the veteran's exemption at the county level will find himself with the same assets but ineligible at the city level because the city uses higher assessed valuations.

The city council must sit as a board of equalization each year to hear assessment appeals. This is time consuming and nonproductive Transferring of the assessing function to the county would mean no extra work for the county staff since the county already assesses each parcel in each city and mails tax bills to property owners in the city. By transferring the assessment function the individual cities will not lose their fiscal control since they will continue to set their own tax rates.

Recommendation

We recommend that all charter cities take immediate steps to phase out their assessing function and transfer this responsibility to the county assessor

II Industrial and commercial property	Assessment by city assessor	Assessment by Contra Costa County Assessor	City assessment as a percentage of county assessment
1 Cass de Chrysler, 500 23rd St	$34,660	$22,500	154 0
2 Tri City Auto Parts, 551 23rd St	43,080	36 410	118 3
3 Cortese Ford, 194 23rd St	61,800	51,690	118 4
4 Moore's Auto Repair, 661 23rd St	6,800	7 610	89 3
5 Simoni Brothers, 871 23rd St	11,890	8,940	132 8
6 Louis Markets, 1050 23rd St	36,400	35,420	102 7
7 609 MacDonald Bldg *	17,000	15,430	110 1
8 801 MacDonald*	46,140	40,950	111 2
9 631 MacDonald*	22,260	20,250	109 9
10 1126 MacDonald*	9,520	7,700	123 6
11 1201 MacDonald	40,380	35,130	114 9
12 Texaco, 100 Cutting Blvd	1,142,520	1,149,770	99 3
13 Channel Lumber Co , 100 W Cutting	67,040	109,850	61 0
14 Blue Chip, 245 W Cutting	771,050	735,000	105 0
15 Duncan Harrelson, 520 W Cutting	183,250	168,499	108 8
16 S F R Corporation, 250 Canal	316,200	281,500	112 3
17 Warner-Chilcott, 200 S Garrard	353,780	355,490	99 5
18 Noller Control Systems, 150 E Standard	146,070	131,460	111 1
19 Air Reduction Co , Inc , 545 W Cutting	1,551,810	1,575,570	98 4
20 North American Title, 4420 MacDonald	28,000	25,600	109 8
21 Columbus Founders Savings and Loan, 4500 Mac Donald	46,000	53,670	85 7
22. Ward's, 4300 MacDonald	1,636 340	1,437,270	113 8
23 Richmond Funeral Home, 3725 MacDonald	48,270	42,630	113 2
24 Ryan Funeral Home 3331 MacDonald	49,910	40,380	123 6
25 Black and Decker, 1732 Wright	165,730	171 390	96 1
26 International Harvester, 830 S 14th St	1,435,770	1,367,440	104 9
27 NOPCO Chemical Co , 1141 S 14th St	522,080	†519,510	†100 4
28 Miles and Sons Trucking, Hall Ave (between 10th and 14th Sts)	28,150	25,760	109 2
29 California Canner's and Growers, 1200 S 5th St	2,526,330	2,346,280	§107 6
30 U S Steel & Carnegie Pension Fund c/o Safeway Stores, Inc , (Safeway Distribution Center)	4,389,750	3,107,290	141 2
31 United Growers, 560-100-002	1,048,760	911,940	114 6
32 Standard Oil Company	66,428,220	66,124,000	100 4

* Land and improvements only

† After the tax year had begun a special order of the County Board of Supervisors raised the assessed value of personal property on this account by $26,610 The new ratio of city to county values then become 104 5%

§ The ratio on land and improvements at this location is 101 7% but with the personal property included at a ratio of 109 5 the total becomes 107 6

Lien Date Change

For uniformity, property is assessed for tax purposes in its condition on a given date called the lien date. In California the lien date is the first Monday in March * and property is assessed at its value and to its owner on that particular day Since it would be impossible to assess all property at a given date by personal inspection, the assessors, using various indicators of value, must make a judgment of the property's value on the lien date, even though the actual appraisal may be made several weeks or months before or after this date

There has been considerable discussion of whether the first Monday in March is the most desirable day to use as the lien date Obviously, any one date will be advantageous to some taxpayers and disadvantageous to others, particularly with respect to the assessment of personal property, since at any one given date some businesses will require larger inventories than others California and Montana are unique in using the first Monday in March as a lien date A majority of states use January 1 as the assessment date, and only three have dates which fall on other than the first day of the month. A lien date coinciding with

* Government Code Section 43002

the end or beginning of the month is much more practical because of the greater ease in checking and assessing business property. January 1 would be preferable as it is the end of the normal business year for most corporations Virtually all incorporated businesses and corporations (accounting for 65 percent of the net corporate income in California) are on a calendar year accounting basis

A further advantage to a January 1 lien date is that it will give more time for local budgetary agencies to review expenditures and it will provide them with more accurate information on revenue prospects It will also allow the assessors more time to complete the assessment roll In the auditing of personal property of business firms fewer adjustments would be required to reconcile assessed value and book value creating proportionate savings in administrative costs In 1965 and 1966, legislative attempts were made to change the lien date to January 1 Both attempts were defeated due primarily to the opposition of business and agricultural interests. According to a recent study of this problem by Governor Brown's tax research group * retailers have lower inventories nationwide on January 1 than at the end of February However, spokesmen for California retailers say that in California the opposite is true This would indicate the retailer reduces his inventory whenever the lien date occurs—and since in most states, the lien date is January 1, nationwide inventory figures reflect this fact.

Although almost all states assess property as of a fixed date, it is also possible to assess property at its average value over a period of time Representatives of local government and some business interests have suggested this method of assessment with respect to personal property While this system promotes greater equality among various types of business and probably would mean additional revenue to local government, an average assessment date has some administrative difficulties Is the average to be 4 times a year, 12 times a year or 365 times a year (366 every fourth year)?

Any of these will require considerably more auditing by the county Even a quarterly or monthly average will tend to encourage the drawing down of inventories at the end of the month or quarter

Recommendation

We recommend that the lien date be changed to January 1

100-percent Assessments

County assessors are now required to assess all property at a uniform ratio of full cash value This ratio must be publicly announced and be between 20 and 25 percent of that value until 1971, and 25 percent thereafter. Each assessor will be able to select the ratio to be used in the county until 1971 Some interest has been shown in requiring assessments at full cash value (100-percent ratio) rather than at some fraction of assessed value and especially during the debate on AB 80 (1966) in the State Senate some Senators and particularly the staff of the Senate Committee on Revenue and Taxation gave strong support to 100-percent assessments

* *California Tax Study, Part II, Property Taxes* January 1966 (mimeo).

In October 1966, the newly elected assessor of Sacramento County, Irene Hickman, announced she was going to assess property at 100 percent Those supporting 100-percent assessments generally cite two reasons for this position (1) that a section of the Constitution (Article XI, Section 12) states, "all property subject to taxation shall be assessed for taxation at its full cash value"; and (2) that it would be easier for the taxpayers to understand while at the same time saving the small administrative cost of factoring.

Legal Question

In the American system of government it is the judicial branch of government which interprets the basic legal documents and renders decisions when there is a dispute over meanings Their decision then becomes the law of the land or the law of the state California courts have held for many years that fractional assessments are permitted under Article XI, Section 12 In *Rittersbacher v Board of Supervisors* (1934), 220 Cal 535, the California Supreme Court said

> "Although the valuations placed on the various kinds of property must be in proportion to the worth of such properties, so that one class of property will not be more heavily taxed than any other class, it is not required that the assessments be at 100 percent of value "

In a more recent case that turned directly on the question of the legality of fractional assessments, the district court of appeal held that

> "Article XI, Section 12 does not prohibit the assessment of taxable property by a county at a uniform fraction or ratio of its full cash or market value " *

This decision was appealed to the Supreme Court, but the court denied a hearing, tantamount to approving the lower court decision.

In a related case (*Hanks v State Board of Equalization* 1964, 220 Cal App 2nd 427), the district court of appeal held that the State Board of Equalization, in equalizing county assessments could equalize them on a fractional basis and is not compelled to require that county assessments be made at 100 percent of full cash value

Taxpayer Understanding

It is obvious that the property taxpayer will more easily understand his assessment if it is at 100 percent of full cash value However, this objective has already been accomplished by AB 80 (1966), which provides that the tax bill and the required notification of any increase in assessment must both contain the appraised value (100 percent), the ratio used by the assessor, and the assessed value Full cash value assessments do not improve equalization in a county Equalization can be accomplished just as easily by using a fractional assessment ratio as by using a 100-percent ratio

Problems

In analyzing problems associated with 100-percent assessment it is best to treat separately the problems which are raised if the assessment

* *Michels* v *Watson* (1964), 229 Cal App. 2nd 404.

on all properties in the state is increased to 100 percent and the problems which exist if only one county uses a 100-percent ratio.

Utility Shift

If it is true that state-assessed property is being assessed at a higher ratio than locally assessed property there is the possibility of a substantial shift of tax burden to homeowners, farmers, and businesses which are locally assessed This shift could run as high as 80 million dollars in taxes annually The shift would occur under 100-percent statutory assessment, since the local roll would be increased by approximately four times while utility property which is being assessed at a higher ratio will be increased perhaps only three times A constitutional amendment would be necessary to preserve any difference in assessment ratio under a 100-percent system

If one county unilaterally adopts a 100-percent ratio contrary to Section 401 of the Revenue and Taxation Code, there would be an even greater shift of tax burden from state-assessed property to local-assessed property Under these circumstances, the local roll would be increased four times while the state-assessed roll would not be increased at all It is quite likely that under a uniform 100-percent assessment system the Public Utilities Commission would order a reduction in service rate for the state-assessed utilities to correspond to the reduction in their property tax liability The prospect for a rate reduction for the state-assessed railroads would not be as likely. Where only one county or a few counties use 100-percent assessment ratios the possibility for a corresponding utility service rate reduction is remote.

Unsecured Roll

Unsecured property must be taxed at the rate fixed for the previous years' secured roll California's Constitution (Article XIII, Section 9a) provides

> "The taxes levied for any current tax year upon personal property . which are not a lien upon land sufficient in value to secure their payment, shall be based upon the rates for taxes levied for the preceding tax year upon property of the same kind . . . Nothing in this section shall be construed to prohibit the equalization each year of the assessment on such property in the manner now or hereafter provided by law."

Upon a change to a 100-percent ratio system the owner of unsecured property would find that for the first year the taxes on his property would increase four or five fold There could be no reduction in the tax rate to offset the increase in assessed value because of the constitutional provision noted above This would be true whether a 100-percent ratio was used statewide or adopted in just one county

For example, for 1966–67, in a county with a 25-percent ratio, a $9 00 tax rate is levied on property. In the next year at a 100-percent ratio that same $9 00 tax rate must be applied to the unsecured roll and businessmen and renters on the unsecured roll would find themselves in a very adverse competitive position *vis-à-vis* property on the secured roll for the year of transition Only a constitutional amend-

ment voted on by the people at a statewide election could remedy this flaw.

Tax Rate Limits

Many governmental jurisdictions have legal limits to their taxing power expressed in terms of tax rates These limits are predicated in terms of a 25-percent assessment ratio They apply to school districts, general law cities, and numerous special districts In addition the charters of some cities impose rate limits These taxing bodies represent almost 70 percent of the tax bill A 100-percent ratio would quadruple the amount of revenue that could be collected from a parcel of property unless the rate limits of these jurisdictions were changed by the State Legislature However, the Legislature could not change the limit of the charter cities to reflect the increase in assessed value The volume of work involved in searching out all the tax rate limitations presently in the statutes would require months of effort followed by endless hours of rewriting existing law

Debt Limits

Local governmental agencies in California are limited in the amount of general obligation bonded indebtedness they can incur These limits are expressed in terms of the assessed value of the jurisdiction and predicated on a 25-percent assessment ratio. Without legislative correction a 100-percent ratio would make these debt limits virtually meaningless

State Support of Schools

Much of the present state support of local school districts is allocated on the basis of the district's assessed valuation per pupil. Districts with a low assessed value per pupil receive more state aid than districts with a higher assessed value per pupil This state money is known as "equalization aid" and it is given to most but not all of California's school districts Although all school districts receive state aid a few are not covered by the "equalization" portion of the program because of their high assessed value per child

The assessment ratio of each county for the current year and two immediate prior years is compared with the state "average assessment ratio" which is derived from the State Board of Equalization's ratio finding in all 58 counties The factor this produces is known as the "Collier factor," which is a three-year average of the state board's ratio for a county The local assessed value then is increased for decreased by this factor before the computations are made to determine how much equalization aid each school district will receive.

If a 100-percent assessment ratio is adopted statewide, it will put virtually all school districts above the level at which they are entitled to equalization aid *

To correct this situation the Legislature would have to either reduce the computational and qualifying property tax rates or increase the foundation program or a combination of both In addition to loss of

* Unified districts where there is approximate assessed value of $24,000 or more per elementary pupil will not receive equalization aid Unified districts which have more than $46,000 in assessed value per high school student will not receive equalization aid

equalization aid, school districts would become ineligible for state loans for school construction. School districts are not eligible for construction loans from the state until they are bonded to 95 percent of their legal debt limit and the debt limit is based on assessed value Without legislative change or massive additional bond issues, districts receiving aid would suddenly find themselves bonded to only 25 percent of the legal limit and would no longer be eligible to receive further aid although the total worth of the property in the district had never really changed

Repayment of present loans is required only if the districts are able to pay without levying excessive taxes Under the 100-percent assessment program many school districts would have to begin repaying their loans without the benefit of any new tax base. State funds for school transportation services are also based on assessed value and, under a 100-percent assessment system only a very few districts would be eligible Legislative change would be needed for this problem, too.

In a situation where only one county used the 100-percent assessment ratio, the Collier factor would correct all three school finance problems —equalization aid, state loans for construction, and pupil transportation—but not until the third year of operation For the first two years, the schools of the county in question would lose a substantial amount of the money they now get from the state This would place an increased burden on the property taxpayer for the two transitional years

Library Grants

To qualify for state grants a library system must demonstrate local support in terms of (1) a 15-cent tax rate per $1,000 of assessed value, or (2) the expenditure of $250 annually per capita, excluding capital expenditures, whichever is less.

A 100 percent assessment ratio would negate option (1) and possibly eliminate some library systems from the program

Intercounty Districts

Many school and special districts overlap into one or more counties If all counties in which the districts operate were assessing at 100 percent there would be no shift in tax burdens However, if less than all the counties in which each district operates used 100 percent, there would be a significant shift of tax burden away from the county using a fractional assessment and to the county using 100 percent This tax shift can be offset in some intercounty special districts (but not school districts) by the provision of AB 111 (1966) This measure allows the supervisors of one county to trigger machinery which applies the State Board of Equalization's assessment ratio for the year to the tax rate of the district

Public Assistance Programs

Eligibility for certain state assistance programs turns on the assessed value of the real property of the applicant Possession of real property with an assessed value of over $5,000, other than the residence, disqualifies a person for old age assistance, aid to the blind, and aid to the disabled Since assessed values would increase by approximately four times under a 100 percent system some present recipients

would become ineligible These same recipients would also become ineligible to participate in the state's medical program under Title XIX of the Federal Medicare Act

If the 100 percent ratio were to be applied statewide, a legislative change could mitigate these problems but if the higher ratio were used in only one county the Department of Health, Education, and Welfare would be in the position of supporting a program for which eligibility would be determined by county of residence without regard to need

Recommendation

We recommend that property in California continue to be assessed at a fractional ratio as provided by Revenue and Taxation Code, Section 401 and that the state *not* adopt a 100 percent ratio as long as California's courts approve fractional assessing

VII. OTHER PROPERTY TAX MATTERS

In our major tax study of the 1963–64 interim, problems relating to the property tax base were examined in depth Extensive study was given to the property tax as it relates to business inventories, household personal property, solvent credits, the burden on those over 65 with low, fixed incomes, and the assessment and taxation of land in rural-urban fringe areas We feel that material developed and proposed by the committee on these subjects is still valid, and repetition at this time would serve no useful purpose However, we believe that the Legislature should resolve these difficulties in concert with a comprehensive review of the tax structure.

Recommendation

We recommend that any reform of the property tax as it relates to household personal property, solvent credits and burdens on the senior citizens be considered in the context of reforms of the state tax structure and not be approached on a piecemeal basis

We recommend that prior to the implementation of Proposition 3 (SCA 4, 1966) the Assembly, through this committee, should study thoroughly the ramifications of any change in assessment policy.

VIII. CONCLUSION

California cannot afford the luxury of another assessment scandal; a disaster of this nature would undermine the property tax and place the independence of local government in great jeopardy. Therefore, provisions of the Assessment Reform Law of 1966 must be vigorously enforced, and early action must be taken on the additional recommendations contained in this report

Although this report deals with property tax administration, it would not be complete without brief mention of property tax rates, because it is the combination of the tax rate and the assessment which produces the property tax burden. The problem of lack of uniformity in assessment becomes much more important when viewed against today's rising tax rates. With a low tax rate, a difference in assessment of the same value property by 15 percent will not be significant in terms of tax burden At a higher level, the difference becomes quite important

This committee supported legislation in 1965 and in 1966 to provide $300 million for reduction in property tax burdens In both years, the bills failed in the State Senate The problem is more pressing now than last year or two years ago As our final recommendation, we strongly urge the 1967 Legislature to enact a program with a minimum of $300 million in property tax relief To do less would be to deny the problem which faces us.

SUMMARY
of
RECOMMENDATIONS

RECOMMENDATIONS

We recommend that further investigations of assessment practices be made by the Subcommittee on Assessment Practices of this committee. We further recommend that this subcommittee be authorized funds to conduct adequate investigations.

We recommend that the State Board of Equalization make sample assessments in each county every two years and spot check certain of the sampled properties to determine the assessment for the prior year. We urge the Legislature to provide the funds necessary for this purpose

We recommend that the State Board of Equalization conduct all out-of-state audits for counties on a contract basis The Board of Equalization maintains a full staff of sales tax auditors in our Chicago and New York offices who could perform this additional duty at great savings to the individual counties

We recommend that Section 619 of the Revenue and Taxation Code be amended to require notification to the property owners only when the change in his assessed value is due to a change in the full cash value of the property.

We recommend that Section 619 1 of the Revenue and Taxation Code be amended to require mailing of assessment change notice to only the owner of the property and at his permanent address

We recommend that Section 1716.1 be amended to indicate that the cost of an independent appraisal commission shall be a charge upon the county concerned.

We recommend that Section 110 of the Revenue and Taxation Code be amended to read as follows:

110. "Value," "full cash value," "true value in money," and "actual value" mean the price at which property would transfer for cash or its equivalent between informed parties in the open market if both were seeking to maximize their gains and neither was in a position to take advantage of the exigencies of the other In arriving at value, the assessor or the board shall consider any or all of the following where applicable:

1. The price at which the property or comparable properties have recently sold, including the price of fractional interests in such properties as represented by shares of stock and prior claims upon the taxable assets.

2. The amount that has been invested in the property.

3 The cost of replacing reproducible property with new property of similar utility and location or of reproducing the property at its present site and at present price levels.

4 The extent to which the value of the property has been lessened by physical deterioration or obsolescence.

5 The amount that investors would be willing to pay for the right to receive the anticipated income from the property.

6 The trade level at which the property is situated.

We recommend that property financed under Section 221(d)(3) of the National Housing Act be assessed on a capitalization of projected income basis.

For residential property which is in transition to another use, we feel that some change in the law is needed to protect the homeowner from losing his home because of an inability to pay taxes predicated on highest use assessments. We recommend a constitutional amendment which will provide that all single family dwellings occupied by their owners as the principal place of residence on the lien date be assessed on the basis of residential use

We recommend that legislation be enacted to guarantee that every property owner be notified by mail whenever there is an increase in his assessed valuation due to a change in the full cash value of the property

We recommend that the Legislature and the Board of Equalization set up a joint task force to develop ways and means of improving the trending process.

We recommend that intercounty equalization surveys be conducted every two years rather than every three years as at present And, we urge the Legislature to provide the funds necessary for this purpose

We recommend that county supervisors establish assessment appeals boards in their respective counties

We recommend that the State Board of Equalization be empowered to review decisions of county boards of equalization

We recommend that in counties where appeals boards are not constituted the taxpayer be empowered to appeal the question of value to the superior court or the State Board of Equalization

We recommend that the maximum property tax exemption allowed under Section 214 of the Revenue and Taxation Code be the product of $1,000 times the number of residents of the home as of the lien date.

We recommend that all charter cities take immediate steps to phase out their assessing function and transfer this responsibility to the county assessor

We recommend that the lien date be changed to January 1.

We recommend that property in California continue to be assessed at a fractional ratio as provided by Revenue and Taxation Code, Section 401, and that the state *not* adopt a 100-percent ratio as long as California's courts approve fractional assessing.

We recommend that any reform of the property tax as it relates to household personal property, solvent credits and burdens on the senior citizens be considered in the context of reforms of the state tax structure and not be approached on a piecemeal basis.

We recommend that prior to the implementation of Proposition 3 (SCA 4, 1966) the Assembly through this committee should study thoroughly the ramifications of any change in assessment policy.

As our final recommendation, we strongly urge the 1967 Legislature to enact a program with a minimum of $300 million in property tax relief To do less would be to deny the problem which faces us

APPENDIX A

STATE OF CALIFORNIA
OFFICE OF ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

September 27, 1966

HON. W. BYRON RUMFORD
Member of the Assembly
1500 Stuart Street
Berkeley, California

HON CARLOS BEE
Member of the Assembly
1065 A Street, Room 216
Hayward, California

Re: AB 80

Gentlemen

In your letter of September 19, 1966, you requested our views on the following questions

1 What effect does AB 80 have on the imposition of ad valorem property taxes?

2. Are county assessors required to apply a uniform ratio to all categories of property, i.e., commercial, residential or agricultural If so, are assessors prohibited from discounting the market value of a parcel of property because of its residential use prior to applying the uniform ratios?

3 If ratios are applied are they legal and should there be only one ratio for all properties, residential, commercial and agricultural?

In your letter you indicated the desirability of obtaining our views as soon as possible. In the interest of expediting this matter, we have decided to answer your inquiry by letter rather than by a formal opinion

The basic objective of AB 80 is to implement the constitutional requirement of uniformity of taxation in the field of local ad valorem taxes Uniformity is required by Article XIII, Section 1, of the California Constitution, which so far as here relevant provides

> "All property in the State except as otherwise in this Constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law, or as hereinafter provided "

A constitutional provision in basically similar terms requiring uniformity of taxation was set forth in Article XI, Section 13, of the California Constitution adopted in 1849. This provision for uniformity has been included in the present Constitution since its enactment in 1879 AB 80 in addition to implementing the constitutional require-

ment of uniformity is designed to improve the quality of administration with respect to the imposition of locally assessed property taxes

It is the established practice in California to assess property at a fraction of its full cash value The validity of such fractional assessment was most recently upheld in two 1964 appellate court decisions, namely, *Hanks v State Board of Equalization*, 229 Cal.App 2d 427, and *Michels v. Watson*, 229 Cal App 2d 404 In the *Hanks* case, it was also held that in performing its function of equalizing property tax assessments among the various counties of the state, the Board of Equalization could do so on the basis of a uniform ratio of full cash value.

It is clear, however, that under the mandate of the California Constitution the county assessor in fulfilling his duties must assess all real property at a uniform percentage of full cash value *Mahoney v City of San Diego*, 198 Cal 388; *De Luz Homes, Inc. v. County of San Diego*, 45 Cal.2d 546. Since the Constitution requires uniformity in real property taxation, the Legislature is without power to provide for classification of real property for property tax purposes *Forster Shipbuilding Co. v. Los Angeles*, 54 Cal.2d 450. Thus, the county assessor must apply a uniform ratio to all classes of real property whether used for residential, commercial or agricultural purposes. He would violate the constitutional requirement of uniformity if he discounted the value of any class of property before applying the uniform assessment ratio

As to personal property, Article XIII, Section 14, since its amendment in 1933, has expressly provided:

> ". . . no tax burden shall be imposed upon any personal property either tangible or intangible which shall exceed the tax burden on real property in the same taxing jurisdiction in proportion to the actual value of such property."

It might be pointed out that Article XIII, Section 14, of the California Constitution, permits the Legislature by a two-thirds vote to classify personal property for purposes of assessment and taxation and to provide for differences in the tax rates applied thereto. This section further permits the Legislature to exempt various classes of personal property from taxation However, in the absence of specific legislation with respect to a particular class of personal property, all property, both real and personal, must be assessed at a uniform fraction of its value

In order for the Legislature to classify real property for property tax purposes, a constitutional amendment similar to that applicable to personal property would be required In any event, it would appear that the power to make classifications of real or personal property could not be delegated to local assessors without giving rise to serious problems of due process and equal protection under the United States Constitution.

In summary, since 1849 the California Constitution has required uniformity of taxation of real property. While the use of fractional assessments is valid, the county assessor must apply these ratios uni-

formly to all classes of real property. The ratios must be applied to the full value of such property without any form of discounting Particular classes of property may give rise to peculiar problems of valuation. In that regard, the Legislature has provided certain guidelines to be applied in the valuation of agricultural property. However, this does not negate the fact that under the California Constitution the county assessor must apply one ratio for all property, whether residential, commercial or agricultural

AB 80 did not change these constitutionally established standards Rather, AB 80 requires the assessor to inform the public of the fractional ratio he intends to apply Because of this disclosure requirement, taxpayers are in a better position to check on whether the constitutional standard of uniformity has been followed In other words, AB 80 affords the taxpayers a better opportunity to enforce their constitutional right to uniformity of taxation

AB 80 also has provisions designed to bring about uniformity in assessment practices throughout the state, including ultimately the application of the same fractional percentage of value in all of the counties. Thus, the Legislature in Section 34 of AB 80 undertook to establish statewide uniformity by prescribing a range for the ratios to be applied by the local assessor initially of between 20 and 25 percent. Beginning with the lien date for the 1971–72 fiscal year, all property subject to general property taxation is to be assessed at 25 percent of its full cash value Since fractional assessments are valid if uniformly applied, it is certainly within the province of the Legislature to prescribe a standard for fractional assessments which is in conformity with the constitutional standards referred to above

In addition, AB 80 is designed to improve the quality of local property tax administration and to insure compliance with constitutional and statutory provisions relating to the imposition of ad valorem taxes

When AB 80 was before the Legislature, our office gave very careful consideration to the validity of the provisions thereof. It was our considered judgment that AB 80 was valid and constitutional and that the courts of this state would so hold. We continue to adhere to these views.

We hope this information is sufficient for your purposes If additional information is required, we will be happy to endeavor to furnish it to you.

Very truly yours,

THOMAS C LYNCH
Attorney General
By
ERNEST P GOODMAN
Assistant Attorney General

APPENDIX B

STATE OF CALIFORNIA
OFFICE OF ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

December 2, 1966

HONORABLE WILLIAM E JONES
Chairman
Board of Supervisors
County Courthouse
Riverside, California

Dear Chairman Jones

On November 23 I met with Assessor Eric Waite, Assistant County Assessor Frank Seeley, Senior Auditor-Appraiser Tony Guzzetta, and Deputy County Counsel Richard J Lawrence In addition County Administrative Officer Robert Andersen attended a portion of the meeting

We reviewed in detail the procedures used by the assessor in processing and analyzing personal property affidavits with detailed analysis of the assessor's postaudit program during 1965 and 1966

We also discussed changes in operating procedure that have been adopted during the last year and the proposed audit program adopted following the recommendations of the grand jury I believe that by doubling the audit staff and contracting with the State Board of Equalization to perform out-of-state audits, the objective sought by our office and the grand jury can be met It should be noted however, that the longer the audit program is stretched out, the longer it wil take the county to receive the tax dollars that are available immediately from business firms that underreported their assets

This year the State Board of Equalization made sample appraisals of a number of business firms in Riverside County These appraisal results, which included real estate values as well as business personal property values, were presented by me to the grand jury and with one exception indicated that the sampled businesses were assessed at ratios far below the assessor's announced ratio of 25 percent

The state board's ratio on the Lily Tulip Cup Corporation through a clerical error of the board was reported at 8 4 percent rather than at 11 9 percent Subsequent to the state audit of this firm the county performed a postaudit and found $1,727,900 in property that has now been included on the assessment roll It should be noted however, that in conformity with past practice, no penalty was imposed upon the discovery of the escaped assessment In all other cases where taxpayers have underreported property the assessor, upon discovery, has never imposed a penalty I have been assured that this policy will be changed

The 10 other samples which produced ratios of 16.7 percent, 18 1 percent, 12 3 percent, 16 2 percent, 15 6 percent, 21 4 percent, 19 9 percent, 20.6 percent, 16.7 percent and 21.8 percent were reviewed and the assessor generally agrees with the findings of the state board The principal reservation that remains unresolved is the fact that the state board's figures *may* run 2 5 ratio points higher in some cases as a result of "trending " The state board generally will adjust upward historical costs, when these figures do not in the opinion of the board accurately reflect value in the current market It is quite possible that the assessor's procedure in this regard may be changed by state regulation now required by the Legislature or may be revised by the assessor

Another procedure used by the assessor that may be changed by future state regulation or by the assessor's own change of policy is the allowance to all businesses of 10 percent depreciation a year for six years irrespective of the useful life of the asset

The assessor's postaudit program during 1965 was able to audit 178 firms Approximately 30–40 of these firms had assets valued at over $50,000 Approximately 160 of these firms were audited for only one year although the law permitted a three-year audit Therefore underreporting by businesses in the unaudited years totally escaped This policy was changed during the end of the year, and three-year audits were begun One firm, Johns-Manville, which was audited for only two years produced a total escape assessment of $341,420 The assessor stated that this audit was undertaken as a result of our disclosure of Johns-Manville's underreporting in Santa Barbara County It should be noted that no penalty was levied against Johns-Manville

In 1966 (to October 31, 1966) 104 firms were audited, 84 of these firms had assets over $50,000 Escaped property was discovered in excess of $2,500.000 However no penalties were assessed

I believe that the changes the assessor is making, accompanied by an intensive postaudit program will accomplish the objectives recommended by our office

We believe it would be appropriate for the grand jury in 1967 to review the progress that has been made and report to you their findings

Sincerely,

THOMAS C LYNCH
Attorney General
By
MARSHALL S MAYER
Deputy Attorney General

APPENDIX C

STATE OF CALIFORNIA
OFFICE OF ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

October 13, 1966

HON. CHARLES A QUINN
Chairman, of the Board of Supervisors
Santa Clara County
San Jose, California

Dear Mr. Quinn:

At the request of your honorable board, the Attorney General has initiated a review of the assessment practices and procedures of Assessor Dwight Mathiesen

It has been our experience that merely visiting the assessor's office, inspecting the files and discussing practices with the assessor and his staff, has provided inadequate information concerning operating procedures Consequently, we requested funds to conduct field audits of various taxpayers to determine how the accounts were processed by the taxpayer and also whether the firm correctly reported the property subject to county taxation

The assessor has made the following representations as to personal property taxation of business firms in the county:

1 All property has been assessed at uniform ratios of assessed value to actual value, which were 33⅓ percent for 1964 and 1965, and 25 percent for 1966
2. No firms have received tax reductions or advantages without proper cause

These representations are false

The assessor has failed to apply a uniform ratio to all property

The "ratio" is the percentage multiplier applied to the property valuation figure to yield the assessed value The assessor is required by law to use a uniform ratio as to all taxpayers and he has represented to the public that such a uniform ratio has been used to compute the assessed value of all business personal property in Santa Clara County.

The uniform ratio allegedly was 33⅓ percent in 1962, 1963, 1964 and 1965, and 25 percent for 1966 However, this statement is true only so far as it correctly states the final multiplier used to compute assessed value In actuality the effective ratio has varied at the least from 27 percent to 33⅓ percent in typical cases, and more in some examples

These variations in the effective ratio occur because in many cases the assessor has arbitrarily reduced the valuation figures reported by the taxpayer before applying the multiplier This was done despite

the fact that the taxpayer admitted a higher valuation When the assessor arbitrarily reduces the reported valuation figure in this manner, the favored taxpayer is given an advantage We found that some taxpayers were given reductions and others were not. The assessor's files and the books of the taxpayer contained no facts to justify the favoritism.

The discrimination was not limited to arbitrary reductions. In some cases the reported valuations were increased before the ratio was applied, again without justification Where this was done, the subject taxpayer who submitted an accurate return was penalized for his honesty

Some actual examples will demonstrate this capricious system at work during the 1964 tax year.

Taxpayer "A." This taxpayer operates several large retail stores, one of which is located in Santa Clara County In 1964, the company reported a total of $1,781,940 on its tax affidavit The assessor reduced this figure to $1,443,372, equal to 81 percent of the reported figure. Only after this reduction was made was the 33⅓ percent ratio applied, giving an assessed value of $481,130 The result is the same as if the assessor initially had used a 27 percent ratio This favored taxpayer received a property value reduction of $338,568 ($112,850 in assessed value) in 1964

Compare the treatment of Taxpayer "A," assessed at an effective ratio of 27 percent, with Taxpayers "B" and "C."

Taxpayer "B" is a manufacturing company which reported personal property of $529,748 for 1964. Here, the assessor made no reductions in the reported figures before applying the 33⅓ percent ratio

Taxpayer "C" is a warehousing company which reported $38,382 in personal property for 1964 As with Taxpayer B, the assessor made no reductions and applied the 33⅓ percent ratio B and C were thus taxed at a significantly higher rate than A—without any justification for this discrimination.

The 1966 system can be illustrated by Taxpayer "D," when the assessor was using a 25 percent ratio Taxpayer "D" is an industrial tool company that reported $186,718 in personal property in 1966, and was selected by us at random for audit We found that except for a small error in reporting office supplies, the 1966 affidavit was accurate as filed. The assessor, however, raised three categories of personal property valuations by approximately 20 percent (inventory, machinery and equipment and office furniture and fixtures) This arbitrary increase of $39,083 was not based on an inspection of the taxpayer's books and records (the last county audit of this firm was in 1960), but apparently was based upon the assessor's suspicion that the taxpayer was understating his taxable property on the affidavit The so-called "uniform" ratio for 1966 was 25 percent, but the effective ratio for this taxpayer was 30 percent

In 1966 *Taxpayer "B"* was also soaked In this case our auditor discovered that the firm had reported the full value of its personal property on its 1966 affidavit The assessor, however, raised the figures reported for inventory, machinery and equipment and office furniture and fixtures, all by a flat 20 percent Again, the only reason for this arbitrary increase was the apparent suspicion of the assessor

that the taxpayer had understated his property on the affidavit Again an honest taxpayer paid more than his fair share The effective ratio in this case was 30 percent, not 25 percent

Taxpayer "E" is a large retail store which understated its inventory by $286,009. This figure was discovered by a county audit To the corrected inventory figures the assessor added an arbitrary additional 10 percent which was not noted as a penalty

Thus far only a small sampling of accounts has been audited Yet, unauthorized assessment procedures were discovered in a majority of the accounts examined In addition, it was discovered that substantial amounts of personal property have escaped assessment, which if pursued should result in large tax recoveries for the county Information on this source of revenue for the county will be delivered to the county counsel

Activities of Tax Consultants

On November 18, 1965, our office presented to the Assembly Municipal and County Government Committee a report on the activities of tax consultant James C Tooke in Santa Clara County We noted that he was able to achieve substantial tax savings for Fairchild Semi-Conductor, Inc . by the submission of false tax affidavits

Subsequently, we have inquired into the activities of another principal consultant in the county, Mr Hayden W Pitman Our investigation disclosed that prior to his resignation as assessor, Mr Pitman was engaged by a large food processing company on a $10,000 annual retainer Our audit of this company disclosed that this firm, after Mr. Pitman's resignation, received favored treatment Property value reductions were granted in the amount of $1,952,307 in 1964 and $2,-675,785 in 1965 The total tax savings for these two years was $140,527, based on a 33⅓ percent ratio A summary of the pertinent figures is attached as Exhibit "A"

Our inquiry into another firm noted that the following instruction appeared on one tax affidavit submitted by Hayden W Pitman "Deduct 25 percent on all items" This affidavit is attached as Exhibit "B" An analysis to show the special treatment is attached as Exhibit "C" The assessor's office "complied" with these special instructions and as a result the taxpayer escaped paying taxes on property valued at $385,-714 In addition, the Attorney General's audit of this same account showed additional unreported assets of $118,632 for 1964 and $172,257 for 1965

In another case now being investigated involving another consultant, it appears that the taxpayer submitted correct and accurate figures to his tax consultant The consultant then prepared and submitted affidavits showing sharply reduced figures

Other Improper Practices

Other examples of irregular assessment practices have been discovered

In one case reviewed by our auditor, an audit performed by the county indicated a very substantial underreporting of property over a three-year period, amounting to over three million dollars in value This amount was not placed on the tax roll The assessor arbitrarily

reduced the corrected valuations reported by his own auditors by a flat 25 percent which reduced the valuation of assets to a total of $1,844,772 This resulted in a substantial loss of taxes to the county.

Discrepancies were also found in the treatment of the import-export exemption granted by federal law. One firm was granted this exemption without even filing the exemption certificate required by the assessor's office It was also found that certain taxable property escaped assessment because it was improperly classified as "in transit." In one case, incoming merchandise arrived in the county before the tax lien date and was clearly subject to county tax assessment The taxpayer directed the transportation agency to withhold delivery to the taxpayer's address until after the lien date The merchandise was within the county on the lien date and subject to the control of the taxpayer These facts were known to the assessor, but the property was not assessed and escaped taxation

Our investigators have discovered other irregularities which call for further scrutiny. Tax affidavits have been discovered that apparently were submitted in blank to the assessor's office, but bearing the signature of the taxpayer or his agent There is reason to believe that members of the assessor's own staff then completed the affidavits These cases are now being investigated

At this point in our inquiry we are certain that the taxpayers of Santa Clara County have been subject to an arbitrary and capricious system of assessment. Some taxpayers have been gouged to disguise the fact that others have received preferential treatment

The practices engaged in by the former assessor and by his successors are unquestionably illegal Their impact has been to force homeowners and honest business firms to carry a tax burden greater than their equitable share

The question of whether the conduct of the present assessor constitutes misfeasance, malfeasance or gross incompetence is one to be properly determined by the grand jury. With your approval, our files will be made available at once to the district attorney for his review and appropriate action.

In addition, we concur in the earlier suggestion made by County Counsel Spencer Williams (and rejected by Assessor Mathiesen) that an independent auditing firm be engaged to audit property tax returns We believe that the employment of independent auditors will expedite tax recoveries and bring assessment practices into conformity with state law

Very truly yours,

THOMAS C. LYNCH
Attorney General
By
MARSHALL MAYER
Deputy Attorney General

APPENDIX D *

VALUE AS DEFINED FOR PROPERTY TAX PURPOSES IN DIFFERENT STATES

ALABAMA

The term "value" means the fair and reasonable market value of the taxable property, and shall be estimated at the price at which the property would bring at a fair voluntary sale.[1]

ALASKA

Standards for the appraisal for all property assessed by the state or its political subdivisions shall be prescribed by law.[2]

ARIZONA

"Full cash value" means the price at which the property would sell if voluntarily offered for sale by the owner upon such terms as property is usually sold, and not the price which might be realized if the property were sold at forced sale [3]

Arizona courts have interpreted "full cash value" to be synonymous with "selling price." [4]

ARKANSAS

Rules for Valuation. Each separate parcel of real property shall be valued at its true market value in money, excluding the value of crops growing thereon; but the price at which such real estate would sell at auction or at forced sale shall not be taken as the criterion of such true value . . . Personal property of any description shall be valued at the usual selling price of similar property at the time of listing If any such property shall have no well fixed or determined value in that locality at that time, then the same shall be appraised at such price as in the opinion of the assessor could be obtained therefor at such time and place [5]

CALIFORNIA

"Value," "full cash value," or "cash value" means the amount at which property would be taken in payment of a just debt from a solvent debtor. In determining the "actual value" of intangible property, the assessor shall not take into account the existence of any custom or common method, if any, in arriving at the full cash value of any class or classes of property [6]

COLORADO

(1) In determining the true market value of taxable property . . . the market shall be the guide As to all classes or items of property in respect to which it cannot be fairly said to have market value, the price it would bring at a fair voluntary sale thereof, the value of the use thereof, and the capability of use, together with any other just

* The research for this section was done for the committee by Joseph Shaffer, Assembly legislative research analyst

method of determination, may be used by the assessor In determining in this state of corporations . . . the value of the capital stocks and bonds of each corporation shall be received and considered . . . but any and all other evidence of the full and true cash value of said property, both tangible and intangible, shall be received and considered in arriving at the value of the entire plant of such corporation.

(2) If there is no market value of the stock, then what it would bring at a fair voluntary sale, the value of the use of the property and the capability of the use shall be considered, with other evidence. If neither of the foregoing methods are applicable to any given profit producing unit, corporate plant, or property, then the cost of duplication, or other just means, may be resorted to [7]

CONNECTICUT

Rules of Valuation. The present true and actual value of land classified as farm land, . . . as forest land, . . . or as open space land . . shall be based upon its current use without regard to neighborhood land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such land comprised a part of a tract or tracts of land classified as farm land . . . The present true and actual value of all other property shall be deemed by all assessors and boards of tax review to be the fair market value thereof and not its value at a forced or auction sale.[8]

Connecticut courts have ruled that, for tax purposes, "actual value," "actual valuation," "market value," "market price," and "fair value" are synonymous [9]

Also ruled that fair market value of property for tax purposes can be determined from figure fixed by actual sales where there are sales, in the ordinary course of business, of other properties which are comparable in kind and location [10]

DELAWARE

All property subject to assessment shall be assessed at its true value in money.[11]

In all assessments of the value of real estate for taxation, the value of the land and the value of the buildings and improvements thereon shall be included. And in all assessments of the rental value of real estate for taxation, the rental value of the buildings and the improvements shall be included.[12]

Delaware Courts Assessment of property starting with reproduction costs less depreciation, and correcting the result obtained by other factors, was proper method of valuation. All elements entering into the value of property are pertinent and relevant and to be considered in valuing it.[13]

FLORIDA

Method of Assessment of Property . . . In arriving at a just valuation, the county assessor shall take into consideration the following factors:

1) The present cash value of the property;

2) The highest and best use to which the property can be expected to be put in the immediate future; and the present use of the property;
3) The location of said property;
4) The quantity or size of said property;
5) The cost of said property and the present replacement value of any improvements thereon;
6) The condition of said property;
7) The income from said property.[14]

GEORGIA

"Fair Market Value," Meaning Thereof. The intent and purposes of the tax laws of this state are to have all property and subjects of taxation assessed at the value which would be realized therefrom by cash sale, as such property and subjects are usually sold, but not by forced sale thereof, and the words "fair market value," when used in the tax laws, shall be held and deemed to mean that the property and subjects would bring at cash sale when sold in the manner in which such property and subjects are usually sold [15]

HAWAII

(d) The land in each county shall be classified, upon consideration of its highest and best use, into the following general classes; (1) single family and two family residential, (2) three or more family apartment and hotel and resort, (3) commercial, (4) industrial, (5) agricultural, and (6) conservation In assigning land to one of the general classes the director shall give consideration to the districting established by the land use commission pursuant to chapter 98H, the districting established by a county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors which influence highest and best use

(e) The director shall select and require the use of mathematical tables or formulas based upon a suitable unit of quantity and designed to determine equitably the effect, upon the value, of street or highway frontages, depth from the street or highway, shape, street corners, and other physical elements the effect of which upon value the director finds feasible to determine by means of tables or formulas. These tables or formulas shall be used for all areas where this can be done appropriately, and in any event as provided in the next paragraph

Whenever land has been divided into lots or parcels which are used, or suitable for use for residential, commercial or other urban or village purposes, each such lot or parcel shall be separately assessed, and the aforesaid mathematical tables or formulas shall be used unless this is precluded by the shape of the lots or parcels

(f) In determining the value of land, consideration shall be given to selling prices and income (including, where available, such data relating to the property being assessed and similar data for comparable properties), productivity and nature of use (actual and potential), the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, zoning, dedication of lands as provided for in sec-

tion 128-9 2, and further to the opinions of persons who may be considered to have special knowledge of land values, and all other influences, whether similar to those listed or not, which fairly and reasonably bear upon the question of value

(g) Buildings shall be valued each year upon the basis of the cost of replacement less depreciation, if any. Age, condition and utility or obsolesence shall be considered The director shall determine and require the use of average-basic replacement cost factors.[16]

IDAHO

Value Defined By the term "value", "cash value", "full cash value", "true value", or "true cash value" is meant the value at which the property would be taken in payment of a just debt due from a solvent debtor, or the amount the property would sell for at a voluntary sale made in the course of business, taking into consideration its earning power when put to the same uses to which property similarly situated is applied.[17]

Idaho Courts An assessor may use any appropriate criterion as a guide to determining value [18] The original costs, or replacement costs, of the property less depreciation is one criterion that may be used in assessing value.[19]

ILLINOIS

Real property shall be valued . at its fair cash value, estimated at the price it would bring at a fair voluntary sale [20]

Illinois Courts "Fair market value" means what the property would bring at a voluntary sale where the owner is ready and willing to sell but not compelled to do so, and the buyer is ready, willing, and able to buy, but is not forced to do so, as of April 1 of the year the assessment is made [21]

INDIANA

For the purpose of securing a just valuation for the taxation of real property (at true cash value), the rules, regulations, standards, and conversion tables adopted by the state board of tax commissioners shall provide for the classification of lands on the basis of acreage, lots, size, location, use, productivity or earning capacity, applicable zoning provisions, accessibility to highways, sewers and other public advantages, and such other bases as may be just or proper; and the board shall provide for the classification of improvements on the basis of size, location, use, type and character of construction, age, condition, cost of reproduction, earning capacity, and such other bases as may be just and proper. The rules, regulations and standards shall set forth the method and instructions for determining the following

(a) The proper classification of land and improvements;
(b) The size thereof;
(c) The effect of location on use and value;
(d) The depreciation, including physical deterioration, or functional, economic, or social obsolescence;
(e) The cost of reproduction or improvement;
(f) The productivity or earning capacity;
(g) The capitalization of income;

(h) The valuation of land and improvements on the basis of the foregoing elements and such other elements as may be just and proper.[22]

IOWA

All property subject to taxation shall be valued at its actual value . . . In arriving at said actual value the assessor shall take into consideration its productive and earning capacity, if any, past, present, and prospective, its market value, if any, and all other matters that affect the actual value of the property . . . Any normal and necessary repairs to any building, not amounting to structural replacements or modifications, shall not increase the taxable value of such building The provisions of this paragraph shall apply only to repairs of five hundred or less per building per year [23]

KANSAS

Justifiable value, how determined; factors Justifiable value shall mean the value of real estate which is arrived at after applying factors hereinafter set forth.

To arrive at the justifiable value of real property the assessor or appraiser shall actually view and inspect the property. The price at which real property would sell at auction, forced sale or any transaction in which personal elements were a factor regarding the sale price shall not be taken into consideration in determining the justifiable value In determining the justifiable value of real property the assessor or appraiser shall consider that value in money arrived at when the following factors or combinations thereof are considered

(a) The proper classification of lands and improvements;
(b) The size thereof;
(c) The effect of location on value;
(d) Depreciation, including physical deterioration or functional, economic or social obsolescence,
(e) Cost of reproduction or improvements;
(f) Productivity;
(g) Earning capacity as indicated by lease price or by capitalization of net income;
(h) Rental or reasonable rental values;
(i) Sale value on open market with due allowance to abnormal and inflationary factors influencing such values;
(j) Comparison with values of other property of known or recognized value; and
(k) Valuations of land and improvements on the basis of the foregoing elements and such other elements as may be just and proper.

It shall be unlawful to determine justifiable value of real property in any manner other than authorized and provided for in this section Any person authorized to assess or equalize property shall consider class, location, productivity, rental values and capitalization [24]

KENTUCKY

Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale.[25] Kentucky

courts—A property's sale price is the best evidence of property's "fair cash value" when property is sold at or near assessment date and the sale is fair and voluntary.[26]

LOUISIANA

"Actual cash value," or "actual valuation," means the valuation at which any real or personal property is assessed for the purposes of taxation, after the assessing authorities have considered every element of value in arriving at such valuation. The price at which any piece of real estate or personal or movable property shall have been sold for cash in the ordinary course of business, free of all encumbrances, otherwise than at a forced sale, shall be evidentiary only, and be considered with other factors in determining the actual value for assessment purposes [27]

Louisiana Courts In ascertaining value, depreciation should be considered.[28]

MARYLAND

(1) All real property . . to be assessed, shall be assessed at the full cash value thereof on the date of finality The term full cash value as used in this subsection shall mean current value less an allowance for inflation, if in fact inflation exists

(2) All personal property . . to be assessed, shall be assessed at the full cash value thereof on the date of finality The term full cash value as used in this subsection shall mean current value without any allowance for inflation.[29]

Maryland Courts. "Cash value" ordinarily means "Market value," [30] but the market value of a property is the value a willing purchaser will pay for it to a willing seller in an open market, eliminating exceptional and extraordinary conditions giving the property an abnormal value [31]

MASSACHUSETTS

Massachusetts Courts The "fair cash value" of land for the purposes of taxation is ascertained by a consideration of all those elements which make it attractive for valuable use to one under no compulsion to purchase but yet willing to buy for a fair price [32] Ordinarily, the "fair cash value" of property is the fair market value of that property at the time of the assessment, expressed in the price someone will pay for it in the open market.[33]

MICHIGAN

The words "cash value," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale . . . In determining the value the assessor shall also consider the advantages and disadvantages of location, quality of soil, quantity and value of standing timber, water power and privileges, mines, minerals, quarries, or other valuable deposits known to be available therein and their value.[34]

MINNESOTA

"Full and true value" means the usual selling price at the place where the property to which the term is applied shall be at the time of assessment; being the price which could be obtained therefor at private sale and not at forced or auction sale [35]

Minnesota Courts In determining the value of property for assessment purposes, the usual selling price of like property in the same locality is the standard of value.[36] To determine the value for assessment purposes, its location, the revenue derived from it, and the cost of reproduction of the improvements are to be considered.[37]

MISSISSIPPI

It shall be the duty of each person fixing the value of his property to estimate the same at its cash value at the time of valuation, and not what it might sell for at a forced sale, but what he would be willing and would expect to accept for it if he were disposed to sell it [38]

MISSOURI

The assessor . . shall assess the property at its true value in money [39]

Missouri Courts. "Values," as used in tax statutes, are valuations of officials whose duty it is to make them [40] In placing value on property, the assessor is required to exercise his own judgment [41] The requirement that the assessor assess property at its true value in money merely means that such true value is his estimate of valuation.[42]

MONTANA

The terms "value" and "full cash value" mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor.[43]

NEBRASKA

Actual value of property for taxation shall mean and include the value of property for taxation that is ascertained by using the following formula where applicable:

(1) Earning capacity of the property;
(2) Relative location;
(3) Desirability and functional use;
(4) Reproduction costs less depreciation;
(5) Comparison with other properties of known or recognized value; and
(6) Market value in the ordinary course of trade.[44]

NEVADA

"Full cash value" means the amount at which the property would be appraised if taken in payment of a just debt from a solvent debtor.[45]

NEW HAMPSHIRE

The selectmen shall appraise all taxable property at its full and true value in money as they would appraise the same in payment of a just debt due from a solvent debtor, and shall receive and consider all evidence that may be submitted to them relative to the value of property the value of which cannot be determined by personal inspection.[46]

New Hampshire Courts. Value is the price the property will bring in a fair market after reasonable efforts have been made to find the purchaser who will give the highest price for it.[47] The taxable value is the sale value rather than its value to the owner.[48]

NEW JERSEY

The assessor shall . . . after examination and inquiry, determine the full and fair value of each parcel of real property situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bona fide sale by private contract on October first next preceding the date on which the assessor shall complete the assessments.[49]

New Jersey Courts. "Fair market value" is the formulaic criterion both of the "true value," upon which property is to be assessed for taxation, and the basis upon which compensation is made for property taken in eminent domain proceedings.[50]

"True value," for tax purposes, means fair market value as of the date of the tax assessment.[51]

NEW MEXICO

Actual market value of property is hereby determined and fixed to be that price or worth represented by the amount of money, or its equivalent, which would be received therefor at a normal sale in or at a normal market.[52]

NEW YORK

All real property in each assessing unit shall be assessed at the full value thereof [53]

New York Courts. The full value at which property is assessed is the price at which the property would sell under ordinary circumstances.[54]

Condition of real estate, cost of replacement, purpose for which it is put, public demand for such purpose, whether such demand is diminishing or increasing, cost of upkeep and management, income which is derived therefrom, and every other element which can reasonably affect its value are items to be considered in determining the worth of real estate for purposes of taxation [55] "Full value" as to tax assessment for real property means actual or fair market value [56]

NORTH CAROLINA

The intent and purpose of this section is to have all property and subjects of taxation appraised at their true and actual value in money, in such manner as such property and subjects of taxation are usually sold, but not by forced sale thereof; and the words "market value," "true value" or "cash value" . . . shall be held to mean for the amount of cash or receivables the property and subjects can be transmitted into when sold in such manner as such property and subjects are usually sold.[57]

NORTH DAKOTA

"True and full value" means the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, that being the price at which it could be obtained at private sale, and not at forced public auction sale.[58]

OHIO

Each separate parcel of real property shall be valued at its taxable value, excluding the value of the crops, deciduous and evergreen trees, plants, and shrubs growing thereon. The price for which such real property would sell at auction or forced sale shall not be taken as the criterion of its value.[59]

OKLAHOMA

All property . . . shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale [60]

OREGON

True cash value of all property, real and personal, means market value as of the assessment date. True cash value in all cases shall be determined by methods and procedures in accordance with rules and regulations promulgated by the State Tax Commission. With respect to property which has no immediate market value, its true cash value shall be the amount of money that would justly compensate the owner for loss of the property [61]

PENNSYLVANIA

The assessor shall assess all objects of taxation at their actual value. "In arriving at such value the price at which any property may actually have been sold shall be considered but shall not be controlling [62]

Pennsylvania Courts "Actual value," as used in statute defining method to be used in valuing property for tax purposes, means market value[63]

RHODE ISLAND

All property liable to taxation shall be assessed at its full and fair cash value, . . . to be determined by the assessors in each town or city.[64]

SOUTH CAROLINA

All property shall be valued for taxation at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and all reasonably well informed as to the uses and purposes for which it is adopted and for which it is capable of being used.[65]

SOUTH DAKOTA

All property shall be assessed at its true and full value in money . . . In determining the true value of real and personal property the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price for which the property would sell at auction or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description by itself and at such a sum or price as he believes the same to be fairly worth in money.[66]

TENNESSEE

The term "actual cash value," is defined to mean the amount of money the property would sell for, if sold at a fair, voluntary sale.[67]

TEXAS

The term, "true and full value," wherever used shall be held to mean the fair market value, in cash, at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale.[68]

Value of personal property for tax purposes is determined by fair market value of such property.[69]

UTAH

"Value" and "full cash value" mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor [70]

Utah Courts The term "value" and "full cash value" mean market value Although it speaks in terms of paying debts and not a sale for cash, it is the price which would be agreed upon at a voluntary sale between an owner willing to sell and a purchaser willing to buy [71]

VERMONT

"Appraisal value" shall mean the estimated fair market value of property [72]

VIRGINIA

All assessments of real estate and tangible personal property shall be at their fair market value, to be ascertained and prescribed by law.[73]

WASHINGTON

. . In determining the true and fair value of real and personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as the basis for taxation; nor shall he adopt as a criterion of value the price at which said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such price as he believes the same to be fairly worth in money at the time such assessment is made The true cash value of property shall be that value at which the property would be taken in payment of a just debt from a solvent debtor [74]

Washington Courts. "True cash value," for assessment purposes, is synonymous with "market value " [75]

WEST VIRGINIA

All property shall be assessed . . . at its true and actual value; that is to say, at the price for which such property would sell if voluntarily offered for sale by the owner thereof, upon such terms as such property, the value of which is sought to be ascertained, is usually sold, and not the price which might be realized if such property were sold at a forced sale . . .[76]

WISCONSIN

Real property shall be valued by the assessor from actual view or from the best information that the assessor can practically obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value the assessor shall consider, as to each piece, its advantage or disadvantage of location, quality of soil, quality of standing timber, water privileges, mines, minerals, quarries, or other valuable deposits known to be available therein, and their value . [77]

Wisconsin Courts. Full value is equivalent to "market value" which is defined as the price for which property would sell on negotiations between owner willing but not obliged to sell and willing buyer not obliged to buy Cost,[78] depreciation, replacement value, earnings, industrial conditions, location, and occupancy are proper for consideration of value.[79]

WYOMING

All real property . . and all taxable real and personal property is to be valued and assessed at a fair value in conformity with values and procedures prescribed by the state board of equalization . [80]

Wyoming Courts The value of personal property for purposes of taxation should be estimated according to the fair actual cash market value or the price that the property would sell for in cash in the usual course of business [81]

FOOTNOTES

[1] *Code of Alabama*, Tit 51, Sec 1(1).
[2] *Alaska Constitution*, Art IX, Sec 3
[3] *Arizona Revised Statutes*, Sec 42-201(1).
[4] *State Tax Commissioner v United Verde Extension Mining Co*, 39 Ariz 331, 6 P. 2d 389
[5] *Arkansas Statutes*, Sec 84-428.
[6] *California Code Revenue and Taxation*, Sec 110
[7] *Colorado Revised Statutes*, Sec 137-2-17
[8] *Connecticut General Statutes*, Sec 12-63.
[9] *Sheldon House Club, Inc v Town of Branford*, 175 A 2d 186, 149 Conn 450
[10] *Connecticut Light & Power Co v Town of Monroe*, 181 A 2d 118, 149 Conn 28
[11] *Delaware Codes*, Tit 9, Sec 8307(a)
[12] *Brennen v Black*, 34 Del Ch 389, 104 A 2d 777
[13] *Ibid*
[14] *Florida Statutes*, Sec 193 021
[15] *Code of Georgia*, Sec 92-5702 (1004).
[16] *Revised Laws of Hawaii*, C 128, Sec 9.
[17] *Idaho Code*, Sec 63-111.
[18] *Appeal of Sears, Roebuck and Co*, 80 Idaho 39, 256 Pac 2d 526
[19] *Farmers Appeal*, 74 Idaho 39, 325 Pac (2d) 278
[20] *Illinois Statutes*, Tit. 120-501.
[21] *People ex rel Rhodes v Turk*, 391 Ill 424, 63 N E 2d 513
[22] *Indiana Statutes*, Sec 64-1203
[23] *Iowa Codes*, Sec 441 21.
[24] *Kansas Statutes*, Sec 79-503.
[25] *Kentucky Revised Statutes*, Sec 132 190(3)
[26] *Evans v Allen*, 305 Ky 728, 205 S W (2d) 514
[27] *Louisiana Revised Statutes*, R S 47 1702(7)
[28] *Lee-Baker Dry Goods Co. v Louisiana Tax Commission*, 15 La App 237, 130 So. 877
[29] *Maryland Codes*, Art 81, Sec 14(3)
[30] *Schley v Montgomery County*, 106 Md 407, 67 A 250
[31] *Ragan v Calvert County*, 194 Md. 299, 71 A (2d) 47
[32] *Massachusetts General Hospital v Belmont*, 223 Mass 190, 134 N E 21
[33] *Donovan v Haverhill*, 247 Mass. 69, 141 N E 564
[34] *Michigan Statutes*, Sec 7 27
[35] *Minnesota Statutes*, Sec 272 03 (9)
[36] *In re Delinquent Real Estate Taxes for Year 1920, 1924*, 160 Minn 209, 199 N W. 968
[37] *Ibid*
[38] *Mississippi Code*, Sec 9759
[39] *Missouri Statutes*, Sec 137 15
[40] *Wynnore v. Markway*, 89 S W 2d 9, 338 Mo 107
[41] *State v Gomer*, 101, S W 2d 57, 340 Mo 107
[42] *Bank of Carthage v Thomas*, 48 S W 2d 930, 330 Mo 19.
[43] *Montana Codes*, Sec 84-101
[44] *Nebraska Statutes*, Sec 77-112
[45] *Nevada Revised Statutes*, Sec 361 025
[46] *New Hampshire Revised Statutes*, Sec 75 1
[47] *Public Service Co v New Hampton*, 101 N H 142, 136 A 2d 591
[48] *Philips-Exeter Academy v Exeter*, 92 N H. 473, 33 A 2d 665.
[49] *New Jersey Statutes*, Sec 54 4-23
[50] *Sorokach v Trusswich*, 35 N J Super 86, 113 A 2d 194
[51] *Atlantic City Elec Co v Egg Harbor Tp*, 135 N J. L 601 50 A.2d. 476
[52] *New Mexico Statutes*, Sec 72-2-16
[53] *Consolidated of New York Real Property Tax Law*, Sec 306
[54] *ex rel Gale v Tax Commission of the City of New York*, 17 A 2d 225, 233 N Y S 2d 501.
[55] *Queensbury Hotel Corp v. Board of Assessors of City of Glens Falls*, 33 Misc 2d 302, 226 N Y S 2d 977
[56] *Delaware, L&W R Co v Sims*, 31 Misc 2d 770, 219 N Y S 689
[57] *Statutes of North Carolina*, Sec 105-294
[58] *North Dakota Codes*, Sec. 57-02-02 (4).
[59] *Ohio Revised Codes*, Sec 5713 04
[60] *Oklahoma Constitution*, Art X, Sec 10
[61] *Oregon Revised Statutes*, Sec 308 205
[62] *Pennsylvania Statutes*, Tit 72, Sec 5020-402
[63] *Appeal of Oak Drive Manor*, 110 A 2d 392, 380 Pa 134
[64] *General Laws of Rhode Island*, Sec 44-5-12
[65] *Code of Laws of South Carolina*, Sec 65-1648
[66] *South Dakota Code*, Sec 57 0334
[67] *Tennessee Code*, Sec 67-605
[68] *Texas Civil Statutes Taxation*, Art 7149
[69] *Op Atty Gen 1949*, No V-858
[70] *Utah Code*, Sec 59-3-1 (5)
[71] *Kennecott Copper Corp v Salt Lake County*, 122 U. 431, 250 P 2d 938.
[72] *Vermont Statutes*, Tit 32, Sec. 3481.

[73] *Virginia Constitution*, Sec 169
[74] *Revised Code of Washington*, Sec 84 40 030
[75] *Ozette R Co v Grays Harbor County*, 16 Wn 2d. 459, 133 P 2d 983.
[76] *West Virginia Code*, Sec 670
[77] *Wisconsin Statutes*, Sec 70 32
[78] *State ex rel New Lisbon State Bank v City of New Lisbon*, 51 N W 2d 509, 260 Wis 607
[79] *State ex rel North Shore Development Co v Axtell*, 256 N W. 622, 216 Wis 153.
[80] *Wyoming Statutes*, Sec 39-82
[81] *J Ray McDermott & Co, v. Hudson*, 370 P (2d.) 364.

APPENDIX E

ASSESSMENT RATIOS BY CLASS OF PROPERTY, SELECTED COUNTIES, 1965

Assessment Ratios by Class of Property—Trinity County, 1965

	(under 7)			7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	(over 30)				
Renters (personal property)				---	---	---	---	---	---	---	---	---	---	---	---	1	---	---	---	---	1	3	1	---	---	---	---					
Inexpensive homes (under $12,000)				---	---	---	---	---	---	---	---	2	---	1	---	4	4	2	1	2	2	---	1	---	---	---	---	33 2 31 0				
Homes ($12,000–$25,000)				---	---	---	---	---	---	---	2	2	1	5	---	4	1	2	---	1	---	---	---	---	---	---	---					
Homes (over $25,000)				---	---	---	---	---	---	---	---	---	---	1	---	---	---	---	---	---	---	---	---	---	---	---	---					
Duplexes and apartments				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	1	---	---	---	---	---	---	53 9				
Vacant lots (Residential	3 8 6 0			1	3	---	4	---	1	1	---	1	2	---	---	---	4	1	---	1	1	2	---	---	---	---	---	100 0 140 0 54 5 32 0 200 0	88 9 32 0 26 3			
Farms	2 1			---	3	2	1	---	1	---	1	---	---	3	2	1	5	1	2	2	---	---	1	---	1	2	---	32 4 38 2 43 0 43 8 35 8	32 8 90 7 33 3 32 7	54 5		
Timberlands	5 6			1	---	---	2	2	1	1	1	1	---	---	1	3	1	1	2	3	---	2	---	---	2	1	4	47 8 50 0 74 0 33 3 49 8 ------	33 0 43 2 86 1 71 0 32 4 ------	73 3 54 1 63 2 37 2 31 8 44 4	211 6 47 3	
Business personal property (unsecured)	1 5			---	---	---	---	---	---	1	---	---	---	---	1	1	1	---	---	---	---	---	---	---	---	---	---	43 3				
Commercial			1	---	---	---	---	---	---	1	1	2	---	2	1	1	1	3	---	1	1	1	---	---	---	---	---					
Industrial				---	---	---	1	---	---	---	---	---	---	---	1	2	---	---	1	---	---	---	---	---	---	---	---					
Mineral properties				---	---	---	---	---	---	---	---	1	---	---	1	---	1	---	---	---	---	1	1	---	---	---	---	50 0 50.0 32.6				

Assessment Ratios by Class of Property—Stanislaus County, 1965

	(under 7)			7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	(over 30)				
Renters (personal property)				---	---	---	---	---	---	---	---	---	---	---	---	---	1	---	---	---	---	1	---	---	---	---	---	105 0 120 0 80 0 146 2 68 9 48 6	96 7 86 7 41 5 130 0 108 3 63 3	77 4 60 0 70 0 56 7 280 0 93 3	70 0 120 0 180 0	
Inexpensive homes (under $12,000)				---	---	---	1	---	2	2	2	5	2	6	5	7	8	3	1	---	3	---	4	1	---	---	---	34 2				
Homes ($12,000–$25,000)				---	---	---	---	---	---	---	3	3	6	7	17	16	20	11	3	1	1	---	---	---	---	---	---					
Homes (over $25,000)				---	---	---	---	---	---	1	1	1	1	1	3	4	2	1	---	1	---	---	---	---	---	---	---					
Duplexes and apartments				---	---	---	---	---	1	---	2	---	2	1	---	---	---	1	1	1	---	1	1	---	---	---	---					
Vacant lots (Residential)				1	1	---	---	---	1	---	---	1	---	1	1	---	1	1	---	1	---	---	---	---	---	---	1					
Farms	4 6			---	---	---	---	1	2	1	5	7	5	4	12	6	5	---	6	3	2	1	2	1	---	---	---	34 9				
Timberlands				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Business personal property (unsecured)				---	---	---	---	1	---	---	3	---	2	---	6	1	3	1	6	4	1	1	4	2	2	---	---	39 0 73 0 44 7 33 2 31 0	35 6			
Commercial				---	---	---	1	1	---	---	---	---	3	3	3	---	6	---	1	---	---	---	1	1	---	1	1	46 2 58 3				
Industrial				---	---	---	---	1	---	---	---	---	1	---	2	1	1	1	1	1	1	---	---	---	---	---	---					
Mineral properties				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	1	---	---	---	---	---	---	---	200 0 51.6				

NOTE The assessment ratio for each property in the State Board of Equalization's sample for the county has been plotted on the above and following charts Properties assessed between 7 and 30 percent are placed in appropriate columns. Those outside this range are listed individually For example, in the above chart, the B.O E found 5 farms assessed at 16%.

Assessment Ratios by Class of Property—Riverside County, 1965

	(under 7)			7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	(over 30)				
Renters (personal property)				---	---	---	---	---	---	---	---	---	---	1	---	---	1	---	---	1	---	5	---	1	---	---	---					
Inexpensive homes (under $12,000)				---	---	---	---	---	---	1	---	---	---	1	1	1	2	3	4	2	2	5	2	4	2	---	1	33 8 33 6 32 1 39 2	35 3			
Homes ($12,000–$25,000)				---	---	---	---	---	---	1	---	1	2	---	2	8	10	15	12	20	20	11	5	3	1	1	---	31 0				
Homes (over $25,000)				---	---	---	---	---	---	---	---	---	---	---	3	3	3	5	5	3	5	1	---	---	---	---	---					
Duplexes and apartments				---	---	---	---	---	---	---	---	---	1	2	---	1	1	2	---	2	3	2	1	2	---	---	1	30 8 33 0				
Vacant lots (Residential)	5 2 2 9 4 6 4 0 4 6	6 6		2	1	2	5	2	3	1	1	---	1	1	2	2	7	2	1	1	2	5	4	---	2	---	1	50 0 32 1 50 0 31 2 31 0 46 7	50 0			
Farms	5 9 5 0 5 0 6 0 5 8			2	1	---	---	2	1	2	---	4	1	1	3	1	2	1	2	2	1	---	2	---	---	1	---					
Timberlands				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Business personal property (unsecured)				---	1	---	---	1	---	1	1	---	3	4	2	1	2	2	2	3	1	1	1	---	---	---	---	99 8 39 8				
Commercial				---	---	---	---	---	1	---	1	---	---	---	---	3	5	1	3	1	---	3	---	1	---	---	---	31 9 38 2 56 2 46 9 33 4				
Industrial				---	1	---	---	---	1	---	---	---	2	---	1	---	---	1	---	---	---	---	---	---	---	---	---					
Mineral properties				---	---	---	---	---	---	---	---	1	---	---	---	---	1	---	---	---	---	---	---	---	---	---	---					

Assessment Ratios by Class of Property—San Diego County, 1965

	(under 7)			7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	(over 30)				
Renters (personal property)				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Inexpensive homes (under $12,000)				---	---	---	---	---	---	---	---	---	---	---	1	2	5	3	4	---	3	8	3	---	1	2	---	43 4 34 1 33 9 35 5 41 3				
Homes ($12,000–$25,000)				---	---	---	---	---	---	---	---	---	---	---	2	4	15	17	32	35	31	17	3	2	3	1	1					
Homes (over $25,000)				---	---	---	---	---	1	---	---	---	2	1	2	6	7	3	9	8	2	---	1	1	---	1	---					
Duplexes and apartments				---	---	---	1	---	---	---	---	---	---	1	7	2	2	4	2	8	1	2	1	2	2	---	---	31 3				
Vacant lots (Residential)	2 2			---	---	1	---	1	---	1	1	---	---	---	---	1	5	1	3	2	1	1	---	---	1	2	1		76 8 40 0 38 0			
Farms	4 4			---	1	1	---	---	---	2	---	1	1	1	---	1	2	1	1	1	1	---	---	1	---	---	---	31 7 35 7 33 0				
Timberlands				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Business personal property (unsecured)	0 0			---	---	1	---	---	---	---	1	1	---	2	---	2	2	1	3	4	2	3	3	---	---	3	3	34 5 36 9 33 9 31 5 35 2	33 0 31 0 32 2			
Commercial				---	---	1	---	---	---	1	---	1	1	2	2	3	3	3	4	2	1	2	2	3	2	1	---		33 5 34 3 36 7 55 4			
Industrial				---	---	---	---	---	---	---	---	2	1	---	---	1	1	1	---	1	1	---	---	---	1	---	---					
Mineral properties				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					

Assessment Ratios by Class of Property—San Francisco, 1965

	(under 7)			7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	(over 30)				
Renters (personal property)	6.8 6.5 5.7 6.6	6.8 4.0 5.0 6.8	2.4 3.8	5	---	4	5	4	8	3	4	4	4	3	1	1	3	1	---	1	1	39	11	---	2	---	---	50.0 31.2 30.0 62.5 59.0 45.0	50.0 50.0 150.0 100.0 30.0 100.0	41.7 30.0 50.0 82.5 25.0 56.2	183.3 62.5 140.0 50.0 66.7 50.0 61.1 50.0	35.7 52.5 60.9 58.8 12.5 41.7 83.3 50.0
Inexpensive homes (under $25,000)	6.8 6.1 4.7 5.5 6.8 6.1	6.6 6.4		5	11	6	5	5	3	7	4	2	1	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Homes ($25,000–$50,000)	5.7 5.5 6.9 6.6			17	31	15	16	10	5	5	3	5	3	2	3	---	---	---	---	---	---	---	---	---	---	---	---					
Homes (over $50,000)				---	3	1	1	2	---	1	---	1	1	---	---	2	---	---	---	---	---	---	---	1	---	---	---					
Duplexes and apartments	6.8 6.9			4	9	9	9	8	7	3	5	4	3	3	2	5	2	2	1	3	3	2	1	1	1	---	---	39.8 54.6				
Vacant lots (Residential)	5.5			---	---	---	---	---	1	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Farms				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					
Timberlands				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					

Assessment Ratios by Class of Property—San Francisco, 1965—Continued

	(under 7)			7	8	89	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	(over 30)				
Business personal property (unsecured)				---	---	---	1	---	1	1	1	---	3	---	---	---	1	2	5	3	4	4	5	5	3	4	3	36 6	43 1	49 6	32 5	41.9
																											50 9	54 6	60 4	41 0	44.5
																											41 5	42 1	32 4	34 2	48 2
																											47 2	32 4	42 0	114.0	39 0
																											32 0	34 1	31 8	31 5	37 2
																											35 2	37 2	36 2	37 2	39 5
																											31 0	38 8	41 4	36 6	42.7
																											40 6	35 6	50 6	38 8	38 2
																											63 2	33 6	34 6	35 4	37.1
																											39 8	45 4	31 2	38 0	48 6
																											34 2	41 2	31 4	45 4	43.0
																												44 3	33 6	31 2	42 2
Commercial	6.5			---	---	1	4	4	1	3	4	---	3	3	2	1	2	2	2	4	5	3	1	3	2	1	---	38 4	36 7	37 8	33 1	
																											32 0	35 0	38 2	31 7	
																											33 7	37 9	41 1	42 0	
																											47 2	38 7	34 3		
																											33 4	35 8	37 2		
																											44 6	32 4	35 7		
Industrial	4.6			---	---	---	---	---	---	1	---	1	---	1	---	---	1	2	4	1	1	3	1	2	---	1	---					
Mineral properties				---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---					

APPENDIX F

Homes for the Aged Exempted From Property Tax

(1966 Figures)

Name of home	Assessed value exempt	Excess liquid reserves	Capacity	City	Per capita cost of care	Per capita assessed value
ALAMEDA COUNTY						
*Salem Lutheran Home Association	$163,650	234,714	128	Oakland	$1,923	$1,278
*St. Paul's Apartments	465,250			Oakland		
*California-Nevada Methodist Homes (Lake Park)	1,607,200	34,537	400	Oakland	2,894	4,018
Beulah Home	183,550	253,253	114	Oakland	1,582	1,610
*American Baptist Home	80,200			Oakland		
Little Sisters of the Poor	200,600			Oakland		
Ladies Home Society	102,400			Oakland		
Our Lady's Home	88,800			Oakland		
*The Altenheim	187,750	1,098,722	210	Oakland	2,008	894
Strawberry Greek Lodge Foundation	533,430			Berkeley		
Grandview Community, Inc	23,970			Berkeley		
Masonic Homes of California	1,086,050		370	Union City		2,935
Dominican Sisters of Mission San Jose	129,350			Fremont		
Alameda County TOTALS	4,852,300					
FRESNO COUNTY						
Twilight Haven	225,950		68	Fresno		3,322
Senior Citizens' Village	1,046,930			Fresno		
Nazareth House	134,180		64	Fresno		2,096
California Home for the Aged	102,230		39	Fresno		2,621
Passavant Lutheran Hospital Association	204,264			Fresno		
Martin Luther Homes	18,140			Pacoima		
Mennonite Brethren Home for Aged	38,200		44	Reedley		868
Korean Foundation	5,100			Reedley		
Bethel Lutheran Home	130,510		52	Selma		2,509
Fresno County TOTALS	1,905,504					
KERN COUNTY						
Kern Crest Manor	27,970		30	Shafter		932
ORANGE COUNTY						
*Lutheran Home Association	426,340	210,921	172	Anaheim	1,919	2,478
St. Francis Home	77,860		65	Santa Ana		1,197
*Quaker Gardens (California Friends Home)	652,180	130,540	200	Stanton	3,251	3,260
The Willows Foundation	91,670			Garden Grove		
Orange County TOTALS	1,248,050					

APPENDIX F—Continued

Homes for the Aged Exempted From Property Tax

(1966 Figures)

Name of home	Assessed value exempt	Excess liquid reserves	Capacity	City	Per capita cost of care	Per capita assessed value
MARIN COUNTY						
Nazareth House	259,390		96	San Rafael		2,701
*Aldersley	190,190	307,108	120	San Rafael	1,947	1,586
Marin County TOTALS	449,580					
RIVERSIDE COUNTY						
Rose Garden Village	181,000			Riverside		
Sunset Haven	74,810		18	Beaumont		4,156
Evangelical Lutheran Good Samaritan Society	56,690		50	Corona		1,133
Riverside County TOTALS	312,500					
SACRAMENTO COUNTY						
Cathedral Pioneer Home No 1	82,500		86	Sacramento		956
Cathedral Pioneer Home No 2	293,250		152	Sacramento		1,929
Pleasant Ridge Home	27,500		19	Sacramento		1,447
Sacramento County TOTALS	403,250					
SAN BERNARDINO COUNTY						
Missionary Board of Free Methodist Church	5,680			Ontario		
Solvene Rest Home	22,240		32	Fontana		695
San Bernardino County TOTALS	27,920					
SAN DIEGO COUNTY						
Hebrew Home for the Aged	142,320		30	San Diego		4,744
Dodson Home	53,250		73	San Diego		729
*Wesley Palms (a Pacific Home)[1]	1,182,450		350	San Diego	2,284	3,378
*Carlsbad by the Sea	236,720	200,635	130	Carlsbad	2,948	1,820
Little Flower Haven	235,510		95	La Mesa		2,479
*Casa de Mañana (a Pacific Home)[1]	830,930		266	La Jolla	2,284	3,123
Social Service League	59,930			La Jolla		
*White Sands (So California Presbyterian)[2]	1,047,070		300	La Jolla	3,057	3,490
*Fredericka Manor (a Pacific Home)[1]	1,411,420		495	Chula Vista	2,284	2,851
San Diego County TOTALS	5,199,600					

SAN FRANCISCO COUNTY						
Hebrew Home for the Aged Disabled	547,080			San Francisco		
Home for the Aged of the Little Sisters of the Poor	216,500		200	San Francisco		1,082
Jones Memorial Homes	134,800			San Francisco		
*Protestant Episcopal Old Ladies Home	235,660	3,833,550	83	San Francisco	3,107	2,839
Russian Women's Home	22,045			San Francisco		
*University Mound Old Ladies' Home	217,935		74	San Francisco	2,879	2,945
*The Heritage (S F Ladies Protection & Relief Society)	563,070	2,559,715	97	San Francisco	3,804	5,856
San Francisco County TOTALS	1,942,090					
SAN JOAQUIN COUNTY						
YMI Elderly Housing	75,325			Stockton		
SAN LUIS OBISPO COUNTY						
Atascadero Christian Home	17,256			Atascadero		663
SAN MATEO COUNTY						
Lesley Foundation	882,915			San Mateo		
*The Sequoias	1,131,810	234,016	300	Portola Valley	3,379	3,772
Valentine Residence	123,100			San Mateo		
Peninsula Volunteer Properties	56,120			Menlo Park		
San Mateo County TOTALS	2,193,945					
SANTA BARBARA COUNTY						
*Vista de Monte (So California Teachers Home)[1]	497,100		150	Santa Barbara	2,420	2,714
*Samarland of Santa Barbara	344,840	—6,399	202	Santa Barbara	2,976	1,707
Alexander House	35,000		30	Santa Barbara		1,166
Santa Barbara Baptist Homes	697,970			Santa Barbara		
Senior Center of Santa Barbara	145,570			Santa Barbara		
Wood Glen Hall	392,200		72	Santa Barbara		5,447
*Solvang Lutheran Home	76,620		47	Solvang		1,630
Santa Barbara County TOTALS	2,099,300					
SANTA CLARA COUNTY						
*American Baptist Homes (Pilgrim's Haven)	282,460	38,364	100	Los Altos	2,455	2,825
*California P E O Home[4]	206 110		40	San Jose	3,599	5,152
Shires Memorial Center	430,190			San Jose		
*Channing House	2,081,380	55,937	408	Palo Alto	4,590	5,101
*Odd Fellows Home	160,110	1,182,489	195	Saratoga	‡1,680	816
Our Lady of Fatima Villa	268,740			Saratoga		
Church of Valley Retirement	1,151,690			Santa Clara		
*Sunny View Manor (Lutheran Home)	326,500	19,176	102	Cupertino	3,817	3,200
Santa Clara County TOTALS	4,907,180					

APPENDIX F—Continued

Homes for the Aged Exempted From Property Tax

(1966 Figures)

Name of home	Assessed value exempt	Excess liquid reserves	Capacity	City	Per capita cost of care	Per capita assessed value
SANTA CRUZ COUNTY						
Christian Church Homes	$95,730			Santa Cruz		
SOLANO COUNTY						
Ascension Services	200,200			Vallejo		
STANISLAUS COUNTY						
*Bethany Home	62,500	23,103	73	Turlock	$1,053	$856
Casa de Modesto (Fellowship Home)	220,000		65	Modesto		3,384
Stanislaus County TOTALS	282,500					
VENTURA COUNTY						
*Grey Gables	161,150	−69	109	Ojai	3,107	1,478
*Ventura Estates	190,140	33,615	102	Newbury Park	§2,226	1,863
Ventura County TOTALS	351,290					
LOS ANGELES COUNTY						
Atherton Baptist Homes	507,700		312	Alhambra		1,627
*California P E O Home[1]	113,500		75	Alhambra	1,888	1,513
Truburn Terrace	40,250		35	Alhambra		1,150
Home for the Aged of the Episcopal Church	655,860		233	Alhambra		2,814
*The Alhambra (Calif Lutheran Home)	†676,150	197,203	211	Alhambra	3,755	3,204
Azusa Valley Rest Home	†113,720		72	Azusa		1,579
*Christian Home for the Aged	116 130	36,667	74	Artesia	3,020	1,569
*Scripps Home	320,410	4,776,676	130	Altadena	2,891	2,464
*Pacific Evangelical United Brethren Home	106,730		72	Burbank		1,482
Pilgrim Place in Claremont	603,500		315	Claremont		1,931
*Western Assemblies Home	50,810	67,181	36	Claremont	2,652	1,411
*Claremont Manor (a Pacific Home)[1]	604,150		319	Claremont	2,284	1,893
*Royal Oaks Manor (So Calif Presbyterian)[1]	689,620		250	Duarte	3,057	2,758
*Disciple Home Corporation (Bethany Towers)	280,850	−296,335	120	Hollywood	1,374	2,340
Hi-Crest Foundation	10,570		10	Inglewood		1,057
*Windsor Manor (So Calif Presbyterian)[1]	215 970			Glendale	3,057	
Scripps Memorial Home	46,360			Glendale		
Martin Luther Homes	3,650			Lancaster		
Twelve Oaks Lodge	63,560		45	La Crescenta		1,412
Baker Home for Retired Ministers	47,590			La Puente		

*Brethren Hillcrest Homes	594,370	183,784	477	La Verne	2,522	1,246
*Southland Lutheran Home	125 190		90	Norwalk		1,391
*Villa Gardens (So Calif Teachers Home)[2]	213,520		78	Pasadena	2,420	2,737
*Vista del Monte (So Calif Teachers Home)[1]	412,250			Pasadena		
Soroptimist Village Foundation	67,890			Norwalk		
Pasadena Apartments (Calif Lutheran Home)No 1	118,720			Pasadena		
Pasadena Apartments (Calif Lutheran Home) No 2	102,700			Pasadena		
Robincroft Rest Home No 1	172,100		77	Pasadena		2,235
Robincroft Rest Home No 2	220 320					
*Fifield Manors (Pasadena)[4]	532,990		175	Pasadena	3,231	3,043
Monte Vista Grove Homes	†275,740		141	Pasadena		1,955
Pasadena Lutheran Homes	§275 820			Pasadena		
Pathway Haven	202,240		14	South Pasadena		14,445
Daisy Wilson Foundation	5 870		4	Los Angeles		1,467
Daughters of Union Veterans of Civil War	32 520			Los Angeles		
Eastern Star Homes of Calif	449,990		103	Los Angeles		4,368
*Hollenbeck Home	339,300	3,198,083	350	Los Angeles	§2,474	1,357
International Order of Kings Daughters & Sons	31,170		20	Los Angeles		1,558
*Fifield Manors (Hollywood)[3]	339,100		80	Los Angeles	3,231	4,239
*Fifield Manors (Wilshire)[3]	517 230		200	Los Angeles	3,231	2,738
Jewish Home for the Aged	370,390		242	Los Angeles		1,530
Little Sisters of the Poor (St Anne's Home for Aged)	208,690		102	Los Angeles		1 288
Los Angeles County Physicians Aid Association	101,710		40	Los Angeles		2,542
Los Angeles Home for the Armenian Aged	76,050		35	Los Angeles		2,172
Winifred Stuart Mankowski Homes	96,050			Los Angeles		
*Robert and Mary McClinny Memorial Homes	34,320	164,645	9	Los Angeles	17,910	3,813
Motion Picture Relief Fund	534,080			Los Angeles		
*Kingsley Manor (a Pacific Home)[1]	698,040		401	Los Angeles	2,284	1,740
Henderson Community Center	77 100			Los Angeles		
*Sotheim Lutheran Home	147,990	1,391	99	Los Angeles	2,365	1,494
Stoval Home	40,110		32	Los Angeles		1,253
*Verdugo Home	72,130	57,465	50	Los Angeles	1,965	1,442
Volunteers of America	30,920			Los Angeles		
*W C T U Home for Women	121,380	64,712	116	Los Angeles	1,465	1,046
Salvation Army	13 760			Los Angeles		
California Home for the Aged	324,420		126	Reseda		2,574
Jewish Home for the Aged	215,700			Reseda		
*Calif Christian Home	283,570	33,850	126	Rosemead	‡1,898	2,250
*Congregational Homes (Mt San Antonio Gardens)	1,131,710	254,279	500	Pomona	2,444	2,263
Salvation Army	39,720			Redondo Beach		
*British Home in Calif	64,730		32	Sierra Madre		2,022
Casa Robles Missionary Home	56 990			Temple City		
Manning Ave Nazareth Home	333 360		94	Van Nuys		3,546
Quaker Haven	104,000			Whittier		
*Prell Gardens (So Calif Teacher's Home)[3]	170 370		80	Van Nuys	‡2,420	2,204
Clara Baldwin Stocker Home for Women	52,850			West Covina		
Los Angeles County TOTALS	15,653,860					

APPENDIX F—*Continued*

Homes for the Aged Exempted From Property Tax

(1966 Figures)

Name of home	Assessed value exempt	Excess liquid reserves	Capacity	City	Per capita cost of care	Per capita assessed value
MONTEREY COUNTY						
*Forest Hills (California-Nevada Methodist Home)	$268,850	—34,537	118	Pacific Grove	$2,894	$2,278
Canterbury Woods (John Tennant Memorial Homes)	415,640	11,005	211	Pacific Grove	3,892	1,969
Carmel Valley Manor (Northern California Congregational Homes)	1,304,190	—346,123	234	Carmel	3,636	5,572
Monterey County TOTALS	1,988,680					

NOTE The column "Assessed value exempt" shows the amount of value exempted by the assessor for each home In most cases very nearly the total assessed value of the home is exempt The column "Excess liquid reserves" is the remainder when the liquid reserves required by law are substracted from the liquid reserves available The law requires this only in the case of life care homes. "Per capita cost of care" is only reported in the case of life care homes, and reflects the cost of providing meals and services to the residents of the homes.

* These homes are homes that have some life care residents, although they may have other residents

† Those figures are 1965 figures

‡ *These figures represent cash cost.*

§ These figures are 1964 figures

‖ The excess reserves figure is available only for the total of all Pacific Homes The figure is $3,303,317

The excess reserves figure for all Southern California Presbyterian Homes is $658,037

‡ The excess reserves for all Southern California Teachers' Homes is $115,533

‡ California P E O Homes have excess reserves of $584,657

‡ Fifield Manors have a deficit in reserves of $59,630

SOURCE State Board of Equalization and the State Department of Social Welfare

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CALIFORNIA LEGISLATURE

Volume 4 Number 21

Assembly Interim Committee on Revenue and Taxation

SELECTED PROBLEMS IN TAXATION

Personal Income Tax
Corporation Tax
Fuel Tax
Personal Property Tax

A Final Report of the
Assembly Committee on Revenue and Taxation

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December 1966

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ASSEMBLY
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TABLE OF CONTENTS

	Page
Letter of Transmittal	5
I. Introduction	7
II Personal Income Tax	8
A Conformity of State Personal Income Tax Law to Federal Income Tax Law	8
B Credit in Lieu of the Personal Exemption	9
C. Deduction from Gross Income of Payments to Domestic	10
D Income Tax Deduction for Renovating, Repairing and Improving Residential Property	12
III Fuel Tax Relief for Urban Transit Systems	13
IV Property Tax Exemption for Commercial Fishing Boats	21
V Abolishing the Federal Income Tax	28
VI. Corporation Taxes	33
A. Allocation of Income	33
B Jurisdictional Standards	36

LIST OF TABLES

Table		Page
I	Revenue Effect of Substituting a Credit Against Tax of $15 and $30 for the $1,500 and $3,000 Personal Exemption and a $7 Credit for each Dependent for the $600 Dependent Exemption	11
II.	Average Number of Days at Sea, California Tuna Clippers	22
III	Property Tax Comparison (Commercial Fishing Boats)	23
IV	Number of Boats, Values, Taxes by County, 1965	26
V.	Comparative Budgets by Departments Actual v Liberty	29

LIST OF FIGURES

Figure		Page
I	Distribution of Tuna Pack, by Region	24
A.	Principal Provisions in the Federal Internal Revenue Law but Not in the California Personal Income Tax Law	40
B	Principal Provisions in the California Personal Income Tax Law but Not in the Federal Revenue Law	53
C	Estimated Fiscal Effect of Conforming the Personal Income Tax Law to the Internal Revenue Code Provisions	58
	Appendix Exhibit	
D.	Letter from State Board of Equalization re: Effect of Fuel Tax Exemption for Urban Transit Systems	64
E	Revenue of the Work of the Assembly Committee on Revenue and Taxation During the 1965 Legislative Session	67
F	Review of the Work of the Assembly Committee on Revenue and Taxation During the 1966 Legislative Session	69
G	American Transit Association Summary of States Granting Exemption or Refunds re Motor Fuel Tax	80

LETTER OF TRANSMITTAL

January 3, 1967

HON JESSE M UNRUH
Speaker of the Assembly
and Members of the Assembly
State Capitol
Sacramento, California

Dear Speaker Unruh.

Pursuant to Assembly Resolution 710, transmitted herewith is Part 2 of the final report of the Assembly Committee on Revenue and Taxation for the interim period 1965–66

Since Part 1 of our final report dealt with property tax administration in California, this deals with all other subjects studied by the committee during the interim period The principal topics studied were personal income tax problems, corporation tax problems, and fuel tax problems

The committee wishes to thank you and your staff for the support you have given us in our work

Sincerely,

NICHOLAS C. PETRIS, *Chairman*

ALFRED E ALQUIST
E. RICHARD BARNES
TOM CARRELL
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I. INTRODUCTION

Two factors shaped the course of the interim work of the Assembly Committee on Revenue and Taxation during 1965–1966: first, the major tax study completed by the committee in 1965, and second, the assessors' scandal which erupted in July of 1965.

In formulating plans for this interim period, it was decided that the material which was produced as part of the major tax study was still valid and useful As it would be of little value to retrace the ground which had already been thoroughly covered, the committee felt that its time and resources could most profitably be spent in examining selected problems which had not been covered in sufficient depth in the major study or problems which merited attention because of new developments

Most pressing of the latter were problems in property tax administration Because of the seriousness of the problem, most of the committee's time was spent investigating the administrative aspect of assessors' offices We have issued a separate report on this phase of our study (see Problems of Property Tax Administration in California)

Income tax problems also received considerable attention in the light of new suggestions which were received by the committee and the activities of Congress in this field

Seven interim meetings were held by the committee in 1965–66·

September 13, 1965	(Berkeley) A general discussion of the California tax structure
October 7 and 8, 1965	(Sacramento) A hearing concerned with property tax administration and weakness in laws which contributed to assessors' scandal
December 13 and 14, 1965	(San Mateo) A hearing on property tax assessment appeals
January 12, 1966	(San Francisco) A hearing devoted to problems relating to the state taxation of multistate business particularly focusing on the report of the "Willis" subcommittee of the Judiciary Committee of the United States House of Representatives
July 28 and 29, 1966	(Los Angeles) A hearing of property tax administration, the legal definition of "value" for property tax purposes, and the "truck tax"
October 10 and 11, 1966	(Oakland) A hearing to examine property tax administration, appeals procedures and the legal definition of "value"
November 17 and 18, 1966	(San Diego) A hearing to discuss state personal income tax and corporation tax problems, a proposal to repeal the federal income tax; fuel tax exemptions, and property tax burdens of the fishing industry

At these hearings scores of state and local officials and private citizens were afforded the opportunity to offer suggestions on how California's tax structure could be improved

During the 1966 budget and special sessions, the committee had an extremely heavy workload Sixty-five measures were studied by the committee in a five-month span—some of far-reaching importance A digest of the committee's activities during the 1965 and 1966 legislative sessions can be found in Appendices E and F.

In the balance of this report, a number of tax problems studied by the committee are analyzed

II. THE PERSONAL INCOME TAX

A. Conformity of State Personal Income Tax Law to Federal Income Tax Law

Each year Californians are asked to complete a state income tax return which generally follows the format of their federal tax statement. However, there are many, and in some instances important differences between the two forms which necessitate new calculations, separate recordkeeping, and confusing detail for a minor few dollars of tax liability Although the committee keeps close watch on changes in the Federal Internal Revenue Code as they are adopted by Congress each year, and subsequently incorporates many of the revisions as part of our state tax law, we can never be current with federal law. Since Congress has been in session later in the year than our state legislature and has enacted amendments after we adjourn, our law has never been in as complete conformity with the federal law as we would desire Certainly there are provisions in the federal code which California is not ready to accept at any time, but even the best refinements of the Internal Revenue Code are often delayed one year before acceptance by California.

As an example of the complexities which can be caused by this delay we can cite the following situation. Until early 1966 federal law provided that retired servicemen would have their pension annuities taxed in full, that is, the entire amount which the individual was eligible to receive was taxed even though he may have elected to receive only a portion of the income and deferred the remainder to his survivors The survivors could then take their share tax free This year Congress changed the law to make it the same as for all other annuity payments —only those actually received are taxable—whether by annuitant or survivor. As each retiree selects the payment he wishes and sets the reserve for his survivors he establishes a "basis" for tax purposes for the remaining years of his retirement. The federal government changed its law in the first half of 1966 to be effective immediately and, therefore, to be a part of the tax return filed in April 1967. California's law did not match the federal after the change and caused a filing problem for 160,000 persons who are receiving veterans' annuities in this state Each of these people would have to file a return and pay a tax based on two different incomes every year for the remainder of their lives, and their heirs would be faced with the same problems throughout the time they received the survivors benefit if the laws were not conformed

The California Legislature was in the closing days of its 1966 session when the federal law passed and our tax administrators immediately saw the problems this change created for the taxpayer and for themselves Fortunately, we were able to incorporate this particular change into our California tax law by delaying the adjournment of the session for one day

If our Legislature were already adjourned there would have been no way to make the change effective for California state income taxes paid in 1967 Our Revenue and Taxation Code could have been

amended the following year but any servicemen who retired in the ensuing period would already have established an income "basis" for tax purposes and it would be almost impossible to provide equal federal and state tax treatment for their retirement income Each year of delay would have added even more individuals and heirs to this unusual tax status The revenue effect on the state treasury was a reduction of only $80,000 or $\frac{2}{10}$ of 1 percent of the personal income tax revenues

As can be seen from this example conformity of state to federal tax law is sometimes very advantageous By carefully reviewing changes in the federal code and then enacting them at the state level we reduce the burden of compliance on our citizens and the burden of special auditing procedures for our tax administrators While it is not to our advantage to accept all changes in the IRC we find that we are incorporating most of them into our law.

Taxpayers and administrators have been successful in seeking passage of conformity bills at each session of the Legislature and to answer this annual plea a constitutional amendment was placed on the ballot in November 1966 This proposition, Number 14, the conformity measure, would have allowed the Legislature to provide that all future amendments to the IRC would automatically become a part of California's income tax law The Legislature could reject any IRC section they did not wish to make a part of California law but it would require a positive act—a bill—where the Legislature is now required to make a positive act to add each new section

The conformity plan was defeated at the polls 2,652,948 No to 2,481,-240 Yes and California will remain with her piecemeal approach to simplified income tax reporting A list of the major provisions of the California Income Tax Law not found in the Internal Revenue Code and the provisions of the Internal Revenue Code not found in California's law are shown in Appendices A and B; Part C of the Appendix gives the revenue figures involved in conforming each of these items

B. *Credit In Lieu of Personal Exemption*

One of the most familiar items on the personal income tax form is the personal exemption—$600 for each member of the family on the federal form, $1,500 each for man and wife and $600 for children on the state form Income may change each year, deductions may change, and tax rates change but the personal exemption remains the same. There is little reason to change it simply because income has increased or because a taxpayers deductions for certain items have changed but there is real reason to change the personal exemption if it is not doing the job for which it was designed

The personal exemption is planned to insure a reasonable level of subsistence to every wage earner and theoretically, $1,500 of tax exempt income will provide the basic necessities of life This personal exemption is the first item subtracted from gross income as tax returns are prepared, but the fact that it is subtracted from gross income causes the greatest inequity in its use

At current California income tax rates (1 percent to 7 percent brackets with $5,000 of taxable income per bracket) a married couple in the lowest bracket saves $30 of tax because of their $3,000 personal

exemption As the couple's income rises they are pushed into higher tax rate brackets, but they still deduct the same $3,000

It is not the purpose of the exemption to adjust for this difference The exemption is designed to insure at least a minimum level of sustenance for everyone

Unfortunately, the personal exemption does not work this way in practice Since the couple may subtract the $3,000 from their gross income they are actually reducing their total amount of taxable income and thus withdrawing funds from their highest tax rate bracket. While the exemption is worth $30 to a couple in the lowest income group it saves $210 of tax for those in the highest bracket Similarly, the $600 exemption for each dependent saves $6 of tax to the lowest income families but is worth $42 at the maximum rate. Basic sustenance does not cost seven times as much to one party as to the other.

To alleviate this inequitable situation a credit system has been proposed and adopted in six other states—Arkansas, Idaho, Illinois, Kentucky, Minnesota, and Wisconsin A credit is an amount which is deductible from the actual tax which is owed to the state Under the credit system there would be no $1,500, $3,000, or $600 figure subtracted from the gross income; rather, the full gross income would be subject to the tax rate and a substitute figure would be subtracted from the tax owed The substitute figures most often discussed have been $15 credit for the $1,500 exemption, $30 for the married couple's $3,000, and $7 for the $600 dependent Although these figures seem woefully inadequate as a means of providing sustenance, they represent the tax saving now available to the taxpayer in the most need, that is, the first tax bracket

The equity of this tax exemption should extend in the same proportion to all taxpayers Basic needs are to be covered by the personal exemption and they are no cheaper for the lower income groups than for the more well to do The present method provides a tax saving of only $30 for the low wage earner, but $210 in savings for higher incomes The seemingly small credit should not weigh heavily in any decision to accept or reject this proposal because there would be no tax increase in the lowest bracket and no tax change in the upper brackets beyond that required to restore the equity position for which the personal exemption is designed An example of the tax change is shown in Table 1.

C. *Deduction From Gross Income of Payments to Domestics*

During the 1965 General Session a bill was introduced to allow employers to deduct from their gross taxable income that amount they pay to domestic servants as salary, and the amount which the employer contributes as workmen's compensation insurance premiums and payroll taxes The bill was referred to this committee for interim study

The most obvious consequence of such a statutory change would be to grant a form of tax relief to those whose income will allow them to employ domestic help This is a minor percentage of the total population and a comparatively well-to-do portion of that population As pointed out in the section on tax credits in this report (III, B) any

TABLE I

Revenue Effect of Substituting a Credit Against Tax of $15 and $30 for the $1,500 and $3,000 Personal Exemption and a $7 Credit for Each Dependent for the $600 Dependent Exemption

Married Persons With Two Children

CURRENT LAW

Gross income	$6,000	$7,500	$10,000	$15,000	$25,000	$100,000
Less Personal exemption	3,000	3,000	3,000	3,000	3,000	3,000
Dependents exemption	1,200	1,200	1,200	1,200	1,200	1,200
Other deductions*	1,000	1,000	1,000	2,400	3,550	13,100
Taxable income	800	2,300	4,800	8,400	17,250	82,700
Tax	8	23	48	118	390	4,739

PROPOSED LAW

Gross income	$6,000	$7,000	$10,000	$15,000	$25,000	$100,000
Less deductions	1,000	1,000	1,000	2,400	3,550	13,100
Taxable income	5,000	6,500	9,000	12,600	21,450	86,900
Gross tax	50	80	130	228	573	5,033
Tax credit for exemptions	44	44	44	44	44	44
Net tax	6	36	86	184	529	4,989
Increase over current law	(—2)	13	38	66	139	250
Reduction in federal income tax	--	--	--	13	39	145
Net tax change	(—2)	+13	+38	+51	+100	+105

* Standard deduction used to $10,000 Average deductions used with other incomes

deductible or exempt income is taken away from the highest tax bracket and is, therefore, of greater saving to a taxpayer as his income rises. The Franchise Tax Board estimates that this deduction for domestics would cause a $5,000,000 tax loss to the state or a $5,000,000 windfall to the higher income families

The counter argument is made that such a measure would encourage more families to hire domestics—employing persons with current "zero income" and through subsequent tax payment by these newly hired persons equalize the state's tax loss and reduce unemployment But a domestic at $400 per month, single, will have a tax liability of only $31, while this person's employer (earning $30,000, wife, two children) would save $240 in taxes It is hard to see any vast gain to the state in losing $240 tax revenue and substitute $31 in its place Tax equity too would not support a high bracket tax deduction from someone with this demonstrated ability to pay Furthermore, we doubt the economic incentive which would cause anyone to spend $4,800 to save $240 in tax

One problem which becomes obvious as this deduction is studied is the changed position of the independent contractor, usually a smaller business The firm of two or three men which supplies window washing service, gardening, or once-a-week house cleaning, and even baby sitters, will suffer as their services are replaced by "employees"

D. Income Tax Deduction for Renovating, Repairing, and Improving Residential Property

In the past six sessions of the Legislature four measures have been introduced to grant some type of income tax deduction for amounts spent on home repairs The general trend has been to allow an annual deduction from taxable income of up to $1,000 for a like amount spent on the home The proposals have been limited to funds spent on owner-occupied single family residences and were designed primarily as means of encouraging homeowners to rehabilitate their quarters and to negate the penalty which often attaches to improvements; namely, an increase in assessed valuation for property tax purposes

We have no substantial evidence, and only poor means of guessing what incentive is generated by a state income tax deduction Does anyone really go out and spend money he otherwise would not because of the income tax saving he anticipates? We think not Quite possibly a deduction from the higher rate federal income tax might cause a particular expenditure but this tax change is designed for state purposes only. There are few deductions allowed in the state law which are not also allowed by federal tax law, and it is only by examining these that an evaluation of this incentive can be judged The one difference which is definitely measurable is the state deduction allowed for political contributions (allowed up to $50) During election years about 75,000 taxpayers claim this deductible expenditure at a cost of $250,000 to the state We doubt that many of these taxpayers make their contribution simply because the deduction is allowed

In measuring the benefit of the proposed deduction for home repairs a taxpayer in the highest bracket can easily see that his state tax liability will be reduced by only $70 for an expenditure of $1,000 or more; and, reduced by only $10 on the same expenditure for a taxpayer in the lowest bracket The incentive to spend $1,000 will not be generated by a $10 to $70 saving in state income tax

The idea might have more appeal if it were envisioned as a means of improving homes in a large area within a short span of time By limiting the deduction to a two-year period homeowners weighing the idea of improving their property would be influenced favorably to do the job within the time limit of the deduction

The question of property tax reassessments on the improved household becomes confused when one attempts to distinguish between money spent on the exterior and money spent on the interior or on furnishings The exterior improvements are obvious and will be picked up by the local assessor and result in higher property taxes But interior improvements for which no building permit is required will almost certainly be overlooked Similarly, new furniture, appliances, or drapes and rugs will be unassessed, but even if they were reviewed by the assessor, as personal property, their assessed value would bear no relation to their actual value and the owner's property tax status would likely go unchanged

The inequities to this proposal are many and complex and the relief is almost meaningless For these reasons, the committee recommends against an income tax deduction for amounts spent on home improvements as a means of rehabilitating deteriorating properties (Assemblyman Dymally wishes to record his dissent from this recommendation)

III. FUEL TAX RELIEF FOR URBAN TRANSIT SYSTEMS

House Resolution 838 (1965 General Session), sponsored by Chairman Petris, was referred for interim study to the Committee on Revenue and Taxation The text of the resolution follows.

> WHEREAS, Urban mass transit is vital to the economy of the State of California, and its full acceptance by our citizens is essential to the proper utilization of all of our transportation facilities; and
>
> WHEREAS, It is important that the millions of dollars spent for highway construction, improvement and maintenance be complemented with adequate and effective mass transit facilities in order that full utilization of our streets and highways is obtained, and
>
> WHEREAS, Our local urban communities have, in most cases, assumed the responsibility of operating public transit and considering such service as essential as police and fire protection, have expended local tax funds for its support; and
>
> WHEREAS, Private companies who are continuing to operate urban transit service are having serious financial problems that prevent them from providing the quality of service needed in our urban areas; and
>
> WHEREAS, Sixteen other states in the United States and the District of Columbia have granted relief from motor vehicle fuel tax to urban transit operators, now therefore, be it
>
> RESOLVED BY THE ASSEMBLY OF THE STATE OF CALIFORNIA, That the Assembly Rules Committee is directed to assign a study of relief to urban mass transit operators from the motor vehicle fuel tax to an appropriate interim committee

The resolution points up the important part urban mass transit plays, and must play to a larger extent in the future, in California's transportation system For highways and streets to achieve their optimum utilization, it is vital that urban areas be served by adequate transit bus systems First, bus systems are a necessary complement to rail rapid-transit systems Second, they may be an important factor in their own right by relieving automobile congestion on streets and highways

We may expect in the near future that rail rapid transit will not be capable of solving our transportation needs The Bay Area Rapid Transit System (BART) is the only major rail system under construction In the Los Angeles Metropolitan area such a system is only under study

Yet, we have not begun to exploit the full potential of transit buses For transportation development in the near future, they have two distinct advantages (1) bus systems do not require large scale capital investment beyond the purchase of the transit vehicle, and (2) bus transportation is a more efficient use of already constructed streets and highways than the automobile since buses carry more people by weight than can the automobile, and take up less space than would the same number of people traveling by car

The development of adequate transit systems for urban areas is an established public policy of both the State of California and the federal government Tax relief of various types is one means of promoting this policy The committee fully agrees with the policy of promoting rapid transit It is the purpose of this interim study to determine if full tax relief to urban transit systems is an appropriate measure in support of this policy.

Fuel Tax Exemption Proposals in the Past

AB 3648 (Britschgi and Francis) and AB 3651 (Britschgi and Francis), 1957 Regular Session, would have exempted urban transit buses from the fuel taxes

AB 3648 would have granted exemptions from the use fuel (diesel) tax to buses operating over regular routes fixed by the Public Utilities Commission when at least 60 percent of the miles operated were on roadways other than the state highway and freeway system The effect would have been to grant the exemption only for fuel used on the roads other than those of the state highway and freeway system AB 3651 would have given transit buses a similar break on the gasoline tax. For gasoline, the exemption would have been granted by means of a refund. Both bills would have limited the exemption in any one year to $25,000.

Amendments to both bills provided for a deduction from the gasoline tax apportionments to cities who were served by a transit system getting an exemption on the basis of mileage operated over city streets. Cities not served by such a transit system would receive the same apportionments as before This amendment was necessary because an exemption from the tax would reduce the total amount of funds apportioned to the cities for streets and roads, which would reduce the amount going to all cities, not just those whose transit systems benefited from the exemption Under these amendments cities whose transit systems were exempt from the tax would receive proportionately reduced street and highway apportionments

State Aid to Transit Bus Systems. Exemptions

Presently, as subdivisions of state government, transit companies which are municipally owned or are creatures of a special district receive certain tax exemptions These include· (1) the transportation license tax (gross receipts tax); (2) motor vehicle weight fees; (3) motor vehicle license fees (in lieu tax)

Private urban transit companies were exempted from the transportation license tax in 1957 [1] Private transit companies, with one exception, are not exempted from weight fees [2] As the result of legislation in 1965, the California Bridge Authority granted local transit systems a reduction in bridge tolls from $0 75 to $0 50 for the San Francisco–Oakland Bay Bridge This exemption primarily benefits Alameda–Contra Costa Transit System and Greyhound Lines

[1] *Revenue and Taxation Code*, Section 9651 5

[2] This exemption is the result of SB 3 (Gibson) which added Section 9107 to the Vehicle Code This bill gave a weight fee exemption to a small bus line in Vallejo

Other State Aid to Transit Bus Systems

State law provides that a county may levy a special vehicle license fee (in lieu tax)[3] the revenue from which must be directed to a public transit system. The fee on each vehicle would be equal to 0 5 percent of the vehicle's market value. The revenues could be used to operate as well as develop a transit system The County of San Mateo imposed the tax in 1965, but has since rescinded it.

The most direct state aid to a transit system was the result of Senate Bill 2 (1966 First Special Session) SB 2 granted special state aid to the Southern California Rapid Transit District (SCRTD) It appropriated $3,000,000 during the fiscal year 1966–67 from tidelands oil and dry gas revenue from the City of Long Beach tidelands to SCRTD. It stipulated that moneys·

> " . shall be available for expenditure by the rapid transit district for purposes of planning, surveying, engineering, preparing information and reports, publicizing and holding meetings..."

SB 2 also appropriated $900,000 from the Motor Vehicle Transportation Fund during the 1966–67 fiscal year to be used for the same purposes, and to be repaid from oil and dry gas revenues from the City of Long Beach tidelands.

It is important to note that the funds made available to the district cannot be used to defray the expenses of operation. SCRTD can be distinguished from most other transit districts in that its powers of taxation are very limited. SCRTD may tax only for purposes of paying principal or interest on district general obligation bonds in cases where revenue from the activities of the district are insufficient to pay such interest or principal.[4]

Federal Aid to Urban Transit Systems

The public transit systems are exempt from all federal taxes. Therefore, they do not have to pay the federal fuel tax of 4 cents per gallon The private urban transit systems have been exempted from the last two increases in the federal fuel taxes They pay a federal fuel tax of 2 cents per gallon[5]

Under the Urban Mass Transportation Act of 1964, the federal government will make grants or loans to public transit bodies for the acquisition, construction, reconstruction, and improvement of facilities and equipment for use in mass transportation service in urban areas. However, no funds are provided for ordinary administrative or operating expenses Under this act, a total of $375,000,000 was to be provided over fiscal 1965, 1966, and 1967.[6]

The Mass Transportation Act of 1966 amends the Urban Mass Transportation Act of 1964, and adds an authorization of $300,000,000 for fiscal years 1968 and 1969[7] Also, for the first time, funds are made available for training transit personnel One hundred training grants will be given each year.

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[3] *Revenue and Taxation Code*, Section 11104
[4] From Chapter 155, Statutes of California, 1966
[5] Source The California Bus Association
[6] Public Law 88-365, 88th Congress, July 9, 1964
[7] Public Law 89-562, 89th Congress, September 8, 1966

Federal transportation aid has not been great, remaining in the area of demonstration grants. The federal grants and loans have definitely not provided relief for operating expenses

The Revenue Effect of a Fuel Tax Exemption [8]

The analysis of the revenue effect of a fuel tax exemption for urban transit systems will be on the assumption of a full exemption from all fuel taxes paid. Any formula which granted only a percentage reduction would reduce the figures that will be reported here All revenue losses are estimated for the first full year, 1968, such an exemption would go into effect if it were enacted in 1967

The total amount of loss in use fuel (diesel) tax revenues would be $2,372,000 For 1968 the loss in gasoline tax revenue would be $90,000.

According to figures for 1959–60, approximately 44 percent of diesel fuel tax revenues are spent on state highways within cities. It is reasonable to assume that the cities whose transit systems will be benefited by the exemption will receive approximately $1,000,000 less in state highway improvement funds The remaining loss, or $1,372,000 will cause a reduction by that amount in state highway construction both in counties and in other smaller cities not benefited by the bus subsidy. The gasoline tax revenue loss to cities and counties will be $32,150

There is state and local sales tax on diesel fuel, but not on gasoline [9] Transit systems have expressed a desire to be exempted from this tax also If the exemption were granted in 1967, the state would lose approximately $264,300 in 1968, and local governments would lose $88,000

What Do Other States Do?

Currently 19 states exempt transit companies from paying all or part of the state fuel taxes [10] In Connecticut transit companies receive a refund of 50 percent of tax paid applicable to mileage on town and city roads The Washington, D C transit system is not subject to the fuel taxes unless the company's rate of return exceeds a certain level Transit companies are exempt from all fuel tax in Illinois, Indiana, Iowa, Massachusetts, New Jersey, and Rhode Island In New York, transit companies receive a refund of 2 cents per gallon on gasoline and 3 cents per gallon on diesel fuel The general rates are 6 cents per gallon on gasoline and 9 cents per gallon on diesel fuel New Hampshire grants a refund on motor fuel tax if at least 90 percent of its operations are within the limits of one incorporated city

Arguments for the Fuel Tax Exemption

Representatives of the public and private transit systems testified before this committee on November 17, 1966 The discussion of arguments for and against an exemption of transit buses from the fuel tax is based on that testimony and independent research by the committee

[8] The research on the revenue effect of a fuel tax exemption was done under the direction of H D Abbott, Highway Taxes Administrator of the State Board of Equalization, communicated to the Committee on Revenue and Taxation on November 14 1966 See Appendix D for the full text of this communication

[9] Section 6357 of the Revenue and Taxation Code exempts gasoline from sales or use taxes

[10] A complete listing of these states and the exemptions granted is in Appendix G

The following arguments have been presented for granting the exemption:

(1) The gasoline tax was originally justified under the benefit theory of taxation—road users would pay in proportion to benefits they received from using the road [11] Another common assumption in highway finance has been that benefit is also related to cost, and therefore, highway users would also be paying highway taxes in proportion to the cost resulting from their use of the highways Cost has been thought of in terms of wear on the highway and the need the users create for improved roadways and new highways Thus, slow-moving and heavy trucks can be said to have created the need for strengthened road beds and extra lanes for slow-moving traffic

Urban transit buses, while perhaps making stronger road construction necessary, are instrumental in relieving traffic congestion problems which are at the root of the need for more highways and freeways As was mentioned in the introduction of this section of the committee report, bus transportation is a more efficient use of the streets and highways than the automobile If we assume that a transit bus carries on the average 30 persons per vehicle and that private automobiles carry on the average 2 persons per vehicle in urban and suburban traffic, one transit bus may remove 15 automobiles from the highway, while taking up less space than 3 automobiles when proper intervals between vehicles in traffic is considered

This argument becomes more compelling when the peak load problem is considered. It can be assumed that the heaviest use of the transit buses will also be at the peak period because of the difficulties of automobile transportation during that period Thus, the transit bus will replace more automobiles at the time periods when this relief is more needed A bus carrying between 40 and 60 passengers at rush hour may reduce the number of automobiles competing for the use of the highways by 20 to 30 cars

(2) The point most emphasized during the testimony of transit company representatives before the committee was that although the amount of revenue that would be lost to the state highway system by this exemption would be insignificant, it represents a substantial cost to individual transit systems.

Among the single largest payers of the diesel tax are Southern California Rapid Transit District (SCRTD), Alameda-Contra Costa Transit District, the Municipal Railway of San Francisco and the San Diego Transit System The SCRTD, in its fiscal year 1964–1965, paid $780,987 or 4½ percent of the total of $17,423,213 diesel taxes paid in the state

Stated General Manager Cone T Bass

> "Relief from this tax, if granted to public transit agencies, including SCRTD, would be an effective and immediate method of relieving the SCRTD of a pressing financial burden and would be a help in maintaining district fares at their present levels" [12]

[11] For a general discussion of highway cost allocation, see John F Due, *Government Finance An Economic Analysis*, Homewood, Illinois, Richard P Irwin, Inc, 1963

[12] Testimony before the Committee, November 17, 1966, San Diego

The Alameda-Contra Costa Transit District pays $330,000 in fuel taxes yearly This represents approximately 1½ cents on the tax rate and is 2½ percent of the revenue of the district The San Diego Transit System in 1965 paid $98,583 in taxes for fuel used in its urban transit operations This amount is important to San Diego Transit It has had losses of $28,000 in 1963 and $84,000 in 1964 A fare increase and a reduction of service resulted in earnings from operations of $25,765 for 1965 In testimony before the committee, James E Reading, Director of Public Relations for the San Diego Transit System, stated:

> "Quick, favorable action by the State Legislature will enable the San Diego Transit System to maintain present fares and service providing the change to public ownership is within a reasonable time "[13]

Another privately owned bus company is Pasadena City Lines For 1965, the line lost $57,949 Its diesel fuel taxes amounted to $17,144 Total taxes paid to the State were $38,404 Tax relief would be critical for this marginal operation Santa Monica Municipal Bus Lines reported that although passenger revenue increased 1 72 percent in the 1965–66 period, operating costs increased by 4 03 percent Exemption from $55,522 paid in fuel tax and sales tax on the fuel would have reduced the cost increase to only 1 61 percent for the 1965–66 period.

In summary, a fuel tax exemption would (1) allow private systems to continue operating a few more years without drastically upping fares or curtailing service, and (2) relieve public systems from the necessity of having to make up operating deficits by increased property tax rates Fare box increases are not a solution since experience has shown that patronage drops off rapidly with fare increases. Some systems, such as SCRTD, are not in a position to tax property owners to any great extent (3) Diesel fuel users must also pay sales tax on fuel they use There is no sales tax on gasoline Since transit buses for the most part use diesel, bus systems face a greater per-gallon tax burden than most highway users

Argument Against Fuel Tax Exemption

1 Although it is possible to make a good case for a state subsidy to urban transit systems, it is illogical to exempt them from the taxes which support the streets and highways upon which they depend for operation

Even when considering purely public operations, a good argument can be made for charging them the same amount as other highway users since free use of highways will result in a mistaken picture of the true costs of operating transit systems In relation to rail systems, where the costs are known and figured into total cost calculations, bus transit cost figures would be too low This may be the cause of inefficient allocation of resources in favor of bus transit systems

2 Currently, except for an insignificant instance, there are no exemptions from taxes on fuel used to propel vehicles on streets and

[13] Testimony before the Committee, November 17, 1966, San Diego San Diego voters approved a measure to allow the city to purchase the line The public transit system will still be required to pay the tax

highways[14] This includes state-owned vehicles and vehicles owned by other subdivisions of the state It would be unwise to set the precedent of granting special exemptions A good case could be made for exempting all public vehicles from the fuel tax as they are from most other state taxes True, public resources would not be reduced, but the automatic allocation of resources to the highways and freeways based on their use would be curtailed An analogous case can be made for highway-related public services Why not exempt police and highway patrol cars, and State Division of Highways vehicles from fuel taxation?

3 It should be pointed out that in terms of miles per gallon diesel-using vehicles have the advantage over gasoline-using vehicles in the same weight class Diesel-using vehicles get one-third to one-half better gas mileage[15]

With vehicles of comparable weight, it costs less to operate a diesel-using vehicle (even with the added expense of a sales tax) We will assume the diesel vehicle in question gets 13 miles per gallon and the gasoline vehicle gets 10 Also, we will assume that the price of gasoline (including state and federal taxes) is 32 cents a gallon, that the price of diesel fuel is 26 cents a gallon, and that the sales tax for the diesel fuel is 4 percent (including 1 percent local and 3 percent state) For a trip of 200 miles, the gasoline user would pay $6 40, the diesel user would pay $4 06 (including the sales tax) In this case, the diesel user would get a $2 34 premium for every 200 miles Since he gets better gas mileage, he pays proportionately less in fuel taxes, even though his use of the roadway costs the state as much as the gasoline powered vehicle

The Policy Question

We feel that the best argument which can be made for exempting transit bus systems from fuel taxes is that increased development of transit systems will relieve the pressures on crowded highways, especially during peak hours In this sense, transit buses, contrary to adding cost to the highway system, may decrease overall costs On this basis it is logical for bus systems to be exempt from paying for the use of these facilities One might even argue that a subsidy should be granted transit systems by other highway users

There are two inadequacies in this argument One, it is not known to what degree improved transit bus systems will reduce the number of cars on the highways It is suggested that more research be done in this area Two, fuel tax relief is only a stopgap measure which would contribute very little to the overall solution of the transportation problem Gas tax relief is seen by the transit systems as one factor that may enable them to put off increased operating costs It is clear that gas tax relief will serve mainly to help keep marginal private operations running a few more years, and public operations from having to increase property tax rates This is indeed a case of prescribing aspirin when the patient is dying

The amount of tax loss in itself would not be significant However, we feel it is important that there have been no exemptions up to this

[14] Members of the consular service of foreign governments may be refunded the full amount of fuel taxes paid

[15] For a discussion of this problem in relation to highway costs, see California Senate Fact Finding Committee on Revenue and Taxation, *Highway-User Taxes* (June 1965) pp 8–9 and John Due, op cit, p 429

time from the state fuel tax for highway use Since these taxes are the mainstays of the state highway program, the Legislature should be predisposed against granting any exemptions

It is felt that the arguments presented apply equally well to both public and private operations, and that any exemptions granted should apply equally to both public and private systems Most private systems still in operation are operating at a narrow profit margin or a deficit The largest private system, the San Diego Transit System, will soon pass into city ownership The private systems are in a true sense providing a public service, often at or below cost

Recommendation

This committee recognizes the great need for rapid transit development in the metropolitan areas of California The federal government has recognized this with its transportation programs The state in the past has granted transit systems various opportunities for subsidizing their operations and certain tax breaks

But it is our feeling that any subsidy of transit systems by the state should be part of a comprehensive plan for transportation development. Some tax breaks, by allowing unprofitable and inefficient systems to continue operation for a longer time, may postpone profound changes that may really contribute to solving the transportation problem. We feel that a fuel tax exemption falls into this class

However, the committee can find no justification for charging a diesel fuel sales tax without charging a corresponding gasoline sales tax Fuel taxes should be a replacement for sales taxes A sales tax reform program should consider dropping the sales tax on diesel fuel This would involve both the 3 percent state sales tax and the 1 percent local tax In spite of this belief, the committee is extremely reluctant to recommend additional exemptions from the sales tax before a general revision of California's tax structure is made

IV. PROPERTY TAX EXEMPTION FOR COMMERCIAL FISHING BOATS

Extensive and well-documented testimony was presented to the Committee on Revenue and Taxation during a hearing on HR 399—Mills. The resolution notes the following conditions

(1) Puerto Rico and coastal states exempt commercial fishing boats operating on the high seas from personal property taxes or impose a minimum tax

(2) It is inequitable to require California's fishing vessels to pay more taxes than fishing vessels from other states and countries receiving equal benefits from California's ports

(3) Many commercial fishing vessels have already left California to be registered in other states and Puerto Rico, and this is a detriment to California's economy

Representatives of the American Tunaboat Association and other fishing industry spokesmen offered testimony in support of the resolution while officials of the County of San Diego presented opposing evidence

The Constitution of the State of California grants the Legislature the power to exempt personal property from property taxation

> "The Legislature may classify any and all kinds of personal property for the purposes of assessment and taxation in a manner and at a rate or rates in proportion to value different from any other property in this state subject to taxation and may exempt classes of personal property "[1]

Boats are a class of personal property not unlike airplanes or automobiles The Legislature has enacted a special statewide tax in lieu of the property tax on automobiles and a special statewide property tax rate for airplanes Boats, however, except for freighters and passenger liners over 50 tons are treated as any other type of personal property They are taxed and assessed by the local jurisdictions.

Section 4 A of Article XIII of the State Constitution (adopted in 1914 and amended in 1954) states·

> "All vessels of more than 50 tons of burden registered at any port in this state and engaged in the transportation of freight or passengers, shall be exempt from taxation, except for state purposes "

From 1914 to 1938, fishing vessels of over 50 tons of burden were exempt from taxation but the courts ruled between 1938 and 1942 that fishing boats over 50 tons burden did not come within this constitutional classification, and therefore, were taxable[2] During World War II most fishing boats were not taxed because they were in the federal government service From 1945 to the present, fishing boats have not been exempt from property taxation

[1] State Constitution, Article XIII, Section 14
[2] Dragich v Los Angeles County, 30 Cal App 2d 397 and Crivello v San Diego County, 50 Cal App 2d 713

Arguments for the Exemption

It is argued, first, that commercial fishing vessels of over 50 tons burden can be justifiably exempted for the same reasons freight- and passenger-carrying vessels of that tonnage are exempted. This argument applies mainly to the tuna fleet vessels which are typically very large.

Second, it is held that with the high taxes of local jurisdictions in California it is economically very difficult for fishing boats to land in California, and in fact, the future for the fishing industry in California will be very bleak This argument also applies to the smaller vessels The data available to us, however, mainly concerns the tuna fleet

There are 177 fishing vessels in the State of California of 50 gross tons or over [3] The California tuna fleet represents 74 1 percent of this total gross tonnage These boats spend the greater portion of the year outside of their home ports in California, and in fact, outside the territorial waters of the United States

For the period January to August 1966 (involving 305 vessel arrivals) the average length of port stay was 16 days. Table II shows the average days per year at sea during three calendar years by various-sized California tuna clippers [4]

TABLE II

Average Number of Days at Sea, California Tuna Clippers

Vessel size (Tons of frozen tuna capacity)	Average days at sea/year
100	180
150	202
200	218
250	230
300	240
350	249
400	256
450	263
500	269

SOURCE American Tunaboat Association

California tuna clippers are regulated and protected by the federal government and international treaty They must obtain licenses and permits from various federal departments and may obtain protection and relief from seizure by foreign governments under certain circumstances Further, they must abide by production quotas of the Inter-American Tropical Tuna Commission

They are afforded little protection nor are they extensively regulated by the State of California and its local subdivisions In this sense, they are similar to large freighters and passenger liners which are tax exempt.

It can be argued that since they spend so little time in port the larger fishing boats do not use the services of local government which

[3] In the data presented here gross tonnage figures are used The constitutional language "tons of burden" means net tonnage The net tonnage would be about one-half the gross tonnage Since the average tonnage of vessels over 50 tons is 178 tons, it can be assumed that most vessels over 50 tons would also be over 50 net gross

[4] Table 8, page 9, brief filed with committee, Nov 17, 1966, by the American Tunaboat Association.

are supported by the property tax To be sure, the families of the fishermen use services; but this is covered by property taxes they pay on their homes.

The courts have held that commercial fishing vessels may not be assessed at a fraction of their value, based on the amount of time spent in port or in the United States waters[5] Commercial airplanes are assessed as other personal property, but this assessed value is apportioned for the amount of time a given plane is located within the county, plus one-half the time between the airport within the county and the port at which it lands next in the state, or all the time between the airport in the county and the state line if it next lands outside the state. A formula such as this could also logically be applied to commercial fishing boats

The economic argument against the personal property tax on commercial fishing boats is more complicated First, it must be shown that California is losing its fishing fleet to other countries or states Second, it must be shown that high property taxes are an important contributing factor to this situation Third, it must be shown that the loss of this industry to California would have such a significant effect on California's economy that special treatment of this industry would be justified.

In the United States, the California fishing industry competes mainly with the nearby states of Oregon and Washington, and Puerto Rico In Puerto Rico, there are no personal property taxes on commercial fishing boats In Oregon, commercial fishing boats pay a token tax of about $1 per $10,000 of fair market value In Washington, they pay $10 to $15 per $10,000 of market value[6]

TABLE III

Property Tax Comparison

Commercial fish boats	Oregon taxes	Washington taxes	California taxes	Puerto Rico taxes
$10,000 value	$1 00	$15 00	$200	--
25,000	2 00	25 00	500	--

Puerto Rico is the main alternative base of operations for the tuna fleet. Smaller vessels, harbored in northern California, are considering operations in Washington or Oregon, although these vessels would be fishing for fish other than tuna.

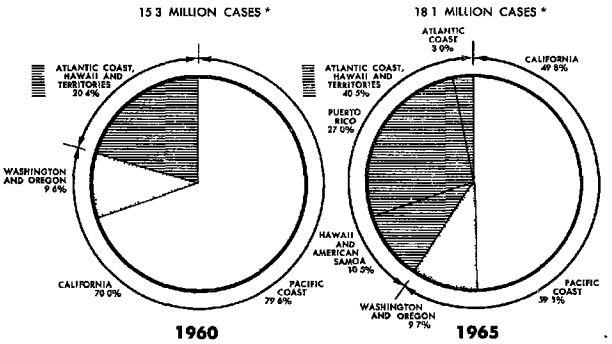
It is maintained that the California commercial fishing fleet is in danger of block obsolescence As of September 1, 1966, the 1,485 vessels in the California fleet had an average of 24 9 years Further, 12 percent of the total vessels in the fleet represent 57 5 percent of the gross tonnage—these are 177 vessels of 50 gross tons or over Of these vessels, the California tuna fleet represents 74 1 percent of the gross tonnage The average age of the 177 vessels is 22 7 years, while the economic life of a vessel is generally calculated at 15 years

[5] District Court of Appeals, Star-Kist Foods, Inc, et al v H L Bryan, et al, 241 ACA 406

[6] From information supplied by the Board of Equalization

FIGURE 1

DISTRIBUTION OF TUNA PACK, BY REGION



* Standard cases

Source U S Department of the Interior, Bureau of Commercial Fisheries

The argument made by the tuna industry is not that boats are leaving California home ports and going to other states or Puerto Rico, but that new, larger tuna boats have not been designating California as their home port in recent years and California's total percentage of the catch is growing smaller Given the age of California's boats, a lack of new boats coming to California, and the increasing size and efficiency of new boats landing fish in other states or Puerto Rico, California can expect a decrease in its tuna industry activity in the next few years

The American Tunaboat Association presented the committee with figures showing that in the period 1952–1966 only 11 tuna clipper owners have designated California home ports—this represents only 0 9 percent of the frozen tuna carrying capacity of 38 tuna vessels entering the fishery during the period In the period since 1960, California ports have received two new clippers totaling 280 tons, Puerto Rico, nine new vessels totaling 7,693 tons and Washington, six new vessels totaling 2,579 The new boats typically are large—over 500 tons

Although the landings of tuna in California have remained constant over the past five years,[7] California's relative share has decreased. (See Figure 1.)

Tuna industry officials argue that "the increase in tonnage by the newer and larger sized vessels in the Puerto Rican fleet would be at the unfortunate expense of the older and smaller California fleet."[8]

[7] United States Department of Interior, Bureau of Commercial Fisheries, *Fishery Statistics of the United States*, Fisheries of the United States, 1965

[8] Testimony of August Felando, Manager of the American Tunaboat Association, November 17, 1966.

First, the Inter-American Tropical Tuna Commission limits the total amount of catch of yellowfin tuna and it is apportioned on a first-come, first-served basis. Second, the larger, more efficient boats are not landing tuna in California.[9] Therefore, the smaller California boats will not be able to compete for the limited yellowfin tuna available. This presupposes that the fleet will not be able to shift production to skipjack tuna.

The Economic Effect of a Tuna Industry Decline

The tuna catch since 1950 has averaged $41.8 million (73 percent of the entire California fish catch) The weighted average of the percentage of the value of tuna caught to the value of total California fish caught was 73 percent. In recent years, it has been around 70 percent[10] The industry estimates that the average annual landings in California of yellowfin and skipjack tuna has been 114,300 short tons The effect on the economy they estimate to be five times the total purchase price from fisherman or $143 million They estimate that the annual loss within the next two to three years would amount to 30,000 tons annually. The industry calculates this to be a loss of $50 to $70 million to California's economy annually However, no absolute loss has been shown yet. We would definitely agree that the decline in California's share of the tuna catch, regardless of absolute decline, is a detriment to our growing economy. A static tuna industry will not contribute to our economic growth.

The committee agrees that the tuna industry is in serious trouble in California. Further, it recognizes that tuna industry losses in California will be disapportionately felt by a few communities San Diego has 85 percent of the total gross tonnage of the California fleet. Los Angeles is next with 14 percent Moreover, the substantially smaller community of San Diego would be more greatly effected

Tax Incentives for Business

That California's percentage of the tuna catch is declining, that the new, larger vessels are not locating in California, and that the California fleet is old, has been adequately demonstrated by the tuna industry representatives

The reason for this relative decline in California's share of the fish market is more difficult to demonstrate.

We do not feel that the local property taxes paid by commercial fishing boats in California has been of a total amount great enough to be a major obstacle to locating in California.

Table D 3 is a summary of property taxes paid by commercial fishing vessels in California

Total taxes paid by all California commercial fishing boats in 1965 amounted to $670,200, while the dollar value of fish landed during that year was $50,905,000.

[9] Note the gross tonnage of new boats coming to California as compared with those locating in Puerto Rico, see above

[10] Table 6, page IV, American Tunaboat Association, op cit

TABLE IV

Number of Boats, Values, Taxes, by County, 1965

	Number of boats	Market values	Assessed values	Taxes paid
Del Norte	70	$450,000	$110,000	$9,500
Humboldt	160	1,100,000	260,000	25,000
Mendocino	200	1,350,000	335,000	26,000
Sonoma	200	680,000	170,000	14,000
Marin	100	650,000	160,000	15,500
San Francisco	205	1,040,000	260,000	26,000
Alameda	80	520,000	130,000	13,700
San Mateo	30	300,000	75,000	6,000
Contra Costa	25	275,000	70,000	6,500
Santa Cruz	35	245,000	60,000	6,000
Monterey	250	2,750,000	700,000	50,000
San Luis Obispo	60	575,000	140,000	11,000
Santa Barbara	95	520,000	130,000	10,000
Ventura	10	120,000	30,000	2,500
Los Angeles	272	4,200,000	1,050,000	90,000
Orange	150	800,000	200,000	17,000
San Diego	300	16,000,000	4,000,000	341,500
Total	2,242	$32,375,000	$7,380,000	$670,200

SOURCE Board of Equalization

The 90 tuna vessels in San Diego were assessed at a total of $3,665,000 They paid an average tax per vessel of $3,400, or a total of $312,267 With the vessels harbored in San Diego making up the majority of the tuna fleet, the tuna industry's total dollar value of sales was $36,068,000 Although the amounts paid by the tuna industry in property taxes are substantial, we do not feel that this is any greater burden on the tuna industry than on other California businesses

There are many other factors which we feel may act as a much greater disincentive for commercial fishing boats to locate in California In Puerto Rico labor costs are lower, crew members need not belong to a union, and they usually work for a lesser share of the catch Also, in Puerto Rico, numerous income tax advantages are available for boat owners First, all businesses in Puerto Rico are exempt from federal income taxes This applies both to personal and corporate incomes [11] Furthermore, a corporation or partnership in Puerto Rico may be exempt from local income taxes for up to 10 years if they conform to certain standards In the same way, the businesses may also be exempt from the property taxes

To claim that the primary incentive that encourages boats to land in Puerto Rico is the property tax exemption, it would have to be shown that the property taxes weigh more heavily on boat operators than the income taxes, or that it is the property tax incentive rather than the income tax incentive that is the more important variable This has not been shown

The Relationship of Taxes and Economic Growth

It is well known that tax advantages are a factor in the decision of a new business to locate in a given place. Low labor costs are another and the general price level is important too But granting incentive-exemptions from the property tax to selected industries creates several problems There are other industries in the state, or which are think-

[11] Commonwealth of Puerto Rico, Economic Development Administration, *Producing in Puerto Rico*, San Juan, 1962, p. 4

ing about coming into the state, which would consider the property taxes extremely burdensome Should we not consider exempting these industries also?

The property tax structure in California today is straining to support a level of local government activity larger than it can handle. All new exemptions serve to narrow this tax base even further In this particular case the County of San Diego would feel almost one-half the total state tax loss if commercial fishing boats were exempted from the property tax The industry is appealing to the state on grounds it may be forced to leave the state Therefore, it should be the state's responsibility to provide the relief, if it is appropriate, by some other means, not by tampering with local government's revenue raising ability.

Recommendation

We can sympathize with the fishing industry in its feeling that it does not get the full value of what it pays in property taxes The property tax as originally conceived was a tax covering services to property owners, such as fire protection, police protection, roads, and other services which can be thought to benefit property. But today the property tax has become more of a general tax A substantial portion of it pays for education It has recently been argued that the property tax should not cover these other government expenses

We are all agreed on the need for general property tax reform [12] Much of school support should be removed from the property taxpayer But as it now exists, this tax is the major support of local government We are predisposed against granting any further piecemeal exemptions from it. We recognize that high taxes, federal, state and local, together with other high costs in California are an obstacle for industry desiring to locate here. We realize that highly mobile operations such as fisheries may be induced to leave the state However, California has many advantages which it has relied upon in the past for a growing economy.

The fishing industry is an important part of California's economy and should be considered in any plan for tax incentives However, we believe that any tax incentives should be part of a comprehensive plan, in which all of California's special problems and needs are taken into consideration.

Based on the foregoing analysis, we cannot recommend that the fishing industry be granted any special property tax exemptions before general tax reform is accomplished in the state.

[12] See Assembly Interim Committee on Revenue and Taxation *A Program of Tax Reform for California*, July 1965, p 32

V. ABOLISHING THE FEDERAL INCOME TAX

The Committee on Revenue and Taxation, meeting in San Diego on November 18, 1966, heard testimony on Assembly Joint Resolution 41 (1965), sponsored by Assemblymen Barnes, Ashcraft and Badham.

The resolution requests Congress to propose to the people or call a convention to provide an amendment to the United States Constitution prohibiting the United States government from engaging in business in competition with its citizens; specifying that the Constitution or laws of any state or federal laws are not subject to foreign or domestic agreement which would abrogate the amendment, and abolishing personal income, estate, and gift taxes [1] The complete text of the constitutional amendment follows:

> "SECTION 1. The government of the United States shall not engage in any business, professional, commercial, financial or industrial enterprise except as specified in the Constitution
>
> SECTION 2. The constitution of laws of any state, or the laws of the United States shall not be subject to the terms of any foreign or domestic agreement which would abrogate this amendment
>
> SECTION 3 The activities of the United States government which violate the intent and purposes of this amendment shall, within a period of three years from the date of ratification of this amendment, be liquidated and the properties and facilities affected shall be sold
>
> SECTION 4. Three years after the ratification of this amendment the 16th article of amendments to the Constitution of the United States shall stand repealed and thereafter Congress shall not levy taxes on personal incomes, estates, and/or gifts."

The United States Constitution in Article V provides two procedures for amending the Constitution Congress may propose amendments by a two-thirds vote of both houses, or on request of two-thirds of the State Legislatures it must call a convention for proposing amendments. To become part of the Constitution, the proposed amendments must be ratified by the Legislatures of three-fourths of the states

If two-thirds of the states approved a resolution identical in text (that is, the actual proposed constitutional amendment), the Congress would have to call a constitutional convention but the convention would not have to be limited to the subject of the proposed amendment [2] If it is not passed by two-thirds of the states, the resolution would stand as —a recommendation by the Legislature of California to the Congress

AJR 41 (1965) contained a constitutional amendment, called the Liberty Amendment by its proponents, which has been approved in identical wording by seven states—Wyoming, Texas, Nevada, Louisiana, Georgia, South Carolina and Mississippi The main organization supporting this amendment is the Liberty Amendment Committee of the United States of America They have developed a proposed budget, assuming the provisions of the amendment have gone into effect A

[1] This is the exact wording of the Legislative Counsel's digest of the resolution

[2] United States Senate, The Proposed 23d Amendment to the Constitution, 87th Congress, 1st Session, Senate document No 5, p 24

summarization of that budget developed for 1962 and compared with the 1948 federal budget is reproduced in Table V.[3]

TABLE V

Comparative Budgets by Departments

Actual v. Liberty

(In millions of dollars)

	1948 budget	1962 budget	Liberty budget
Expenditures			
Agriculture	$655	$5,101	$166
Natural Resources	728	2,138	38
Commerce and Housing	1,604	3,371	769
Labor and Welfare	1,507	4,759	468
National Defense	13,420	47,392	22,924
International	5,205	2,711	186
Veterans' Benefits	7,580	5,296	4,913
General Government	1,457	2,071	1,274
Interest	5,984	8,593	6,427
Miscellaneous	(442)	(557)	(557)
Total expenditures	$37,704	$80,865	$36,598
Tax Receipts			
Personal income	$23,937	$45,500	--
Corporate	11,598	20,900	$25,080
Excise	3,438	9,725	11,670
Employment	2,731	--	--
Estate and gift	1,025	1,953	--
Customs	481	1,115	1,115
Miscellaneous	4,342	3,807	3,807
Adjustments	(5,257)	(667)	(667)
Total receipts	$47,295	$82,333	$41 005
Total expenditures	37,704	80,865	36,598
Budget surplus	$9,591	$1,468	$4,407

The 1962 budget is the last they have revised but the Liberty Amendment Committee has prepared a more detailed budget revision than the summarization that appears here[4]

We have concluded on the basis of testimony presented to us in San Diego that the following beliefs underlie the support for the amendment·

1) That the federal government should confine its activities to those specifically enumerated in the United States Constitution; and that the federal government, through court interpretation of the constitutional provisions, has assumed more power than was intended by the founding fathers

2) That the proposed new language will only insure that the intent of the founding fathers is followed.

3) That sovereignty rests with the states of the union, and that most government activity should be at that level, the activities of the federal government should be restricted as much as possible

What the Amendment Will Do

The discussion below will detail what the committee has concluded is the intent of the amendment from the testimony that has been presented to us

[3] Senator Carl Hayden, *The Fallacies and Dangers in the Proposals to Abolish the Federal Income Tax* , 88th Congress 2d Session, Senate document No 56, p 3.
[4] Gordon van B. King, *Federal Budgets Under the Liberty Amendment.*

1) The amendment would remove the personal income tax, but leave the corporate income tax, which would then become the major federal tax

2) The amendment would not place any restriction on the activities of the states The states would be free to take over the functions which are being denied to the federal government and could levy income taxes themselves. The proponents of this measure were not entirely clear on what they believed were the limits on the legitimate activities of a state.

3) The amendment would prohibit all activities of the federal government other than military activities and those few other functions enumerated in the Constitution It is noted that in the liberty budget that the constitutionally authorized postal service would be made to support itself on the revenue it collects [5]

4) The liberty budget, as last revised in 1962, would be similar in total expenditures to the 1948 budget (in 1962 dollars) However, the distribution in expenditures would be altered drastically. Many domestic expenditures would be eliminated and a higher proportion of the total budget would go to the military. Any remaining domestic expenditures would be diluted, since the population of the country has increased by about 30 percent since 1948

5) The military budget would be cut by more than one-half The military assistance expenditures (aid to allies) would be cut by exactly one-half

The proponents argue that the same level of military preparedness would be maintained They say that the budget can be cut by contracting with private enterprises for services now carried on by "unconstitutional" businesses now operated by the Department of Defense [6] Also, there would be better auditing procedures and the land held by the Defense Department, but not used for military purposes, could be sold

The liberty budget was developed to show that the two constitutional changes which the new amendment would make are economically feasible; that is, the expenditures reduced by prohibiting the federal government from engaging in any business activity would about cover reduced revenues resulting from the abolition of personal income taxes, and gift and inheritance taxes In most cases, the expenditure on specific items is reduced to zero or the 1948 figure is used

6) Section 3 of the proposed amendment provides that all "unconstitutional" activities must "be liquidated and the properties and facilities affected shall be sold " It is our interpretation that these federal enterprises and holdings would either be sold or given to private individuals or organizations, or to the states.

Analysis of the Proposal

We believe that the very basic question of the function of the constitutional document is involved in the discussion One of the outstanding features of the United States Constitution has been that it provides a general framework within which representatives of the people can

[5] Liberty Budget Federal Budgets by Functional Categories, also refer to United States Constitution, Article I, Section 8

[6] From Gordon van B King, *Federal Budgets Under the Liberty Amendment.*

develop public policy. It has been an important factor in the stability of the nation that public policy could change with the changing times within this framework.

We do not believe, given the pre-eminent position of the United States in the world today, that the Congress should be severely limited in its power to act This amendment may not only prevent the government from performing a function that is needed to meet an emergency, but might even prevent it from getting the funds necessary for national defense We believe in representative government The correct approach in eliminating a specific governmental activity is through the elected representatives. There are activities of the federal government which members of this committee feel should be curtailed but it should not be done through the arbitrary prohibition of a class of activities by constitutional directive.

We are particularly concerned that this constitutional amendment may be a threat to the national security Although its proponents maintain that it will not reduce national military capability, there is reason to doubt them The liberty budget would cut defense spending by more than one-half They point out that because of its size there is great waste in the military establishment But even under the liberty budget, defense spending would be larger than the total budgets of most nations Further, there is little reason to believe that contracting for services in the private sector will effect such tremendous savings

National security expenditures, excluding veterans' benefits, were over 50 percent of the federal budget in 1966 It is estimated by the Treasury Department that if the personal income, estate and gift taxes were eliminated, the revenue remaining "would cover only 83 percent of the costs of national security—and that is all" [7]

With the current United States commitment to defense of the free world, it is probable that military costs will be rising rather than diminishing Under the liberty budget, any support would have to come from new federal taxes, like a general sales tax This is a regressive tax whose burden falls on those least able to pay. A large general sales tax would substantially reduce the relative incomes of our citizens in the lower income brackets For instance, if the income tax were removed tomorrow and a general sales tax were imposed, the necessary sales tax rates would have to be 20 percent if food were subject to tax, and 27 percent, if food were excluded This tax would be applied to the retail price of all items purchased [8]

The income taxes are in many ways the best taxes we have First, they allow for flexibility in government finance They can be raised or lowered quickly and effectively. In the event of major war, the government may need to increase expenditures tremendously in a short period of time A depression may call for the immediate lowering of taxes to stimulate business In normal times, income taxes may be raised and lowered to counter the ups and downs of the business cycle A major feature of the income tax is its automatic countercyclical effect on the economy Because of the progressive tax rates, income taxes are reduced rapidly for individuals during a recession More money is automatically

[7] Letter dated November 7, 1966, to Chairman Petris from Stanley Surrey, Assistant Secretary, United States Treasury Dept

[8] United States Senate, The Proposed 23d Amendment to the Constitution, op cit, p 16

made available to prop up the economy As incomes fall, people move into progressively lower tax brackets. During a boom, progressive income tax rates decrease demand and help stop inflation. Moreover, it is probable that if the income tax were eliminated the extra money available for individuals to spend would push the economy to capacity and create the greatest inflation ever seen in this country.

There are several problems related to the very short period of time (three years) given the federal government to divest itself of over half of its activities The federal government is such a large factor in the economy that any great change in ownership would be an economic revolution Large-scale unemployment would be a certainty during the readjustment period A depression would be a serious danger Many of the activities of the government would have to be terminated entirely. These would be ones which are unprofitable for private business or too expensive for the states The United States space program is an example of such a program

This amendment would effect a major shift in ownership in this country The courts would take years to unravel the legal situation. State legislatures could not enact laws fast enough to handle the new functions they would have to take on.

It took 156 years for the federal government to become the gigantic enterprise it is today It is utopian to think it could divest itself of one-half of its activities in three years A 20- or 30-year schedule of divestment might be more appropriate.

Recommendation

We have studied the testimony of the proponents of the liberty amendment carefully Based on the problems with the proposal which have been outlined above, we recommend that this amendment as now proposed to the United States Constitution be rejected. (Assemblyman Barnes wishes to record his dissent from this recommendation)

VI. CORPORATION TAXES

A. Allocation of Income

One of the most perplexing problems in the administration of California's corporation franchise and income taxes is to determine the taxable income attributable to California by companies operating in more than one state The difficulty is akin to unscrambling an egg. The corporation's receipts and costs cannot be segregated state by state to reflect accurately the net profit made in each state without wasteful bookkeeping and useless auditing

For this reason, a formula has been devised to show net income derived from California sources Receipts of the company are divided first into unitary income and intangible income. The unitary income, which is by far the most important, is allocated to California on the basis of a three-factor formula—sales, payroll, and property.

The percentage of the firm's total real property and tangible personal property in California is computed; the percentage of the firm's total payroll of wages, salaries and commissions paid to employees in California is computed, the percentage of the firm's gross sales, less returns and allowances in California is computed The three percentage figures are totaled and the resulting sum is then divided by three The final figure applied to total business income represents the percentage of the firm's total net business income which can be allocated to California for tax purposes.

Intangible income is apportioned by situs If a corporation is local, all of its intangible income is subject to tax If it is foreign, its intangible income is not taxable by California

We feel that this is a fair and equitable way to allocating a company's net income for taxation but it does not solve the problem for the company; they may face a different formula in each state where they do business This allocation nightmare can result in over taxation or under taxation depending on the company and the laws of the states in which it operates Because of the impact this state tax system has on interstate commerce, Congress has taken an interest in the problem. After a four-year study, a special subcommittee of the House of Representatives' Judiciary Committee (known as the Willis Committee) issued a report criticizing the lack of uniformity in state taxation of interstate commerce. Chairman Willis introduced a bill late in 1965 which provided for far-reaching federal control over California and other states' corporate and sales taxes This threat was enough to prompt a number of states to adopt the Uniform Division of Income for Tax Purposes Act. To date, 14 states,[1] including California, have enacted this legislation—which establishes a uniform method for computing corporate net income allocable to each state.

However, this display of good faith on the part of the states did not deter Congressman Willis After dropping the original bill on the subject (HR 11798) because of many technical problems and strong opposition from the states, he introduced a second bill (HR 16491) which had almost as many defects (including a two-factor formula

[1] Of 39 states having corporate income taxes.

for corporations with net income of one million dollars or less). This measure passed the Judiciary Committee but was lost in the House Rules Committee.

There are three major objections to the second Willis bill. the basic concept of federal interference in curbing the state's power to tax, the jurisdictional standards in the bill and the use of the two-factor allocation formula

A two-factor formula excluding the sales factor would allow out-of-state firms to exploit the California market with little, if any, tax liability. This would put California businesses at a substantial competitive disadvantage.

In discussing the two-factor vs the three-factor formula, Jerome Hellerstein, Professor of Law at New York University, has observed.

> "Under our tax systems, we have long recognized that the nexus between a state and a taxpayer or a transaction which warrants income taxation includes a whole gamut of legal and economic relationships, benefits, and protections, and encompasses virtually every step in the economic process, from the creation of goods to their conversion into dollars in the market place Wise tax policy must be selective in the steps in the economic process to be used as a basis for tax But in making a judgment as to fiscal policy in our huckster-dominated society—from Madison Avenue to Main Street in every town and hamlet, with the radios and television sets blaring forth wares in every home, with an expenditure of $10 billion or more a year on advertising—one ought not have to argue long the importance of the market place in the economic process Consequently, the claim of the market state to a segment of the income of the interstate vendor without regard to services rendered or property used in the state seems to me to be eminently justified
>
> Finally, the use of a receipts factor with the sales destination test commends itself on a pragmatic basis The states in which manufacturing and warehousing take place, the states in which executive, accounting, and administrative personnel carry on their functions, obtain a heavy weighting in multifactor apportionment formulas through the property and payroll factors, and therefore, there is apportioned to such states a substantial part of existing income measures If the market state is to share to any significant extent in income tax revenues, the sales factor and the destination test afford a workable means to acheive that result Moreover, that test sets up a standard not easily avoided under a properly drafted formula, a fact of no little significance in this area "[2]

There has been a suggestion that California delay the effective date of the uniform act for several years Paul S Farr, Chairman of the Tax Committee of California Manufacturers' Association wrote:

> "I wish to emphasize the necessity of deferring the effective date of the recently passed Uniform Allocation and Apportionment Act to taxable years beginning after December 31, 1969 This

[2] Jerome Hellerstein, "Allocation and Taxes in State Taxation of Interstate Business," *State and Local Taxes on Business*, Princeton, Tax Institute of America 1965, pp 88–89.

act was supported in an effort to help California be a leader in state action to bring about uniformity on the understanding with California state administrators that state control was preferable to federal action and that this uniformity should be brought about by multistate action and related to as near as possible, a single change date

"It is our position that such uniformity should be state controlled and not federally forced Change to this new formula should be at a minimum of additional cost and taxpayer expense. This can be accomplished by making the change date as near uniform for all states as possible, otherwise there will be a continual taxpayer expense through multiple change if each state provides for a different effective date

"There are many problems not yet solved in the so-called "Uniform Act" as passed at the last session of the Legislature and time for clarification of these problems should be provided to get uniformity and at a similar time Tremendous additional taxpayer and state costs will be incurred through variable change dates For this reason, we request your consideration to move the effective date to taxable years beginning after December 31, 1969, so that uniformity may be accomplished at the least possible cost to taxpayers and the numerous states "[3]

According to Martin Huff, Executive Officer of the Franchise Tax Board, any delay would be unwise

"Any such delay would increase the probability of federal legislation This may happen because Congress might conclude that California is not serious about applying the act, but is simply using it as a lever so as to forestall federal legislation Such delay may also discourage other states from acting, as some of them are now considering enacting uniform legislation because and only because California has enacted the law "[4]

An additional step which might forestall congressional action is being discussed The Council of State Governments is preparing a draft of a multistate tax compact for submission to the states This compact is based on the Uniform Division of Income for Tax Purposes Act but also sets up machinery for the adoption of uniform rules and regulations and an arbitration procedure for aggrieved taxpayers

While the compact approach presents some threat to the independence of the California tax system, it is far less of a threat than the proposed congressional legislation

Recommendations

1 We recommend that the effective date of the "Uniform Division for Tax Purposes Act" not be deferred in California

2 We recommend that members of Congress be urged individually and collectively in the strongest terms to refrain from placing restrictions on the state's power to tax

[3] Letter from Paul S Farr to Honorable Nicholas C Petris, October 28, 1966

[4] Testimony of Martin Huff, Executive Officer, Franchise Tax Board, to Assembly Committee on Revenue and Taxation, San Diego, November 17, 1966

3 We recommend that further study be given to the proposed multistate tax compact to determine if it is a feasible and workable alternative to congressional action.

B. *Jurisdictional Standards*

California must have the "jurisdiction" to tax a corporation before it can apply a formula for the allocation of the corporation's income This jurisdiction to tax is limited by the federal constitution and federal statute.

The constitutional limitation arises primarily from the Fourteenth Amendment which guarantees that no "person" (which includes a corporation) shall be deprived of his property without due process of law. According to the United States Supreme Court, the controlling question is whether a state has given anything for which it can request that a tax be paid That is, the firm in question must receive some benefit from the state. When a corporation regularly transacts business in the state through its employees or maintains an office in the state, so that its presence has continuity and substantiality, the benefits of state government are available to the company

In 1946, our corporation income tax act was upheld by both the California Supreme Court and the United States Supreme Court (*West Publishing Co v. McColgan*, 27, Cal 2d 705). The court said that by virtue of the activities of the corporation's employees here the corporation was present in this state and received benefits and protection from state laws so as to justify the tax In 1959, Congress moved into the jurisdictional picture with the passage of P L 86–272 which limited the jurisdictional reach of the states [5]

P L 86–272 was a limitation imposed by the federal government under its power to regulate interstate commerce. The law contains the second jurisdictional standard which must now be met before state income taxes may be imposed In general, P L 86–272 provides that no state or political subdivision can tax net income from interstate commerce of business activities within the state by or on behalf of the taxpayer if the activity is limited to any combination of the following

1. Solicitation by the person or his representative of orders sent outside the taxing state for approval or rejection and filled by shipment or delivery from outside the taxing state, or
2. Solicitation in similar fashion but in the name of or for the benefit of a prospective customer; or
3 Selling or soliciting sales through one or more independent contractors, whether or not the latter have an office in the taxing state.

Proposed jurisdictional standards in both "Willis bills" (see section on Allocation) further limited the taxing power of state government. A corporation could operate tax free in California as long as it:

1. Did not own or lease real property in its own name.
2. Required company salesmen to operate out of their private residences, and
3. Required these salesmen to cover more than one state.

[5] According to the Franchise Tax Board, one company with sales in California of $7,000,000 was exempted from California tax by P L 86-272 and 13 others with sales of over $1,000,000 were also exempted

Under these regulations a company could locate millions of dollars of personal property in public warehouses, make millions of dollars of sales, and install and service its products without being subject to a state income tax

According to Martin Huff, Executive Officer of the Franchise Tax Board, a corporation under Willis' rules could·

> " . . operate in the same manner and compete directly against California-based taxpaying businesses Jurisdictional standards as protective and far reaching as those contained in the Willis bill completely sets aside the basic principle that those taxpayers receiving protection and benefit supplied by the government should likewise incur their fair share of its burdens
>
> "It is clear that sophisticated tax advisers under the Willis bill's arbitrary jurisdictional standards can rearrange the business activities of multistate firms to minimize their tax liability without economic justification other than tax avoidance. This can be readily accomplished by confining the ownership or leasing of realty to a few states In other cases, the merchandising activities can be organized so that the employees' activities are 'localized,' or their base of operations confined to states in which minimal or no tax liability is imposed.
>
> "Such rearrangements will require those businesses which are unable to maneuver their operations and organizational structure to take advantage of the system or find it inconvenient or expensive to do so to incur a heavier tax burden.
>
> "The net effect of the Willis bill type jurisdictional restrictions is that California-based corporations will face a heavier tax burden while their out-of-state competitors operate with a lesser tax burden—if they are taxed at all. I believe that different types of selling arrangements or organizational patterns designed for selling should be constructed and followed by firms on the basis of their operational necessity and convenience Any system such as that proposed by the Willis bill which induces business firms to pursue extraneous considerations in building their operational structures damages the general economy at all levels of government."[6]

However, California's present jurisdictional standards are vague and unenforceable. When there is ambiguity in the tax law, the taxpayer is at the mercy of the tax administrator And for years California tax administrators have ignored the collection of legally collectable taxes where tax liability of out-of-state firms was small.

Testimony of Bruce Walker, assistant executive officer of the Franchise Tax Board, before the congressional subcommittee, illustrates this administrative practice.

> "MR DRABKIN: Yesterday the subcommittee heard a small manufacturer who indicated that his operations were in a large number of states, and that in 20 percent of the states in which he operated, his sales were about $12,000 gross or less He op-

[6] Statement of Martin Huff, Executive Officer, Franchise Tax Board, to Assembly Committee on Revenue and Taxation, San Diego, November 17, 1966.

erates on a net profit, after taxes, of 1 24 percent In other words, his net profit in a state may be as little as $150

"How is a uniform apportionment formula going to do that man any good?

"WALKER: I would say this would be solved, and is currently being solved, by tax administrators using their discretion not to require that returns be filed

"DRABKIN · Your suggestion is that the taxpayer pay or not pay at his peril?

"WALKER · Well, as far as California is concerned, if he wrote us a letter and said, 'My sales in your state were $12,000, I had no payroll, no property there,' we would never do anything about it

"DRABKIN Isn't he entitled to a clearer delineation of his liabilities under the law than simply administrative discretion?

"WALKER: I do not know I rather doubt it If he is present in the State of California he knows the situation when he goes there.

"When you go into another state, it is burdensome on you to know their laws, is it not?

"DRABKIN. If you would not impose liability on this taxpayer anyway, why are you so concerned, as you are, with the loss of his taxes? Even if a line could be drawn where this type of operation is excluded, you apparently would still be totally opposed to it.

"WALKER: Well, as I have indicated here, if you put $100,000 as a minimum on 86-272, we think it would be all right, and perhaps we would not argue about it, because we are concerned about the money, you see. That is what we are concerned about

". I am simply saying, when I talk about administrative discretion, that taxation is a practical matter, and tax administrators are practical people, and they do not pursue people for very small sums of money if they can tell it is a small sum before they start after it"[7]

This practice penalized the honest out-of-state businessman and puts a premium on tax avoidance Tax administrators are required to enforce tax laws and should not be in the position of deciding administratively who shall and who shall not pay taxes

Recommendation

Immediate legislative action is needed to correct this situation Standards should be established which exclude from California tax jurisdiction business which do not own or control real property in California and have gross sales in this state of $100,000 or less In most cases, the tax liability of companies which would come under this jurisdictional standard would be $100 or less.

[7] Hearing before the Special Subcommittee on State Taxation of Interstate Commerce of the House Committee on the Judiciary, pp 170–171, 87th Congress, 1st Session, serial 20 (1962)

APPENDIX

EXHIBIT A

Principal Provisions *in the Federal* Internal Revenue Law *but not in the California* Personal Income Tax Law

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	TAX RATES AND TABLES	
1 (a) and 1 (b) (1)	Federal law contains 2 rate schedules, 1 for head of household and 1 for all other taxpayers State law has only 1 rate schedule	Not measurable inasmuch as the tax rate brackets of the second tax rate schedule could be wider or narrower and the maximum rate could be different
1 (b) (2)	Federal law provides that "head of household" cannot qualify for "surviving spouse" tax benefit "Surviving spouse" provisions are meaningless unless survivor is treated as "head of household "	Federal law makes special provision for certain surviving spouses. To qualify for the "surviving spouse" provision, all of the state requirements for "head of household" are met The federal "surviving spouse" joint return income splitting benefit is substantially offset by the state's special personal exemption of $3,000 for "head of household" status
1 (b) (4)	Federal law does not permit an individual to qualify as head of household if he is a nonresident alien Nonresident may qualify as head of household for state tax purposes	Under federal law, special provisions apply to nonresident aliens One of these provisions is that a nonresident alien cannot qualify as "head of household " Residency and citizenship are not a requirement for "head of household" status under state law
2 (b)	Federal law permits a surviving spouse to file a joint return for 2 years following year of death	State and federal permit surviving spouse to file joint return where the husband or wife dies during the year Federal permits surviving spouse to claim benefits of income splitting for 2 additional years in certain limited circumstances
3	Federal optional tax table contains separate brackets for taxpayers with up to 8 dependents State optional tax table contains one bracket, but allowance for dependents is taken into account before the optional tax table is applied	The state "optional tax table" provides for a standard deduction less exemptions for dependents The minimum standard deduction for a single person is $500 and the minimum standard deduction for a head of a household or married couple is $1,000 The federal "optional tax table" provides for a standard deduction or 10 percent of adjusted gross income, whichever is greater State law provides for deducting exemptions for dependents from adjusted gross income as the step immediately prior to using the optional tax table This eliminates the need for separate exemption brackets as in the federal table
21	In case of change of law or rate for federal tax purposes change of rate in case of fiscal year taxpayer is prorated on a daily basis Under state law new rate or change is applied on a yearly basis, unless statute provides otherwise Also contains special provisions relating to 1964 act.	Most personal income taxpayers file on a calendar year rather than a fiscal year basis Conforming to the federal law would result in a revenue gain in a year in which there was a state rate increase and a revenue loss in a year in which there is a state rate reduction

	TAX CREDITS	
31 (a)	This relates to credit for tax withheld on wages Under state law only withholding is from nonresidents.	Not applicable to state inasmuch as withholding applies only to a limited number of nonresidents
31 (b)	This allows a credit for special refunds of social security Under state law comparable taxes are collected by different agencies and used for different purposes.	Not applicable to state law
32	Applies to nonresident aliens foreign corporations and tax-free covenant bonds.	Comparable provisions of state law provide credits for taxes withheld from nonresidents and foreign corporations, but not on tax-free covenant bonds
33	Allows a credit for taxes paid foreign countries State law limits credit to taxes paid other states	Tax credit for taxes paid foreign countries deleted from state law in April 1957 effective with 1957 income year returns
35	Relates to partially tax exempt interest Under state law interest is either taxable or exempt	Federal law allows a tax credit on certain U S obligations State law exempts all interest income from bonds and other obligations of the U S as per the U S Constitution.
36	Disallows certain credits if tax table is used for determining tax Disallowed credits are not provided for under state tax law.	Federal law credits are for (1) overwithholding on taxes withheld at source on nonresident aliens, (2) foreign tax credits, and (3) partially tax-exempt interest These credits are disallowed individuals claiming a standard deduction and use of the optional tax table without regard to tax credits.
38	Allows a tax credit as provided by Sections 46, 47 and 48	See 46, 47 and 48 below
46, 47 and 48	Allows a tax credit up to 7 percent for investments in certain depreciable property Credit in many instances would exceed state tax Federal act of 1964 provides that basis of depreciable property will not be reduced by amount of the credit Also allows prior reductions to be restored Elevators and escalators now qualify for credit	Federal provides for 7 percent credit for investment in certain types of depreciable assets with useful life of four years or more State regulations allow options to (1) depreciate separately over life of the property an additional amount equal to investment credit allowed, (2) increase the salvage value of the property by an amount equal to investment credit allowed, or (3) for the year succeeding the useful life of the property deduct the amount of the investment credit allowed
	ADJUSTED GROSS INCOME DEFINED	
62 (7)	Permits a deduction from adjusted gross income for contributions made under a self-employed pension plan.	Federal permits self-employed individuals a limited deduction for contributions to retirement plans. No comparable state provision.
62 (8)	Permits a deduction from adjusted gross income for moving expenses	Comparable provision limited to instate moves

EXHIBIT A—Continued

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	ITEMS INCLUDED IN GROSS INCOME	
72	Taxes annuities under the life expectancy rule or under the three-year rule Under state law they are taxed under the 3 percent rule	State law provides that 3 percent of the cost of the annuity is taxable and the remainder is applied as a return of cost until the full cost is recovered, thereafter, the entire proceeds are taxable The 1954 IRC introduced the "life expectancy rule" and the "three-year rule" Under the life expectancy rule the portion excludable from income is determined by dividing cost of annuity by number of years payments are to run, or in the case of a life annuity by the life expectancy The three-year rule provides that all amounts paid as consideration by the employee are excluded from gross income if received within a three-year period
73	Federal law provides income of a child from personal services is income of the child	Taxable to the parent unless the child has been "emancipated" Child is considered "emancipated" if allowed to keep and spend his earnings
76	Taxes income derived from certain mortgages made by a joint-stock land bank. Same tax treatment is now reached under general law	Under state law, interest on mortgages or obligations issued by joint-stock land banks organized under the Federal Farm Loan Act is exempt These mortgages are obligations of an instrumentality of the U S government
	ITEMS EXCLUDED FROM GROSS INCOME	
101 (b) (2) (B) (ii) and (3)	Provides $5,000 death benefit exclusion for payments to employees under a self-employed pension plan, but not for the self-employed individual	Federal law specifically denies the $5,000 death benefit exclusion for self-employed individuals For state purposes self-employed individuals are entitled to death benefit exclusion
103	Relates to treatment of governmental obligations Governed for state tax purposes by general law	U S Constitution prohibits states from taxing U S obligations On the other hand, state law provides for taxing interest income on non-California government obligations
112	Relates to certain exclusion for military pay received while in a combat zone Sections 17140 and 17147 grant certain exclusions regardless of area in which members of armed forces are serving	Federal law includes an exemption for mustering-out pay and another for compensation received for active service in a combat zone after June 24, 1950, or while hospitalized as a result of such service State law exempts compensation received for services in the armed forces up to $1,000 a year and mustering-out pay, terminal leave and unused leave pay and bonds, and educational benefits received under Federal or state law The state exclusion also applies to military retirement pay

115	Excludes income accruing to any governmental public utility or subdivision	Accomplished under state law by complete omission of any reference to taxing governmental public utilities or subdivisions
116	Permits first $100 of dividends to be excluded from tax It should be noted that federal law limits exclusion to dividends received from *domestic* corporations Similar restriction for state tax purposes would severely restrict dividends qualifying for the exclusion	Federal law provides for exclusion from gross income of the first $100 of dividends ($200 in case of married couples) received from qualifying domestic corporations No comparable state provision
	STANDARD DEDUCTION FOR INDIVIDUALS	
141	Federal law allows a single person a minimum standard deduction of $300 Minimum allowed a married couple is $400 Under federal law maximum standard deduction for single person, married couple or head of a household using tax table is $1,000	State law allows a single person a minimum standard deduction of $500, and a married couple or head of household $1,000
144	Under federal law if the adjusted gross income is $5,000 or more, the standard deduction shall be allowed if elected by the taxpayer	Under state law if the adjusted gross income is $5,000 or more, or in the case of married couples is $10,000 or more, the standard deduction shall be allowed if elected by the taxpayer
	PERSONAL EXEMPTIONS	
151 (a) and (b)	Federal law allows taxpayer a $600 personal exemption and the same for his spouse State law allows $3,000, which may be taken by either or divided as they elect	Federal law allows married couple under 65 years of age $1,200 exemption ($600 each), state law allows $3,000 or $1,800 more
151 (c)	Federal law allows an extra exemption for taxpayers over 65 State law does not	Federal law allows an additional $600 exemption for taxpayers 65 years of age or over The exemption for a married couple both of whom are over 65, neither of whom are blind, is $2,400 State law allows $3,000—or $600 more
151 (e)	Federal law provides that unless a dependent is a student his gross income may not exceed $600 State law contains no limitation	Age and educational status of children are not considered in qualifying for dependency under state law
152 (a) (9) and (10)	Federal law considers any individual supported in the home a dependent Also contains receiving institutional care if one-half of support furnished by taxpayer	Federal law allows a deduction for unrelated individuals, such as foster children and also for a disabled coteen under certain limited circumstances State law contains no such provision
152 (b) (3) (A)	Children born and living in the Philippines may be treated as dependents under federal law	No application in state law

EXHIBIT A—Continued

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	ITEMIZED DEDUCTIONS FOR INDIVIDUALS	
162 (e)	Expenses incurred with respect to appearances with legislation are deductible Such expenses generally not deductible under state law	Federal law allows expenses paid or incurred in connection with appearances before legislative bodies where the legislation is of direct interest to the taxpayer
165 (i)	Allows a casualty loss for property confiscated by Cuba	No comparable state provision Federal law was retroactive when enacted
170 (a) and (b)	Permits up to 30 percent of adjusted gross income to be contributed to charitable organizations	Federal law allows charitable contributions of up to 30 percent of adjusted gross income, provided that the amount over 20 percent is contributed to a hospital, school, church or governmental unit and "charities" which receive a substantial part of their support from the general public or from government, e g , Red Cross Revenue Act of 1964 allows excess contributions to be carried over for five years Carryover, however, is limited to 30 percent type contributions Unlimited contribution provisions have been revised and no deduction is allowed for a future interest in tangible personal property until all intervening rights of donor or his relatives have expired State law limits the charitable contribution deduction to 20 percent of adjusted gross income
170 (d)	Permits up to $50 monthly charitable deduction for support of full-time foreign student in grade 12 or lower	No comparable state provision
171 (c)	Contains a special rule for bonds which are partially taxable Under state law bonds are either taxable or exempt	State law allows a deduction for the amortization of bond premium on bonds the income of which is taxable Under state law, bond premiums on nontaxable bonds must be amortized but a deduction is not allowed
172	Provides for a net operating loss deduction State law does not provide for this deduction.	Federal law allows net operating losses to be carried back three years and carried forward up to five years Conforming to federal law could result in *substantial revenue loss in a depression*. For the 1960 income year, net operating losses of $22,461,000 were reported on 4,352 taxable U S individual income tax returns and $143,173,000 on 9,560 nontaxable returns in the U S This is out of 61,027,937 returns and $315 billion adjusted gross income.
175	Under federal law expenses incurred for soil and water conservation can be deducted up to 25 percent of the gross income derived from farming. State law does not limit percentage deductible	Under state law, there is no limitation on the amount deductible.
182	Permits farmers to deduct up to $5,000 per year spent for clearing land Under state law such expenses are capitalized, i e , added to the cost of the land	Federal law allows farmers to treat as a deductible expense, rather than as capital charge, expenditures for clearing land, if such expenditures are for the purpose of making the land suitable for farming. No comparable state provision.

213

For taxable years beginning before January 1, 1967, the federal law permits a maximum medical deduction of $20,000 for taxpayers who are over 65 and disabled State limitation is $15,000 Federal ceiling is $10,000 and $20,000 State ceiling is $1,250 and $2,500

Taxable years beginning before January 1, 1967
Maximum medical deductions for other than disabled

	Federal	State
Joint returns	$10,000	$2,500
Separate returns	5,000	1,250

Maximum deductions for disabled 65 years or over

	Federal	State
One taxpayer	$20,000	$15,000
Two taxpayers	40,000	30,000

For taxable years beginning after December 31, 1966, the federal law has been revised (1) to reimpose the 3 percent medical expense deduction and the 1 percent medicine and drugs limitation on all taxpayers, (2) to allow the deduction of one-half the cost of medical care insurance, not to exceed $150, from adjusted gross income with the excess to be added to the amount subject to the 3 percent deduction, and (3) to eliminate all maximum limitations No comparable state provisions

Taxable years beginning after December 31, 1966
Taxpayers under 65

1 Maximum medical deductions

	Federal	State
Joint returns	Unlimited	$2,500
Separate returns	Unlimited	1,250

2 Health Insurance deductions

	Federal	State
Joint returns	50% to $150	----
Separate returns	50% to 150	----

Taxpayers over 65

1 There are no maximum limitations for federal medical deductions

2 State drug and medical expenses are deductible in total, subject only to above maximums, whereas the federal deduction for drugs must be reduced by 1 percent of adjusted gross income and other medical expenses by 3 percent of adjusted gross income

3 Health insurance premiums are deductible in total on state returns Health insurance premiums for federal returns are reduced by 50 percent and deductible up to a $150 maximum The undeducted premiums are then subject to the 3 percent of adjusted gross income limitations

217

Federal law permits a deduction for moving expenses.

State law conforms, except that deduction is limited to instate moves

EXHIBIT A—Continued

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	ITEMS NOT DEDUCTIBLE	
269	Permits disallowance of deductions, etc., if a corporation is acquired to evade or avoid income tax. Section 17615 of state law contains similar provisions. (IRC 482 — PITL 17615)	Through practical application of the federal law this section was difficult to administer. Federal Section 482 is much wider in application and under state law Section 17615 is the exact equivalent.
272	Denies a deduction for expense of certain contracts relating to disposition of coal or iron ore. Has been omitted because of limited coal mining in this state.	Coal and iron ore mining is a minor extraction industry in California. Applies for the most part to corporations.
274	Disallows certain entertainment, gift and travel expenses. Section 17296 disallows travel or entertainment expenses unless substantiated.	A 1962 federal amendment restricted the allowable deductions for entertainment, travel and business gift expenses. Under state law there are no limitations provided the expenses can be substantiated as ordinary and necessary business expenses.
	CORPORATE LIQUIDATIONS	
333	Revenue Act of 1964 tightened up the definition of personal holding companies. This section permits companies which will be classified as personal holding companies to be liquidated on favorable terms.	No comparable state provision.
368	Permits stock to be acquired by a subsidiary corporation in exchange for its parent's stock.	No comparable state provisions. Applies to corporations, but affects individuals since the acquisitions will not qualify as tax-free acquisitions.
	EFFECTIVE DATE OF SECTIONS	
391–395	All related to effective dates of provisions regarding application of 1939 and 1954 IRC.	Under federal law governing corporate distributions and adjustments sections are provided to specify the effective dates of each portion of this general subject. State law provides the effective date of each section as specified in the Revenue Act and by Section 17034 (operative date).
	DEFERRED COMPENSATION	
401 (a) (5) (c), (d), (e) (f) (g) 402 (a) 403 (a), 404 (a), and 405	Provides for pension plans for self-employed individuals and owner-employees.	No comparable state provisions. See also Section 62 (7).

	ACCOUNTING METHODS	
401 (h)	Permits pension plans to provide for payment of medical, etc., benefits for retired employees and their spouses and dependents	No comparable state provisions
401 (i)	Provides that union-negotiated multiemployer pension trusts may be treated as qualified from its creation	No comparable state provisions
P. L. 86-459	Dealer Reserve Income Adjustments Act of 1960. This act was for the most part retroactive, and therefore could not be made applicable for the same periods for state tax purposes.	No comparable state provision. Conformity at this time would not accomplish the desired tax relief results for state purposes. Since in complying with P. L. 86-459 in 1960, the entire state tax was paid for the 1960 tax year, any change now would have to be retroactive
454 (e)	Relates to U. S. savings bonds, which are not subject to state tax	
	FOREIGN TAX CREDITS	
515	Allows a credit for taxes paid foreign countries. State credit is limited to taxes paid other states	Refer to IRC Section 32
	NATURAL RESOURCES DEDUCTIONS	
613 (b)	Relates to percentage depletion rates. Federal rates are higher on certain minerals than state	Federal law permits 23 percent depletion allowance on such metals as chromite, lead, manganese ore and concentrates, mercury, zinc, and platinum, corresponding state allowance is 15 percent. Federal law permits 15 percent depletion allowance on calcium carbonate and magnesium compounds, corresponding state allowance is 10 percent
613 (d)	This section relates to the method of computing and prorating the depletion deduction. The provisions to which this relates have not been adopted for state tax purposes	Under federal law specific provision for proration of percentage depletion allowance was made for fiscal years ending in 1954. No comparable state provisions.
614	Permits property subject to the depletion deduction operated under certain unitized or pooled arrangements to be aggregated or grouped	Under federal law, the term "property" under certain circumstances may be an aggregation of two or more interests into one property, thus losses may be offset against gains. Under state law, each well must be depleted separately
615	Permits up to $100,000 of ore or mineral exploration expenses to be deducted. State limit is $75,000	Another difference is that under state law the $75,000 limitations may be claimed in only four taxable years whereas federal allows the $100,000 limitation to be deducted in an indefinite number of years
	NATURAL RESOURCES EXCLUSIONS FROM GROSS INCOME	
621	Permits payments made by the U. S. Government to encourage exploration, development, and mining for defense purposes to be excluded. Section was omitted from prior law. Relates primarily to corporations	No comparable state provision.

EXHIBIT A—Continued

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	NATURAL RESOURCES SALES AND EXCHANGES	
631	Permits gain upon disposal of coal or iron ore with a retained economic interest to be treated as a long-term capital gain Was omitted from prior law Little coal in this state and probably relates primarily to corporations	Coal mining is a minor extraction industry in California
632	Limits federal income tax rate to a maximum of 30 percent upon sale of oil or gas properties Unnecessary in view of state rates	Not applicable
	ESTATES, TRUSTS, BENEFICIARIES AND DECEDENTS	
642 (d) and (h)	Relates to net operating loss deduction	Refer to Section 172
643 (a) (6) and (d)	Relates to "foreign trusts" for federal tax purposes	Under state law, "foreign trusts" include those in other states as well as in foreign countries State law provides detailed rules for establishing the effect of residency upon trusts
663 (b)	Relates to distributions during first 65 days Was a special rule under 1939 code not adopted under state law	
665 (c), (d) and (e)	Special rules relating to foreign trusts for federal tax purposes.	Refer to IRC Section 643 (a) (6) and (d)
669	Special rules relating to foreign trusts for federal tax purposes	Refer to IRC Section 643 (a) (6) and (d).
691 (d)	Special annuity provision	Under federal law, special treatment is provided as to amounts received by surviving annuitant under a joint and survivor annuity contract, using the annuity life expectancy tables Under state law, the life expectancy tables are not used No comparable state provision is necessary
	REGULATED INVESTMENT COMPANIES	
851–855	Provides for special tax treatment of regulated investment companies and their shareholders Under federal law regulated investment companies are taxed only on amounts not distributed, and distributions retain the same character that they had in the hands of the company. Most regulated investment companies are exempt from state franchise tax, but their shareholders are taxed on the same basis as are shareholders of other corporations.	Under federal law certain dividends received from "regulated investment companies" (commonly known as "mutual funds") may be treated as capital gains There is no comparable section in state law so such dividends must be treated as ordinary income In cases where the federal tax has been paid on retained capital gains by a regulated investment company and a federal tax credit allowed to the shareholders, the undistributed capital gain is included in income for federal purposes Under state law, there is no recognition of income until the dividends are actually received by the shareholders, either in cash or additional shares

	REAL ESTATE INVESTMENT TRUSTS	
856–858	Treats real estate investment trusts substantially the same as regulated investment companies Bills to provide substantially the same treatment for state tax purposes have not been approved	
	INCOME FROM SOURCES WITHIN AND WITHOUT THE UNITED STATES	
861–894	Contains provisions relating to nonresidents, foreign corporations, etc	Although in some respects the state rules relating to residency are similar to the federal provisions regarding resident aliens, the two laws deal with quite different situations State law provides detailed rules regarding residency and the taxing of nonresidents
901–905	Relates to income from sources without the U.S.	Refer to IRC Section 33
911–912	Relates to earned income from sources without the U.S.	Under federal law, a citizen who establishes a bona fide foreign residence for an uninterrupted period for at least 510 "full days" during 18 consecutive months is entitled to a tax exemption for specified amounts of compensation earned for services performed abroad No comparable state provision, detailed rules regarding residency apply to taxpayers who are abroad
931–934	Relates to income from U S possessions	Under federal law, special provisions are made regarding possessions of the U S Under state law, no distinction is made as to the source of income for California residents, and nonresidents are only taxed on income derived from California sources.
	GAIN OR LOSS ON DISPOSITION OF PROPERTY—BASIS RULES	
1014 (a)	Permits basis of property acquired from a decedent to be valued at date of death or one year later Under state law, is valued as of the date of its acquisition This is because inheritance tax law does not permit optional valuation	
1014 (b) (5)	Provides that basis of foreign personal holding company stock is not increased when acquired by inheritance.	Personal holding company provisions have not been adopted or followed for state purposes
1016 (a) (12) and (13)	Relates to consent dividends and holding companies	No comparable state provision.
1016 (a) (15)	Relates to basis of certain contracts providing for disposition of coal or iron with a retained economic interest.	Refer to IRC Section 631.
1016 (a) (19)	Investment credit property.	No comparable state provision. See IRC Sections 46, 47, and 48
1016 (a) (21)	Permits basis of foreign personal holding company stock to be increased to federal estate tax attributable thereto.	
1020	Permits taxpayers to increase the basis of property for excess depreciation allowed prior to 1952 which did not result in a tax benefit. Not considered applicable under state law because it is retroactive.	

EXHIBIT A—Continued

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	GAIN OR LOSS ON DISPOSITION OF PROPERTY—BASIS RULES—Continued	
1021	Provides that in case of a sale the basis of an annuity contract cannot be less than zero Not necessary under existing state law	Under federal law without this provision use of the exclusion rules with the annuity life expectancy tables a taxpayer could have a minus basis for the annuity Use of the 3 percent rule under state law does not require a special provision since proper computation of the 3 percent rule makes a minus basis an impossibility
1022	Permits basis of foreign personal holding company stock to be increased by federal estate tax attributable thereto	Personal holding company provisions have not been adopted for state tax purposes
	COMMON NONTAXABLE EXCHANGES	
1037	Relates to exchanges of certain U S obligations issued under the Second Liberty Bond Act	Under federal law, no gain or loss is recognized on the surrender to the U S of obligations issued under the Second Liberty Bond Act Under state law, gain or loss would be recognized
	EXCHANGES IN OBEDIENCE TO S E C ORDERS	
1082 (a) (1)	Carryover of basis on S E C exchanges	Generally the same but much less detailed than federal
1083	Definition of S E C provisions	Generally the same but much less detailed than federal
	CAPITAL GAINS AND LOSSES	
1201 (b)	Relates to an alternative tax on capital gains Maximum of 25 percent is in excess of state rate	Not applicable in view of the state's lower tax rate schedule
1201 (b) (2)	Alternative capital gains tax of 25 percent Not applicable in view of state rates	See IRC Section 1201 (b) above
1221 (5)	Provides that certain U S obligations are not capital assets (savings bonds) such obligations are exempt from state tax	Under state law the treatment of obligations of the U S issued at a discount and payable without interest at a fixed maturity date not exceeding one year as other than capital assets is not necessary The discount is in effect interest on the U S obligations which is exempt for state purposes
1241 (b) (2)	Permits coal and iron ore to qualify for capital gain treatment	Little coal mined Probably applies primarily to corporations

1237 (d)	Effective date of federal law	Relates to the sale of subdivided real property The 1954 federal provisions were not enacted into state law until 1955
1246 and 1247	Taxes certain amounts of gain on the sale of foreign investment company stock as ordinary income No special state provisions relating to investment companies and of limited application	State law has not been conformed to a federal amendment adopted in 1962 which taxes a U S shareholder owning 10 percent or more of the stock of certain corporations as though his pro rata share of the undistributed earnings of the foreign corporation were actually distributed to him
1248	Taxes certain amounts of gain on sales or exchanges of certain foreign corporations as ordinary income Would have only limited application for state tax purposes	See IRC Sections 1246 and 1247 above
1249	Taxes as ordinary income gain from certain sales of patents to foreign corporations	Under federal law, gain from the sale or exchange of patents and certain other intangible property rights to controlled foreign corporations is treated as ordinary income rather than capital gain No comparable state provision
	MITIGATION OF EFFECTS OF STATUTE OF LIMITATIONS	
1311-15	Provisions for certain adjustments notwithstanding the expiration of the statute of limitations Section 1905.9 permits somewhat similar adjustments	Federal law mitigates the effect of the statute of limitations in certain circumstances where an inconsistent position is maintained No comparable state provision
	INVOLUNTARY LIQUIDATION AND REPLACEMENT OF LIFO INVENTORIES	
1321	Permitted tax-free replacement of certain LIFO inventories involuntarily liquidated prior to January 1, 1955 (i e , during the Korean War) Was not applicable for state tax purposes because of its retroactive effect	
	CLAIM OF RIGHT	
1341–42	Permits a taxpayer to adjust for amounts erroneously included in income under a claim of right	Under federal law, the "claim of right" doctrine may be exercised at the option of the taxpayer to recompute his tax liability for the year in which an item of income was reported and repayment of which was made in a later year This option would be used only in the case in which the tax benefit of the deduction would be less in the year of repayment No comparable state provision, taxpayer would be required to claim a deduction in the year of repayment but could not recompute prior year tax and apply to current year

EXHIBIT A—Continued

IRC Sections	Principal federal provisions not included in State Personal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	OTHER LIMITATIONS	
1346	Permits the tax to be recomputed if resulting from the recovery of an unconstitutional federal tax	Under federal law the recovery of unconstitutional federal taxes claimed as a deduction in a prior year may at the election of the taxpayer be handled in two ways The first option would be to add the tax recovery to his current year's income This section allows a second option to recompute the tax for the year in which the deduction had been claimed No comparable state provision Under state law, if the deduction resulted in a tax benefit, that amount would be taken into current year's income
1347	Provides for a maximum federal tax of 30 percent in case of payment by the U S involving certain acquisitions of property by it.	No comparable state provision
	PARTNERSHIPS AND PROPRIETORSHIPS TO BE TAXED AS CORPORATIONS	
1361	Permits a partnership to be taxed as a corporation	Policy and practical problems regarding administration of similar sections under state law are formidable
	CORPORATIONS TO BE TAXED AS PARTNERSHIPS	
1371–1377	Permits certain corporations to in effect be taxed as partnerships These are the so-called "Subchapter S Corporations"	Policy and practical problems regarding administration of similar sections under state law are formidable
	PATRONAGE DIVIDENDS	
1385 and 1388	Provides for tax treatment by patrons of patronage dividends Section 17117 5 of state law provides for the taxation of such dividends	Under federal law, cooperatives are not allowed a deduction for patronage dividends unless the patrons include such amounts in taxable income, whether the dividends are merely received or allocated Under state law, cooperatives are allowed a deduction for all patronage dividends, the patron has the election of reporting such dividends on an accrual or cash basis providing he is consistent in the method used

Compiled by the Franchise Tax Board, November 22, 1963 (revised November 1, 1965)

EXHIBIT B

Principal Provisions *in the California* Personal Income Tax Law but *not in the Federal* Revenue Law

PITL Sections	Principal state provisions not included in the Federal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	RESIDENCY	
17014	Defines residents of California as individuals in this state for other than temporary or transitory purposes and individuals domiciled in this state who are outside California for a temporary or transitory purpose	Although in some respects the California rules relating to residence are similar to the federal provisions regarding resident aliens, the two laws deal with quite different situations
17015	Defines nonresidents as all individuals other than residents	See PITL Section 17014 above
17016	Establishes a presumption of residence where an individual spends in the aggregate more than nine months of a taxable year in California	See PITL Section 17014 above
	PATRONAGE DIVIDENDS	
17117 5	Provides that taxpayers may elect to consider noncash patronage allocations received from farmers' cooperatives and mutual associations as income in the taxable year in which they were advised the allocation was made, or in the year such dividend is redeemed or realized upon	The federal law was changed effective in 1963 to provide a complete set of new rules for taxing cooperatives and their patrons Generally, these rules provide that cooperatives will not be allowed a deduction for patronage dividends unless the patrons include such amounts in taxable income, whether the dividends are actually received or merely allocated
	PRESUMPTION OF TAXABILITY	
17119	Establishes a presumption of taxability when property is acquired in a transaction purporting to be a sale or exchange where the value of the property is substantially in excess of the value of the consideration surrendered The excess value shall be considered ordinary income unless it is shown that (a) The sole consideration was the money or property surrendered, (b) The excess value was a gift, or (c) For some other reason the excess value does not constitute income, or the gain is not to be otherwise recognized.	The federal law treats this subject by regulation and case law under the general title of bargain purchases While a specific section is not contained in the federal code the same treatment is covered by regulation and actual practice
	ITEMS EXCLUDED FROM GROSS INCOME	
17137	Provides that gross income does not include amounts which California is prohibited from taxing under constitutions or laws of the United States or California	No application in federal law
17146	Provides that compensation received from the armed forces of the United States to the extent of $1,000 does not constitute gross income	The federal law contains no such provision but does include an exemption for mustering-out pay and another for compensation received for active service in a "combat zone" after June 24, 1950, or while hospitalized as a result of such service Federal exemption extends to terminal leave and unused leave pay and G I educational benefits.

EXHIBIT B—Continued

PITL Sections	Principal state provisions not included in the Federal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	ITEMIZED DEDUCTIONS	
17204 5	Provides that a precollected tax (cigarette tax) is not deductable.	The California cigarette tax is levied at the wholesale level and has been ruled nondeductible by consumers for California income tax purposes In 1961, the state law was amended enabling consumers to deduct the cigarette tax for federal income tax purposes, however, it is still nondeductible for state income tax purposes
17226	Permits the cost of antismog machinery, meaning any device or equipment for collection at source of atmospheric pollutants and contaminants, to be amortized and deducted over a period of 60 months in lieu of the accepted method of depreciating the adjusted basis	
17234	Permits a deduction for political contributions made during any primary or general election to the extent of $100 for each individual filing a return	Allowable only in "even-numbered" years, that is, when there is a general election
17259	Permits a deduction for expenses paid or incurred in connection with the adoption of a child These expenses include any medical and hospital expenses of the mother, and any welfare agency, legal or other fees relating to the adoption	The state law was amended in 1953 so as to allow a deduction for adoption expenses This includes medical expenses of the mother and legal fees and other costs relating to adoption There is no provision for adoption expenses in the federal law, however, under a 1960 revenue ruling certain medical expenses of an adopted child are deductible by the adopting parent, provided the child qualifies as a dependent when the medical bills are incurred or paid
17260	Limits the combined medical and adoption expenses allowable to $2,500 in the case of a joint return of husband and wife and $1,250 in the case of a single person or a married person filing a separate return	The federal law permits a maximum medical deduction for *other than disabled* of $10,000 on joint returns and $5,000 on separate returns and for *disabled 65 years of age or over* of $20,000 for one taxpayer and $40 000 for two taxpayers *The state law permits a maximum* medical deduction for *other than disabled* of $2,500 on joint returns and $1,250 on separate returns and for *disabled 65 years or over* of $15,000 for one taxpayer and $30,000 for two taxpayers
	ILLEGAL ACTIVITIES	
17297	Provides that where a taxpayer has income *directly* derived from illegal activities as defined in Chapters 9, 10, or 10 5 of Title 9 of Part 1 of the California Penal Code, no deductions from gross income are allowable Also, no deductions are allowed from gross income derived from activities which *directly* tend to promote or to further, or are *directly* connected or associated with such illegal activities	

	DEDUCTIONS OF NONRESIDENTS	
17301	Allows nonresidents of California deductions only to the extent connected with income arising from sources within this state and taxable to the nonresident	The state law is similar in principle to the federal law relating to deductions of nonresident aliens, the general rule being that deductions are allowable only to the extent they are connected with income from sources within California and the United States, respectively Since the two laws deal with basically different situations no attempt is made here to analyze the differences in detail
17302	Permits nonresidents to deduct taxes paid to California even though not connected with income from California sources	Refer to PITL Section 17301
17303	Permits nonresidents a deduction for contributions and gifts, but only if made to (1) A corporation or association organized under the laws of California (2) The Vocational Rehabilitation Fund, or (3) California or its political subdivisions for exclusively public purposes	Refer to PITL Section 17301
17304	Provides that alimony and separate maintenance payments are not deductible by a nonresident	Under state law specific provision has been made not to allow alimony as a deduction for nonresidents Alimony is a personal expense
	CHANGE OF RESIDENCY	
17596	Provides that when a taxpayer changes his residence, either from or to the status of a resident of California during a taxable period, his income is taxable when or where it accrued regardless of his method of accounting This contemplates taxation of income earned in California even though when received the taxpayer may have become a nonresident.	No application in federal law
	ESTATES AND TRUSTS	
17733	Allows a trust $100 exemption, but provides exemption is increased to amount of tax if tax is less than $1	Federal law allows a simple trust (one which distributed all of its income currently) an exemption of $300 All other trusts can deduct a $100 exemption
17742	Estates of decedents are taxed as follows (a) On their entire net income if the decedent was a resident of California at the date of his death, or (b) On the income received from California sources if the decedent was a nonresident at the date of his death	Under state law specific provisions must be made for trusts having mixed resident fiduciaries and beneficiaries These provisions are necessary for state law to provide an equitable means of apportioning trust income on the basis of state residency Under federal law similar but not identical provisions are made for nonresident aliens

EXHIBIT B—Continued

PITL Sections	Principal state provisions not included in the Federal Income Tax Law	Comparison of specific provisions of State Personal Income Tax Law and Internal Revenue Code
(1)	(2)	(3)
	ESTATES AND TRUSTS—Continued	
	Trusts are taxable on their entire net income if the fiduciary or beneficiary is a California resident regardless of the residence of the trustor.	
17743	Provides that when the taxability of a trust is dependent on the residence of the fiduciaries, and there are two or more fiduciaries, the income taxable is apportioned according to the number of fiduciaries who are residents of California as against the number who are nonresidents	See PITL Section 17742.
17744	Provides that when the taxability of a trust depends on the residence of the beneficiaries, and there are two or more beneficiaries, the income taxable is apportioned according to the number of beneficiaries who are residents of California as against the number who are nonresidents	See PITL Section 17742.
17745 (a)	Provides that if the taxes imposed on a trust are not paid at the time the income is distributed to the beneficiary (except a contingent beneficiary of a nonresident trust), the income is taxable to the beneficiary	See PITL Section 17742
17745 (b)–(d)	Provides that a contingent beneficiary of a nonresident trust is taxed when income or corpus is distributed or distributable Income is taxed over a six-year period.	See PITL Section 17742.
	GROSS INCOME OF NONRESIDENTS	
17951–17954	Specifies extent to which a nonresident is taxable	No application in federal law
	TAX CREDITS	
18001–18011	Where California and some other state of the United States both impose a net income tax on the same income, the law provides for the allowance of a credit against the tax due California for taxes paid to the other state The credit is allowable to resident and nonresident individuals, estates and trusts, and their beneficiaries Whether or not the credit is allowed by California is dependent on the income tax laws of the other state	There are many differences between the California credits for taxes paid to other states and the foreign tax credit in the federal law The federal credit is allowed for income taxes generally the California credit is allowed only for taxes based on net income Federal credit is allowed only where the taxpayer elects to take the credit instead of using the foreign tax as a deduction California requires no election since it allows no deduction for income taxes under any circumstances

RECAPITULATION OF EXHIBIT C

Estimated Fiscal Effect of Conforming the Personal Income Tax Law to the Internal Revenue Code Provisions

Item	Revenue effect in 1967–68 fiscal year	
	Gain	Loss
A Adjusted gross income		
1 Dividend exclusion		−$3,000,000
2. Capital gains distributions of regulated investment companies		−3,500,000
3 Interest		
a Federal law exempts interest on state obligations		−660,000
b State law exempts interest on federal obligations	+$715,000	
4 Annuities		−400,000
5 Military pay exclusion	+1,810,000	
6 Self-employed retirement plans		−105,000
7 Net operating loss deduction		−1,000,000
8. Corporations to be taxed as individuals	Not available	
9. Individuals to be taxed as corporations	Not available	
10. Moving expenses		Nominal loss
11 Smog control amortization	Nominal gain	
12. Income averaging	Nominal change	
B Deductions		
1 California state income tax		−17,950,000
2 Contributions		−1,200,000
3 Medical		−170,000
4 Standard deduction	+850,000	
5. Political contributions	+250,000	
C Exemptions		
1. Personal exemptions	+128,000,000	
2. Surviving spouse		−310,000
3. Exemptions for age		−4,750,000
4 Exemptions for dependents		−300,000
5. Exemptions for estates and trusts	Nominal change	
Totals	+$131,625,000	−$33,435,000

R & S, FTB 10/31/66.

EXHIBIT C

Estimated Fiscal Effect of Conforming the Personal Income Tax Law to the Internal Revenue Code Provisions

Item	Comparison of provisions of IRC and PITL	Revenue effect in 1967–68 fiscal year of conforming PITL to IRC	
		Number of returns affected	Gain (+) or Loss (−) in state revenue
(1)	(2)	(3)	(4)
A Adjusted gross income			
1 Dividend exclusion	Principal difference in treatment of dividends is that federal law provides for exclusion from gross income of the first $100 of dividends ($200 in case of married couples) received from qualifying domestic corporations State law has no comparable provision	900,000	$−3,000,000
2 Capital gains distributions of regulated investment companies	Under federal law, certain dividends (capital gains distributions) received from regulated investment companies (mutual funds) are treated as capital gains No comparable state provision and such dividends must be treated as ordinary income Under federal law, where the tax has been paid on retained capital gains by a regulated investment company and a federal tax credit allowed to stockholders, the undistributed capital gains is included in income Under state law, there is no recognition of income until the capital gains are actually received by the stockholders	170,000 Assume no change	−3,500,000
3 Interest	Federal law exempts interest on all obligations of any state or political subdivision and extends limited exemptions to certain U S obligations State law exempts interest on bonds and other obligations of the U S D C, and territories of U S Also exempts interest on bonds of the State of California and its political subdivisions	50,300 10,500 (See attached Exhibit C1)	−660,000 +715,000
4 Annuities	Federal law taxes annuities under either the life expectancy rule whereby the proportion of the employees contributions to the total expected return are non-taxable, or the three-year method, whereby if the employees cost is recovered within three years his annuity is nontaxable until it is fully recovered State law taxes annuities under the 3 percent rule, whereby an amount equal to 3 percent of the cost of the annuity is taxable and the remainder applied as a return of cost until the full cost is recovered	No information available	−400,000
5 Military pay exclusion	State law exempts military compensation received from the armed forces of the U S to the extent of $1,000 The federal law contains no such provision but does exempt mustering-out pay and compensation received for active service in a combat zone after June 24, 1950, or when hospitalized as a result of such service, federal law also exempts terminal leave pay in excess of 60 days and G I educational benefits	135,000	+1,810,000

6 Self-employed retirement plans	Federal law permits self-employed individuals to set up qualified retirement plans patterned after profit-sharing pensions, or other types of employee benefit plans, usually reserved to corporate employees and deduct contributions to the plans State law has no comparable provision	10,000	−195,000
7 Net operating loss deduction	Federal law allows net operating losses to be carried back three years and carried forward five years State has no comparable provision	Carry forward	minor revenue loss Carry back (request for refunds for prior years) $ −1,000,000*
8 Corporations to be taxed as individuals	Federal law permits certain corporations to be in effect taxed as partnerships These are the so-called "Subchapter S Corporations" State law has no comparable provision	Insufficient federal data to permit us to prepare an estimate of the revenue effect of this conformity (See attached Exhibit C3)	
9 Individuals to be taxed as corporations	Federal law permits certain unincorporated proprietorships or partnerships to elect to be taxed as a corporation These are so-called "Subchapter R Corporations" State law has no comparable provision	No information available	No information available
10 Moving expenses	Federal law permits a deduction from adjusted gross income for moving expenses in connection with the commencement of work by an employee at a new principal place of employment State law similar to federal except deduction limited to intra-state moves	--	Nominal loss
11 Smog control amortization	State law permits amortization of "smog" control equipment over a five-year period Federal law has no comparable provision	–	Nominal gain
12 Income averaging	Federal and state laws are substantially the same, minor exceptions only	–	Nominal change
B Deductions			
1 California State income tax	Federal law allows state, foreign, and local income taxes to be deducted State law does not allow deduction of income taxes but does allow some such taxes taken as credits against the California tax	2,920,000 (See attached Exhibit C2)	−17,950,000
2 Contributions	Federal law allows charitable contributions of up to 30 percent of adjusted gross income provided the amount over 20 percent is contributed to a hospital, school or governmental unit and "charities" which receive a substantial part of their support from the general public or from government State law limits the charitable contribution deduction to 20 percent of adjusted gross income	7,000	−1,200,000
3 Medical	For taxable years beginning before January 1, 1967, the federal law permits a maximum medical deduction of $20,000 for taxpayers who are over 65 and disabled State limitation is $15,000 Federal ceiling is $10,000 and $20,000 State ceiling is $1 250 and $2,500	2,000,000	−170,000

EXHIBIT C—Continued

Item	Comparison of provisions of IRC and PITL	Revenue effect in 1967–68 fiscal year of conforming PITL to IRC	
		Number of returns affected	Gain (+) or loss (−) in state revenue
(1)	(2)	(3)	(4)
B. Deductions—Continued 3 Medical—Continued	For taxable years beginning after December 31, 1966, the federal law has been revised (1) to reimpose the 3 percent medical expense deduction and the 1 percent medicine and drugs limitation on all taxpayers, (2) to allow the deduction of one-half the cost of medical care insurance, not to exceed $150, from adjusted gross income with the excess to be added to the amount subject to the 3 percent deduction, and (3) to eliminate all maximum limitations No comparable state provisions Taxable years beginning before January 1, 1967 Maximum medical deductions for other than disabled		

	Federal	State
Joint returns	$10,000	$2,500
Separate returns	5,000	1,250

Maximum deductions for disabled 65 years or over

	Federal	State
One taxpayer	$20,000	$15,000
Two taxpayers	40,000	30,000

Taxable years beginning after December 31, 1966
Taxpayers under 65
1 Maximum medical deductions

	Federal	State
Joint returns	Unlimited	$2,500
Separate returns	Unlimited	1,250

	2 Health Insurance deductions Joint returns: Federal 50% to $150*; State ---- Separate returns: Federal 50 to 150*; State ---- * Not subject to the 3 percent limitation **Taxpayers over 65*** 1 There are no maximum limitations for federal medical deductions 2 State drug and medical expenses are deductible in total, subject only to above maximums, whereas the federal deduction for drugs must be reduced by 1 percent of adjusted gross income and other medical expenses by 3 percent of adjusted gross income 3 Health insurance premiums are deductible in total on state returns Health insurance premiums for federal returns are reduced by 50 percent and deductible up to a $150 maximum The undeducted premiums are then subject to the 3 percent of adjusted gross income limitations State law provides for a limited deduction for adoption expenses No provision for adoption expenses in federal law		
4 Standard deduction	Federal law allows a standard deduction of 10 percent of adjusted gross income with a minimum and a maximum provided The minimum standard deduction is $300 for a single person and $400 for a married couple The maximum standard deduction is $1,000 for all taxpayers State law allows a fixed standard deduction regardless of income $500 for a single person or a married person filing separately and $1,000 for a head of household or a married couple filing jointly	1,350,000	+850,000
5 Political contributions	State law permits a deduction for political contributions made during any primary or general election to the extent of $100 for each individual filing a return ($200 in case of married couples) Federal law has no comparable provision.	75,000 (There should be no revenue change in the 1967–68 fiscal year inasmuch as general elections fall in even-numbered years, 1966, 1968, etc)	+250,000
C Exemptions			
1. Personal exemptions	Federal law allows a married couple under 65 years of age $1,200 exemption ($600 each), and a single person $600 State law allows a married couple and unmarried heads of households $3,000, and single persons $1,500	All	+128,000,000
2 Surviving spouse	Federal law allows a surviving spouse to file a joint return where the husband or wife dies during the year The surviving spouse may continue to claim the benefits of "income-splitting" for two additional years State law allows a surviving spouse to file a joint return only for the year in which the husband or wife died	10,000	−310,000
3 Exemptions for age	Federal law allows an extra exemption for taxpayers who are over 65 State law has no such provision	350,000	−4,750,000
4. Exemption for dependents	Federal law allows a deduction for unrelated individuals such as foster children and also for a disabled cousin under certain limited circumstances State law contains no such provision	40,000	−300,000
5. Personal exemption for estates and trusts	Federal law allows a $600 exemption for estates $300 for simple trusts (required to distribute all income currently), and $100 for complex trusts (all others) State law allows a $1,000 exemption for estates and $100 for trusts	30,000	Nominal change (slight increase in revenue from estates offset by roughly equivalent decrease in revenue from trusts)

* This is a highly volatile figure and could be multiplied many times over in a recession period Bank and corporation franchise tax revenue would be reduced an estimated $5 to $10 million annually from this provision

EXHIBIT C1

Interest Income From Governmental Obligations

A Interest Income From U S Obligations Reported on U S. Individual Income Tax Returns Filed in California and Exempt from State Taxation

Marginal tax rate bracket	Estimated number of taxpayers	Amount of interest income	Estimated state revenue that would have been paid if not exempt
1	35,000	$500,000	$5,000
2	1,000	500,000	10,000
3	3,000	850,000	25,000
4	2,000	†	†
5	1,500	†	†
6	1,300	†	†
7	6,500	6 000,000	420,000
Totals	50,300	$11,800,000	$660,000

B Interest Income From State and Local Obligations Reported on California Personal Income Tax Returns and Exempt From Federal Taxation*

Marginal tax rate bracket	Estimated number of taxpayers	Amount of interest income	Estimated state revenue that would have been lost if exempt
1	5,000	$3,500,000	$35,000
2	†	†	†
3	†	†	†
4	†	†	†
5	†	†	†
6	†	250,000	15,000
7	3,000	8,950,000	625,000
Totals	10,500	$14,150,000	$715,000

* Primarily municipal bonds

† Estimate is not shown separately because of high sampling variability However, the data are included in the appropriate totals

EXHIBIT C2

Estimated Fiscal Effect of Allowing Deduction of State Income Tax on California Personal Income Tax Returns

Adjusted gross income class	Number of returns	State revenue loss in 1967–68 fiscal year
Taxable returns		
– – $4,999	270,000	$40,000
$5,000– 9,999	1,400,000	500,000
10,000–14,999	820,000	1,500,000
15,000–19,999	220,000	1 400,000
20,000–24,999	80,000	1,250,000
25,000–29,999	40,000	1,150,000
30,000–39,999	40,000	2,100,000
40,000–49,999	20,000	1,950,000
50,000 and over	30,000	8,000,000
Totals	2,920,000	$17,950,000

EXHIBIT C3

SUBCHAPTER S TAX RETURNS DOUBLE IN FIVE YEARS

The increasing popularity of the Subchapter S election is shown by the rise in the number of income tax returns filed over the past five years In 1959, 71,640 returns were filed, for the 12-month period ended June 30, 1964, some 141,244 Subchapter S returns were filed

Receipts reported on Forms 1120-S for the 1963 period totaled just slightly more than $35 billion, and net income after deficits came to $799 million Deficits were reported on 49,774 returns

Wholesale and retail businesses turned in the greatest number of Forms 1120-S: 57,585, just a bit more than 41 percent of the total active corporate returns filed in this industrial division Active Subchapter S returns from the other industrial divisions were agriculture, forestry, and fisheries, 4,988, mining, 1,550; contract construction, 13,031; manufacturing, 19,607, transportation, communications, and utilities, 5,734, finance, insurance, and real estate, 15,948, services, 20,217, and nature of business not allocable, 452

Source. *The Journal of Taxation*, August 1966.

APPENDIX D

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

November 14, 1966

Assembly Committee on Revenue and Taxation
Room 2148, State Capitol
Sacramento, California

Attention Mr Richard A Buck

Subject · H R. 838

Gentlemen:

In response to your request for information concerning the effects of the proposal in House Resolution 838 to exempt urban transit systems from the payment of fuel taxes, we submit the following responses to your enumerated questions

1. *Revenue Loss to the State*

Use fuel (diesel) tax paid by transit systems, both public and private, for the year 1965 totaled $2,049,101, after eliminating $110,689, attributable to the temporary rate increase of 1 cent effective April 1 to September 1, 1965

The diesel fuel tax revenue increases about 5 percent a year A sampling of the amount of tax paid by several major transit systems in 1964 with their payments for 1965 showed an average rate of increase over 1964 of 6 9 percent It is believed conservative, therefore, to estimate that diesel fuel usage of transit systems will correspond to the normal rate of increase of 5 percent Accordingly, our estimate of the amount of use fuel tax revenue loss for the first full year, 1968, should the exemption be enacted in 1967, would be $2,372,000. This entire loss would be reflected in the State Highway Fund.

Questionnaires were sent to the transit systems for data respecting their usage of gasoline Responses indicate the loss of gasoline tax revenue would be $90,000.

2. *Revenue Loss to Local Government*

The proceeds from the use fuel tax are channeled to the State Highway Fund, and become a part of the resources for the provision of state highways. According to figures for 1959–60, approximately 44 percent of that money is spent on state highways within cities It is reasonable to assume that the cities whose transit systems will be benefited by the exemption will receive approximately $1,000,000 less in state highway improvements The remaining loss, or $1,372,000, will cause a reduction by that amount in state highway construction, both in county areas and in other smaller cities not benefited by the bus subsidy.

The gasoline tax loss will be reflected in refunds which are deducted from gross collections The net collections are transferred to the Highway Users Tax Fund, from which is apportioned to cities 72 5 percent of 1 cent of the tax for expenditure on streets of major importance An amount equal to 1 04 cents per gallon is allocated to counties and cities on a matching basis After other apportionments, including the county's share, the remainder is transferred to the State Highway Fund. From that fund an amount equal to 72 5 percent of 1 cent of the tax is required to be expended on state highways in cities Thus, the cities would lose 1.45 cents of the 7-cent-per-gallon loss or $18,750, plus an additional loss shared by the counties of the 1 04 cents of matching funds estimated at $13,400.

It should be noted that the exemptions would favor the transit systems serving about 40 cities at the expense of reduced revenues for all 400 cities, the counties and the state highway system, as the exemptions would reduce net revenue collections available for apportionment under the complicated formulas in which these governmental agencies are participants.

3. *How Would Exemption Be Administered?*

Exemption from the gasoline tax would be accomplished by refund claims filed with the State Controller. Should the transit systems be limited to filing no more than four claims in a year, the cost of making refunds would be less than $1,000. Sales tax amounting to approximately $10,800 would be deducted from the 7-cent-per-gallon refund and credited to the General Fund.

Exemptions from the use fuel tax on diesel fuel would not involve refund processing, as the tax is imposed directly on the user. Exemption from the tax would be taken in the use fuel tax returns of the transit systems. It is assumed that they would continue making returns and paying tax on fuel used in charter buses The exemptions would make no change in administrative costs

4. *Are There Any Exemptions for Fuel Used in Highway Vehicles?*

With one exception, that with respect to the refund of the tax to members of the consular service of foreign governments, enacted in 1965, no exemptions are granted from either the gasoline or use fuel taxes for fuel used in propelling motor vehicles upon the highways

5. *What Is Justification for Sales Tax on Diesel Fuel?*

The sale of diesel fuel to a consumer was subject to the sales tax when the Use Fuel Tax Law was adopted in 1937. At that time, less than 2 percent of all diesel fuel sold in California was used in motor vehicles. As the diesel tax was imposed directly on the user, exemption of the retailer's sale of the fuel to the user for use in motor vehicles would have complicated administration of the sales tax and the retailer's compliance with the law Also, because diesel-propelled vehicles obtain more miles per gallon than gasoline

vehicles of like size and weight, there existed justification for taxing diesel fuel at a higher rate than gasoline, notwithstanding that the sales tax supports the General Fund and not highways. In recent years, the need of General Fund revenue has discouraged exempting from the sales tax diesel fuel sold for use in motor vehicles and that should not be considered without a concurrent increase in the diesel fuel tax rate.

6. What Kind of Difficulties Would Arise If Fuel Tax Exemption Is Granted?

Any proposal for the state to grant a subsidy for local transit transportation by exemption from fuel taxes is complicated by the effect the revenue loss would have on the apportionments of state-collected highway user taxes to all other recipients of the funds not directly concerned with transit transportation.

When in the 1957 session, Assembly Bills 3648 and 3651, proposing exemption of transit buses from the use fuel and gasoline taxes, were considered by the Revenue and Taxation Committee, the question was raised with regard to the effect these bills would have on the allocation of state highway user taxes to the cities, counties and the State Highway Division. The committee was informed that the amount of revenue loss would be borne by the state and all local governments by reduction of their respective shares under the state apportionment formulas unless provisions were made to reflect the revenue loss against the apportionments to the cities whose transit systems would be benefited by the subsidies.

Aside from that issue, the granting of exemptions from the fuel taxes would not cause any extraordinary administrative problems.

Very truly yours,

H. D. Abbott
Highway Taxes Administrator

APPENDIX E

REVIEW OF THE COMMITTEE'S WORK IN THE 1965 SESSION

I. Major Tax Reform

The Assembly pased a massive tax reform measure, popularly known as the Petris-Unruh Reform Bill, AB 2270 This measure pumped $508 million into the state school fund, reduced school property taxes approximately 25 percent on an average, eliminated many inequities in the property tax structure and provided for increased state revenues to make up for the reductions in property taxes and for state needs Members have been furnished a detailed outline of the various features of this bill. Further copies are available from the Revenue and Taxation Committee office The Senate rejected all the property tax relief provisions in the bill and returned it to the Assembly as a mere tax increase measure. The Assembly did not accept this drastic change and the measure died on file.

II. Reforms in the Sales Tax

At the first Extraordinary Session in 1965 the Legislature passed AB 1 which made three significant reforms in the sales tax structure

(a) Large retailers will remit their sales tax collections to the state monthly rather than quarterly. This change brings California into step with some 27 other states which collect sales taxes in this fashion Retailers will remit to the state their sales tax collections for one month on or before the 25th day of the next month.

(b) Extension of the sales tax to certain leases At the present time the sales tax can be avoided by certain types of leasing operations. AB 1 extends sales taxes to leases where no sales tax has been paid on the product which is being leased The former law put those who paid sales tax on an item thereby purchased with the intention of leasing at a competitive disadvantage with those who leased equipment they produced themselves. This change makes the tax system more equitable in addition to raising approximately $8 to $13 million per year for the State General Fund.

(c) Extension of the sales tax to occasional sales of autos, aircraft, and boats All sales of autos, aircraft, and boats by private parties (except those to relatives) will now be taxable. Under previous law, a private party could sell one auto per year without paying the sales tax. This change closes another loophole in the sales tax law

III. Income Tax Conformity

A constitutional amendment, ACA 18, was recommended for submission to the voters. It will allow the state to conform its personal income tax law to federal law. If this constitutional amendment is approved, the Legislature will then be in a position to pass a bill in 1967 which will establish either partial or full conformity This will simplify the computation and reporting of income taxes for millions of Californians (Note· this measure was rejected by the voters)

IV. Disaster Package

The legislature passed three major bills to help alleviate the hardship caused by the disastrous floods in northern California in December 1964. One measure, SB 268, raised the gas tax one penny for nine months. This increased revenue of approximately $57 million is to be used to help rebuild flood-damaged roads. Another measure, AB 38, allowed Del Norte County to cancel the second installment of property taxes where the property had been damaged by the flood. A third measure, SB 461, set up the machinery whereby the state would reimburse the county if property taxes were delinquent by more than a certain percentage. The state would be responsible for the amount delinquent by greater than the indicated percentage Two other bills, AB 39 and AB 41, provided for a refund of alcoholic beverage taxes and cigarette taxes paid on these commodities which were subsequently damaged by floods.

V. City Taxing Authority

Two major bills were passed which clarified the taxing power of cities. AB 2395 by Assemblyman Petris prohibits the cities from levying an income tax A second bill, SB 427, revises the vote requirements needed to change the split between cities and counties of the local 1-cent cigarette tax. Formerly it required a two-thirds vote of both the city and county officers to change the sharing formula SB 427 provides that a majority vote is sufficient to change the sharing formula.

VI. Improving the Cultural Climate

Two bills improving the cultural climate of California were passed by the Legislature, however, only one was signed into law AB 2958, which proposed to exempt objects of art which are displayed in a public museum from the 4-percent use tax was pocket vetoed by the Governor. AB 997 exempts from the property tax objects of art value available for display in public museums for a specific period each year. This measure will encourage owners to bring more objects of art into California and will also encourage those who have such objects in private collections to put them on public display so that they can be enjoyed by all the people.

VII. Blind Veterans

A constitutional amendment, ACA 41, will be submitted to the voters which allows a property tax exemption of up to $5,000 in assessed value for veterans who are blind.

VIII. County Tax Increases Defeated

The Legislature defeated several bills initiated and pushed by the counties which would have cost the taxpayers millions of dollars Of primary interest in this respect were a great many bills which doubled, tripled, and quadrupled court fees and which would have substantially increased the average citizen's cost of going to court. Also defeated was a measure which would have allowed counties to levy, in effect, income taxes on corporations in unincorporated areas of counties

APPENDIX F

REVIEW OF THE COMMITTEE'S WORK IN THE 1966 SESSION

		Page
I.	Preface	70
II.	A Bill of Rights for the Property Owner (AB 80)	71
III.	Accrual Accounting	71
IV.	Uniform Apportionment of Corporate Income Act	72
V.	Court Fees	73
VI.	Constitutional Amendments	74
VII.	Other Property Tax Reform Measures	76
VIII.	Other Reforms in the State's Tax Structure	77
IX.	One-House Bill: Senior Citizens' Tax Relief	78
X.	To Study or to the Bottom of the Box	78
XI.	Statistical Summary	79

I. PREFACE

Nineteen hundred sixty-six was the year of the most significant tax legislation since 1959 and perhaps even since the 1930's It was a year of achievement for the Assembly Revenue and Taxation Committee Two major bills—both outgrowths of the committee's studies—and many minor bills were enacted into law.

One major bill—the assessment reform measure—was the first omnibus tax bill to be enacted by the Legislature in modern times And this is the direction we are desirous of moving in the future—the encompassing of legislation before the committee into a few omnibus bills Enactment of an omnibus bill this year indicates we are close to reaching our goal

The second major bill—the act adopting a uniform method of apportioning business income for corporate tax purposes—is California's answer to a congressional suggestion This bill is intended to show Congress that the state legslatures are coming to life with new vigor and that we can act creatively to meet challenges The bill was originally developed through a study of the corporation franchise tax as a part of our major tax study of 1963–65, and was included in substantially the same form in AB 2270 (1965) It was restudied by the committee at a hearing in San Francisco shortly before the opening of the 1966 session

A number of other tax law changes were made during the productive 1966 sessions; and, although not as far reaching or significant as the two already mentioned, each improved the equity of our tax structure.

The committee wishes to recognize the support and encouragement it has received from Speaker Jesse M Unruh during this and past sessions There is no question that we could not have made these great strides forward in 1966 without the help of the Speaker and his staff. Legislation is a product of the work of many individuals; and the contributions of the executive branch, Members of the Senate, and representatives of local government, and the public have been invaluable to the development of the end product

II. A BILL OF RIGHTS FOR THE PROPERTY OWNER

(AB 80X—Petris, Knox, Unruh, Ryan, et al.)

For a digest of this measure and discussion of its impact, see the report in "Problems of Property Tax Administration in California," (1966) issued by this committee

III. ACCRUAL ACCOUNTING

(SB 34X—O'Sullivan)

Accrual accounting is the accounting of income when it is earned even if it has not yet been collected (accounts receivable) and the accounting of expenditures when obligated even if not yet paid (accounts payable)

Virtually all business firms use accrual accounting, and the National Committee on Governmental Accounting recommends that all governmental revenues which can be accrued should be recorded in the accounting period for which earned Some years ago, the Hoover Commission, after studying the federal fiscal operations, reported.

> "We cannot too strongly urge the establishment of an appropriate integrated system of accounting kept on the accrual basis."

It has been the practice of the state to accrue expenditures but not revenues

SB 34X states the intent of the Legislature that all revenues be accrued to the fullest extent possible including revenue from the personal income tax However, because the corporation franchise tax is a prepaid tax, the bill provides that revenues from this tax shall be accounted when received.

It is estimated that by virtue of the passage of SB 34X and the change to accrual accounting of revenues the state's General Fund will reflect, in 1966–67, approximately $380 million in additional revenue which would not otherwise be accounted until 1967–68.

IV. UNIFORM APPORTIONMENT OF CORPORATE INCOME ACT

(AB 11—Petris)

Each corporation doing business in California is required to pay a franchise tax of 5 5 percent of its income *earned* in California.

As it is impossible to determine how much of the net taxable income of a multistate corporation is earned in any one state, special formulae have been established to allocate this net taxable income among the states in which the company does business The income is allocated on a percentage basis in proportion to an average of the property, payroll and sales in this state compared with the property, payroll and sales in all states

However, each state has had different rules for allocation; and as a result of this lack of uniformity, companies often found they were required to allocate more (or less) than 100 percent of their taxable income among the states in which they did business This lack of uniformity also results in tremendous compliance burdens for the firms involved.

To eliminate this problem, the National Conference of Commissioners on Uniform State Laws drafted a proposed "uniform" apportionment formula for each state legislature to consider At the time, the report of a special congressional subcommittee advocated a federal solution to the problem. The congressional recommendations were far reaching and put the federal government directly into the administration of state taxes

AB 11, as passed by the Legislature was the "uniform" apportionment act On this issue, California has demonstrated leadership in moving quickly to resolve a knotty problem

Major changes in California's apportionment formula made by AB 11 are

a Leased property is included in the property factor

b The "sales activity" standard is changed to a "sales destination" standard

c. Property is to be valued for the property factor at original cost.

d. All sales to the United States government are to be allocated to the state from which the items were shipped

A second important provision in AB 11 is a tax credit against the California use tax for any sales or use tax paid to another state on an item of personal property Prior to the enactment of this change, a person bringing property (i e, a car) into California had to pay the full 4 percent use tax on the item even if he had paid a sales tax in the state of purchase providing certain other conditions were met, the most common being length of use in the state of purchase

It is estimated that the adoption of the uniform allocation of income act will increase corporate tax revenues by $3 million a year, and the adoption of the use tax credit will reduce use tax revenues by $2 million. The net effect of AB 11 is approximately $1 million in additional revenue; however, revenue considerations were not the most important factor involved in this legislation.

V. COURT FEES

(AB 143X—Porter)

In enacting AB 143, the Legislature substantially increased court fees throughout the state and increased the revenue flowing into county coffers for property tax relief It is estimated that in a full year of operation AB 143 will raise approximately $5–7 million for county government.

The bill was amended by the Revenue and Taxation Committee to provide that any additional money derived from court fees be placed in the county property tax reduction fund.

Some of the most significant fee increases are:

Item	Old fee	New fee
Filing civil action		
Superior court	$10	$18
Municipal court	6	8
Marriage license	2	5
Subpoena service	1	2
Service of garnishment	2	3
Taking affidavit	0 50	1
Small claims court filing fee	1	1 50

AB 143 also·

—Eliminated the provision prohibiting a fee for filing of a minor's disputed claim for damages petition.

—Provided for expiration, and therefore renewal with a fee, of fictitious name certificates every five years.

—Increased 42 other fees and abolished or combined eight fees.

VI. CONSTITUTIONAL AMENDMENTS

Several important constitutional amendments relating to taxation were submitted to the voters this fall by the 1966 Legislature The following measures were considered by this committee

SCA 4X—Farr

This amendment gives the Legislature the authority to enact special provisions for the assessment of open space land under enforceable use restrictions It was approved by the voters in November.

ACA 10X—Knox and Petris

Every county will be allowed to establish an assessment appeals board if ACA 10 is approved by the voters At the present time, the Constitution limits appeals boards to counties over 400,000 in population which have been authorized by the Legislature to have appeals boards Two counties, Los Angeles and Contra Costa, have been authorized to establish such boards to date, but only one—Los Angeles—has established an independent assessment appeals board ACA 10 deletes the 400,000 population limitation and allows county boards of supervisors to institute appeals boards without prior legislative authorization It was approved by the voters in November.

ACA 11X—Petris and Knox

California's Constitution requires all persons to provide the county assessor each year a listing of all property owned as of the first Monday in March This requirement is honored in the breach Property statements are filed only on request of the assessor ACA 11X deletes this requirement from the Constitution Present statutory law insures that the assessor has access to all information he needs to make a fair assessment, and the existing section grants far too much authority to the assessor. He could demand a complete financial statement from every resident of his county. It was approved by the voters in November

ACA 8X—Ferrell

Property damaged in an area declared by the Governor to be in a state of disaster would be eligible for an assessment reduction upon application if ACA 8 is approved This amendment broadens the scope of the disaster relief amendment adopted by the voters in 1964. It was approved by the voters in November.

ACA 1XX—Chapel

Insurance companies are now allowed to deduct from their insurance premiums tax the amount of property taxes paid on their "principal" office in California. ACA 1 proposes to limit this deduction for out-of-state insurance companies to a lesser amount based on a formula relating to space occupied in the principal office California

companies would continue to enjoy the full exemption on premises they occupy or have under construction as of January 1, 1970 On offices constructed by domestic insurers after January 1, 1970, the foreign formula would apply

ACA 1 also broadens the coverage of the principal office deduction to include attorneys in fact. It was approved by the voters in November.

VII. OTHER PROPERTY TAX REFORM MEASURES

Exemption for Educational TV Stations
(AB 150X—Petris and Quimby)

Educational television and radio stations will receive a property tax exemption on all of their personal property and all of their real property that qualifies within the "welfare exemption."

Reassessment of Property Damaged in Watts Riot
(AB 31X—Ferrell)

This measure provides that the owner of property damaged in the Watts riot could have the property reassessed to reflect the value after the damage. This is conditional on the passage of ACA 8 by the voters

Equalization of Assessments in Multicounty Special Districts
(AB 111X—Knox)

Where a special district is applying a property tax in two or more counties, this measure allows the board of supervisors of any of the counties to have the tax rate of the special district adjusted to reflect the difference in the assessment ratio of the counties within the district

School districts, metropolitan water districts, special assessment districts and certain other districts are excluded from the coverage of the act

The immediate major impact of the bill will be in the San Francisco Bay area where property tax rates for the Bay Area Rapid Transit District will likely be increased in Alameda County (with a low ratio) and decreased in Contra Costa County (with a high ratio).

Payment of Delinquent Taxes to a City
(AB 140X—H. Johnson)

AB 140 provides that when the county collects the taxes for the city the county shall also pay to the city its share of the delinquent taxes and penalties

Reassessment of Property Damaged by Landslides
(AB 182X—Stevens)

Property damaged by landslides in Los Angeles County in 1965 or 1966 must be reassessed, upon request of the owner, to reflect the value after the damage to the property.

In addition, legislation was passed in 1966 which extended the filing date deadline for welfare and church exemptions of groups who were eligible but failed to file within the regular period An alternate method of notification of assessment increases was established for Orange County and the time for filing maps by some special districts was extended.

VIII. OTHER REFORMS IN THE STATE'S TAX STRUCTURE

Clarification of Sales Tax on Leases
(AB 7—Carrell)

AB 7 permits certain lessors of personal property to elect to pay a use tax base on the price they paid for purchase of the article rather than collect the lease tax on rentals.

Those allowed this option are:

1) Those who acquired the property as a result of an occasional sale of an asset not used in the course of the seller's business, and

2) Those who acquired the property as the result of a reorganization not involving a substantial change in ownership

AB 7 will reduce revenues by $350,000 annually.

Proration of Deductions
(AB 10—Petris)

Out-of-state residents are required to pay a California income tax on income earned in this state. AB 10 provides that these out-of-state residents must prorate their exemptions and deductions rather than claim the full deduction. The proration will be based on the income earned in California as a percentage of total income

It is estimated that this change will increase income tax revenues by $3 million a year.

Adjustment of Monthly Sales Tax Collection Requirement
(AB 12—Petris)

Retailers required to remit their sales tax collections to the state monthly are given the option of remitting 90 percent of the previous months collection or one-third of tax paid in the corresponding quarter of the previous year. In either event, the final payment of the full amount of tax is due on the last day of the month following the end of the quarter.

AB 12 also abolishes the $1 fee for a retail sales tax permit.

Reform of the Admissions Tax
(AB 5XX—Petris)

California's 5 percent tax on boxing and wrestling admissions had applied to the price printed on the ticket, irrespective of whether the purchaser paid the full price. AB 5 provides that the tax applies only to the actual amount paid for admission; and in the case of free passes, no tax will be paid at all. It is estimated that this measure reduces state revenue by $3,300 a year.

Change in Treatment of Military Pension Benefits
(AB 10XX—Petris)

AB 10 conforms the income tax treatment of retired military personnel with a 1966 change in the Federal Internal Revenue Code. Under prior law, a serviceman was taxed on the full amount of his pension even though he had elected to have a portion withheld by the federal government to provide an annuity for his survivors

AB 10 provides that the serviceman will pay income tax only on that portion of the pension he actually receives The Franchise Tax Board estimates that AB 10 will result in an $176,000 revenue loss in the first year.

IX. ONE HOUSE BILL: SENIOR CITIZENS' TAX RELIEF

The Assembly passed only one tax proposal this year which did not receive the approval of the Senate This measure was AB 88 (Petris-Unruh) which provided a refund from the state of a portion of the property tax paid by a person over 65 with limited income. For those with incomes of $1,000 a year or less, the Franchise Tax Board would have refunded 95 percent of the property tax paid on the first $5,000 of assessed valuation This percentage was graduated down to 1 percent return at $3,350 of income It was estimated that AB 88 would have provided approximately $21 million in property tax relief for those eligible to participate.

X. TO STUDY OR TO THE BOTTOM OF THE BOX

Thirty-four measures which were assigned to the Committee on Revenue and Taxation were either referred to interim study or put at the bottom of the box Included among these were·

—Proposals for an absolute limit on property taxes not to exceed 2 percent of the full value of the property

—A luxury tax of 6 percent on items covered by the now-repealed federal luxury tax

—A proposal to legalize, regulate, and tax wagering on jai alai

—A requirement that special districts use county assessment figures as the base for their tax rates

—A substandard housing rent tax

—Taxing of inventories on an annual average basis

—A proposal to allow counties to turn the assessment function over to private firms

—The repeal of the motor vehicle transportation (truck) tax and substitute in its place supplemental weight fees ranging from $8 to $100 annually

—Tight restrictions on the eligibility of luxury life care homes for the aged for a property tax exemption

—A tax on liquor brought into California from Mexico

—A proposed sales tax exemption for servicemen who buy cars in California and take them out of state.

—A constitutional amendment for judicial review of property assessments.

—A new income tax deduction for home improvements.

The committee spent considerable time in studying and taking testimony on the proposal for a 2 percent limit on property taxes. After a three-hour hearing on the subject, the measure was defeated. It did not receive any affirmative votes.

XI. STATISTICAL SUMMARY

More than one-half of the measures assigned to the Revenue and Taxation Committee during the three 1966 sessions of the Legislature were either held in committee or referred to interim for further study Perhaps of even more significance is the fact that only four of the measures recommended favorably by the committee failed passage The committee considered 65 measures in what delevoped as a very busy five months

Assembly measures referred to committee	57
Measures passed by committee	26
Measures passed by Assembly	23
Measures passed by Senate	22
Senate measures referred to committee	8
Measures passed by committee	5
Measures passed by Assembly	5

APPENDIX G

American Transit Association

Summary of

States Granting Exemption or Refunds re Motor Fuel Tax

July 1966

ARKANSAS	Transit companies operating on regular schedules, under municipal franchise, are entitled to a refund of 5½¢ per gallon In north and west border cities the rate is the same as in adjoining states
CONNECTICUT	Transit companies receive a refund of 50 percent of tax paid applicable to mileage on town and city roads
DISTRICT OF COLUMBIA	D C transit system is not subject to the District of Columbia's motor fuel taxes unless company's rate of return on system rate base equals or exceeds 6½ percent net, after all taxes properly chargeable to transportation operations including but not limited to income taxes, as determined by the regulatory commission
FLORIDA	City transit systems are eligible for a refund of 4¢ per gallon of the 7¢ tax
ILLINOIS	Transit companies are exempt from fuel tax Publicly owned transit companies are required to pay only registration fees including plate fees of $2 per vehicle
INDIANA	Local transit systems are exempt from tax on gasoline, diesel and propane
IOWA	Urban transit companies exempted from motor fuel tax Such fuel, however, is subject to sales tax
KANSAS	Cities have been granted the right to reimburse their transit systems any part of the fuel taxes paid to the state The amount refunded locally is subtracted from the city's street fund distribution received from the state
KENTUCKY	Rate 7¢ per gallon On fuel used by transit companies over regular routes, tax is 2¢ per gallon
MASSACHUSETTS	Transit companies are exempt from fuel taxes on common carrier operations.
MICHIGAN	Persons operating passenger vehicles under a municipal franchise are entitled to a refund of 3¢ per gallon on gasoline and 1¢ per gallon on diesel fuel
NEW HAMPSHIRE	Transit companies are eligible for refund of motor fuel tax if at least 90 percent of operations are within the limits of one incorporated city
NEW JERSEY	Motor fuel tax paid on gasoline and diesel fuel oil used in the operation of motor buses in service, the revenue from which is subject to the franchise tax (3 percent of gross for use of streets) is refunded by the State of New Jersey or credit allowed to a distributor
NEW YORK	Transit companies receive refund of 2¢ per gallon on gasoline and 3¢ per gallon on diesel fuel.
RHODE ISLAND	Motor fuel used in transit buses on regular scheduled service is exempt from fuel tax.
TENNESSEE	Transit companies are eligible for a refund of 3¢ per gallon (rate 8¢).
TEXAS	Based on fuel used to propel vehicle on public roads Rate Gasoline 5¢ per gallon, diesel fuel 6 5¢ per gallon for all users except urban transit companies Rate 4¢ and 6¢, respectively.
VIRGINIA	Rate 7¢ per gallon. Urban and suburban bus companies pay 6¢ per gallon (Note Publicly owned motor bus systems did not reply to ATA's questionnaire, hence the applicability of state taxes to their operations is not known)
WASHINGTON	Based on the number of gallons of motor fuel purchased or used. Rate 7½¢ per gallon (Not applicable to fuel used in transit buses operating on routes extending less than five miles from city limits.)

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ASSEMBLY INTERIM COMMITTEE REPORTS
1965–67

VOLUME 5 NUMBER 10

FINAL REPORT

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION AND WILDLIFE

House Resolution 710 (c)

MEMBERS OF THE COMMITTEE

PAULINE L DAVIS
Chairman

GEORGE W MILIAS
Vice-Chairman

Don A Allen, Sr
W Craig Biddle
George Deukmejian
Ray Johnson
Robert Moretti
William F Stanton
Vincent Thomas

Theodore Fourkas, *Committee Consultant*
Helen R Tramor, *Committee Secretary*

TABLE OF CONTENTS

	Page
Letter of Transmittal	5
Summary of Recommendations	7
San Francisco Fish and Game Refuge	9
Commercial Fishing	11
Three Major Federal Laws	31
The Proposed Fish and Wildlife Plan	35
Soil Conservation Programs	45
Crab Seasons	53

LETTER OF TRANSMITTAL

ASSEMBLY INTERIM COMMITTEE ON CONSERVATION AND WILDLIFE

Sacramento, California

January 4, 1967

THE HONORABLE JESSE M UNRUH
Speaker of the Assembly

MEMBERS OF THE ASSEMBLY
Assembly Chamber, Sacramento

Gentlemen

In accordance with House Resolution 710 (c), your Interim Committee on Conservation and Wildlife presents a report of findings and recommendations and the substantiating material on which these findings and recommendations are based on the subject matters studied by this committee during the 1965–67 interim

Respectfully submitted,

PAULINE L. DAVIS, *Chairman*

2—L-3819

SUMMARY OF RECOMMENDATIONS

San Francisco Fish and Game Refuge:

1. The committee recommends the fish refuge portion of the San Francisco Fish and Game Refuge be abolished.

Commercial Fishing:

2 The committee will support a Departmental request to hire economists and other professionals who can give the Department the capacity to consider the full range of problems besetting the fishing industry.

3 The committee will support reasonable general fund augmentations to accomplish any such staff increase

4. The committee recommends adoption of a resolution asking Congress to provide funds to build and operate a Fish Protein Concentrate Plant as soon as possible

5 The committee recommends passage of a concurrent resolution recommending the Food and Drug Administration allow use of a whole fish for human consumption *

6 The committee believes a review of commercial fishing laws is desirable and recommends an intensive committee investigation be undertaken.

7. The committee recommends Congress be memorialized to reevaluate its loan and grant programs on behalf of fishermen and determine whether changes are needed to make the programs more workable and useful

8 The committee recommends the Department of Fish and Game contact as many segments in the fisheries industry as reasonably possible, and to give full consideration to their suggestions for projects under the Commercial Fisheries Research and Development Act

Three Major Federal Laws:

9. The committee recommends that the Department of Fish and Game, when it makes its state budget submittal for projects under the Anadromous Fish Act, include more than the minimum number of projects so the Legislature may choose alternative projects if it so desires

10 It is recommended that projects under the Anadromous Fish Act also be presented to the Assembly Committee on Conservation and Wildlife for review.

11. The committee recommends the Legislature adopt legislation specifically authorizing participation in the Land and Water Conservation Fund Act.

12. The committee recommends the comprehensive plan required by the Land and Water Conservation Fund Act be formally reviewed every four years by the Legislature.

* The FDA has now approved such use

13 The committee recommends the major criteria for participation in the Land and Water Conservation Fund Act be embodied in administrative regulations.

Proposed Fish and Wildlife Plan:

14 The committee recommends the Department of Fish and Game go back to work on the plan to meet criticisms mentioned.

15. The committee recommends that for the present, and until an adequate plan has been prepared, no major changes be made in present fish and game progams, and no new powers or policies recommended by the present plan be adopted by the Department or the Fish and Game Commission

16 Under no circumstances should recommended new powers or policies affecting other resource users be adopted until the needs and problems of those other users have been given adequate consideration

Soil Conservation Programs:

17 The committee strongly feels that recreation and fish and wildlife enhancement should be made primary purposes of Watershed Protection and Flood Prevention Act projects, more commonly known as 566 projects The committee recommends passage of a resolution to that effect, and that steps be taken to convince members of Congress of the merit of the change.

18 The committee recommends the Soil Conservation Commission membership be changed so as to include five soil conservation district directors, one agriculture representative, one recreation representative, one urban-interest representative and one city or county planning official

19 A separate executive secretary position for the Soil Conservation Commission is established by statute, and the committee recommends the position be filled.

20 The committee recommends the Advisory Board to the Soil Conservation Commission be abolished and the members of the board be made ex-officio, non-voting members of the Commission.

21. The committee recommends the Director of the Department of Fish and Game be made an ex-officio, non-voting member of the Commission

22 The committee recommends that soil conservation districts make greater use of the state's grant-in-aid, or "1144" program; the committee also recommends the Soil Conservation Commission forward all justifiable projects to the Legislature

23 The committee recommends that any additional information desired by local agencies in soil surveys be provided at a local cost

Crab Seasons:

24 The committee strongly recommends that the crab season be opened not before December 15 and not later than January 1.

25 The committee recommends that any legislation setting dates for a crab season not carry a two-year limitation.

SAN FRANCISCO FISH AND GAME REFUGE

For many years, sportsmen have campaigned to open San Francisco's Peninsula watershed properties—Crystal Springs, Pilarcitos and San Andreas Reservoirs, all in San Mateo County—to limited fishing

The San Francisco Water Department has opposed any such proposal

One of the biggest obstacles is that the Peninsula properties also make up the San Francisco Fish and Game Refuge, a fact which manages to thoroughly confound the entire argument

It is rather a unique refuge—the only fish and game refuge in the State There are other fish refuges and other game refuges But nowhere else is there a combination refuge

Any discussion of allowing fishing is quickly complicated by questions of trespass, water pollution and quality, recreation costs and other matters These matters were covered in detail at the Conservation and Wildlife Committee's hearings in San Francisco on September 16 and 17, 1965 [1]

The major question explored by the Committee was whether the fish refuge should be abolished The fish refuge was established as the San Francisco Game Refuge by Statutes of 1931, and designated the "San Francisco Fish and Game Refuge" in 1933 The primary reason for its establishment was ostensibly for the protection of quail, but fish were also protected [2]

There is now a limited recreation use of the refuge This includes horseback riding by permit, hiking and nature observation, and one golf course to play [3]

A number of reasons were given for not opening the watershed lands to fishermen They included increased fire hazard, public messiness, inadequate treatment facilities at present, and other problems [4]

Despite the results of one study made and presented by the State Department of Public Health—which showed that fishing had little or no effect on the quality of lake waters [5]—fishing in the Peninsula Watershed under present conditions would reduce the theoretical margin of safety

But assuming proper treatment of the waters, fishing would cause no problem in terms of either the quality of safety of water [6]

As was admitted by the General Manager and Chief Engineer of the San Francisco Water Department, General Arthur H Frye, Jr, (Ret)

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[1] *Edited Transcript of Hearing on Opening San Francisco's Peninsula Watershed to Limited Recreational Fishing*, September 16 and 17, 1965, San Francisco, Assembly Interim Committee on Conservation and Wildlife

[2] *Transcript*, page 31

[3] *Transcript*, page 6

[4] *Transcript*, pages 7–8

[5] *Transcript* pages 23, 24, 28, 29

[6] *Transcript*, page 30

the major obstacle to allowing fishing was money—money for chemical treatment and money for operating recreational facilities [7]

Why is the watershed a fish refuge? Because it makes matters rougher for trespassers

For example, if a person now enters the refuge with a fishing pole, he is committing a crime If the fish refuge were abolished, he could—under the same circumstances—be committing a civil wrong, but not a crime [8]

If the fish are "protected" from the sportsman, they are certainly not protected from the San Francisco Water Department To control weeds and algae, the Department periodically places copper sulfate in its Peninsula reservoirs [9] This can harm, or even kill, numbers of fish

It becomes obvious that the San Francisco Water Department is using (or misusing) a state law only because of its advantages in prosecuting trespassers This could be reason enough to abolish the fish refuge

But another reason was glaringly evident when General Frye stated that because the refuge exists, recreational uses have not been considered "seriously" [10]

So, not only does the argument over fishing in the watershed become confused over the fact that there is a refuge, but the fact that a fish refuge exists has itself stymied serious consideration of future recreational uses

Abolishing the fish refuge would not in any way automatically allow fishing. That decision would continue to rest with San Francisco, and San Francisco alone

But abolishing the fish refuge would clear the air and place the argument in its proper perspective. It would also increase local control, since San Francisco does not now have the freedom to allow fishing under state-imposed refuge law restrictions

The Committee feels that the question of limited fishing in the watershed should be debated and decided at the local level, but this apparently cannot occur unless and until the fish refuge is abolished

The Committee therefore recommends that the fish refuge portion of San Francisco Fish and Game Refuge be abolished

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[7] *Transcript*, pages 11, 13, 15, 18
[8] *Transcript*, page 43
[9] *Transcript*, pages 7, 8, 134, 135
[10] *Transcript*, page 11

COMMERCIAL FISHING

The nagging problems of California's commercial fishing industry have been almost as varied as the ocean resource itself. But until recently, they were our own problems.

Then foreign fishing vessels appeared off our coast, and many voices were raised in alarm. It was in this setting that the Assembly Committee on Conservation and Wildlife convened a hearing in San Pedro on December 2 and 3, 1965. The subjects were commercial fishing and four major federal laws on different subjects.

General Problems. There is little agreement on how to solve the problems of the commercial fishing industry. But at least there is some agreement on what the problems are. Floyd Anders Jr., Chief of Fisheries Management Section, Bureau of Commercial Fisheries, U S Fish and Wildlife Service, summarized the major problems this way

"a. **The Resource.** The source of supply is not constant. Fluctuations in populations still are not understood completely and as a consequence, predictions of availability are subject to error Some species have been depleted. Other species constitute a large unused resource off our own coast which are available to American fishermen and can alleviate shortages in raw material in some of our plants This unused resource is composed of such species as anchovy, cod, flounder, hake, herring, mackerel, ocean perch, saury, sablefish, thread herring, tuna, squid and crabs, as well as many others There is a need to diversify our catch and utilization of fish, rather than concentrate on a particular species

"On the Pacific coast, the resources for the most part are abundant, and many are not used. This is in contrast to the east coast where some of the fishery populations have declined seriously

"b **The Deterioration of the U.S. Fishing Fleet** both in number and condition of the vessels, has been a serious problem. This is particularly true in the Northeast. Efforts are underway to stimulate replacement and rebuilding of vessels, but it must be a continuing effort.

"c **Competition from Foreign Fishing Fleets.** * * * The advent and growth of foreign fleets is posing a highly competitive challenge to the American fisherman. Large, modern harvesting and processing vessels from foreign countries range world-wide in their quest for marine resources One of the problems which has not been encountered by fishermen from California has been fishing side-by-side with foreign vessels on the same grounds On the Atlantic Coast it has been another story. Fishermen there have been confronted with large numbers of vessels from the Soviet Union and other countries fishing alongside U S.

vessels on the famed Georges Bank Area. You probably will be faced with this problem in the future, and perhaps not too far off

"d **Research.** There is a great need for expanded research effort, both of a basic biological and oceanographic nature, and the applied variety—such as development of fishing gear and harvesting methods High seas research is a must if adequate knowledge of sizes of various fish stocks, their availability, and their optimum sustained yield is to be obtained Such information is absolutely necessary for managing and harvesting the resources efficiently and wisely. This type of information also is basic to the development of international treaties for harvesting and protecting stocks

"e **Inability to Harvest Fish at Maximum Effectiveness Immediately Upon Arrival on the Fishing Grounds.** Each vessel when arriving on the fishing grounds acts as its own scouting force even though 50 other vessels, present on the grounds, may have performed this and found where the fish are concentrated An effective education process might result in greater cooperation among vessels This education would demonstrate that all such unhealthy inter-vessel competition increases operational costs and thus renders the local fishermen less able to compete with imports for what is now a national market demand The tradition of the "high-liner" vessel, with secretive operating techniques, is outmoded where we consider the total annual domestic landings of approximately 4 5 billion pounds in the face of a national annual market demand in excess of 10 billion pounds. There are many other obvious areas where inter-vessel cooperation could significantly improve the economic status of our fishermen.

"f **A Lack of Effective Fish Search and Detection Equipment And Techniques.** Fish are distributed over thousands of miles of ocean and, within the water column, may occur at the surface, anywhere in the mid-depths or on the ocean bottom The present fisherman's operation, therefore, is largely a hunting operation Efficient operations require the early development of highly improved detection devices which will afford information as to the species observed, the quantity present and on their precise location in the water column Fish search devices must be developed which are capable of expanding the present area of fish detection by several factors of magnitude This is necessary in order that the fishermen may have alternative choices, i e, is this school of fish which is visible to my eyes larger than that school which my equipment has detected just over the horizon? With such a choice of alternatives, the vessel skipper would be able, for the first time, to make decisions which would enable him to reduce the man-hours of effort necessary to fill his vessel holds Similarly, the fisherman needs ways of concentrating or aggregating fish as well as means of guiding fish to suitable fishing grounds

"g **Evaluation of Efficiencies of Nets and Net Handling.** Our present day fishing gear was developed by a trial and error process It is considered to be reasonably efficient but little or no scientific data justifies this assumption. Neither do we know, assuming the gear is efficient, whether it is being utilized in the most efficient manner.

Thus, it is important to the fisherman that he know. (1) the gear is in fact operating at the bottom of the ocean as he visualizes it to act in theory, and (2) the net is actually designed to take best advantage of fish behavior in the face of the oncoming trawl and thus escape, or are they able to evade by swimming to one side of the net or the other? These facts must be learned in order to design nets which would take advantage of the specific and characteristic responses of each species of fish to the stresses induced by an awareness of the oncoming trawl

"h **Need for Automation of Gear Handling.** In most cases, seines, trawls and other fishing gear are handled in a highly labor-oriented manner It is vital that automation engineering, now so prevalent in all other segments of the national economy, be applied to the handling of fish gear in order that (1) labor costs may be reduced, (2) the amount of time the gear is actually in the water may be increased, and (3) that the highly hazardous manual operations be reduced with a consequent improvement on the safety records of our fishing fleets. The latter would result in an immediate reduction in the sometimes prohibitive premiums for protection and indemnity insurance Overall the result would be a larger catch, the proceeds of which would be divided among a smaller number of men

"i. **Handling of Fish Aboard Vessels.** Seldom have any technological developments been so thoroughly ignored as have modern materials-handling concepts by Naval architects and the fishing industry in general The storage of fish in vessel holds is generally an inefficient and time consuming process Equally inefficient and time consuming, in many cases, is the process of unloading the vessels The first factor operates to reduce the time during which the net is in the water The second operates to increase the nonproductive time interval during which the vessel is tied up at the dock

"j. **Quality of the Landed Product.** In many cases, the fisherman is interested only in getting his fish into the hold and in filling his vessel in the shortest time possible The net result is that he may use little or no ice to preserve his catch He may pile the fish, with or without ice, in the holds to a height of up to 6 feet, with consequent crushing, bruising and loss of fish juices and flavors The net result of such handling is that the first-caught fishes are of questionable quality when landed Such fish, however, find their way, at a reduced price, into the market and thereby prejudice the possibility of increased demand for the product of the fisherman's labor Shelving or containerization of the catch could improve quality and speed of unloading

"k. **The Highly Selective Market Demand for Fish.** The American consumer, both by tradition and by virtue of his constantly increasing buying power, is purchasing only the most appetizing fishes. This has led to a great overemphasis on the relatively few species of not overly abundant predatory fish which form the apex of the biological pyramid It is vital that the market outlets of fishing industries be diversified in order that the enormous abundance of fishes of the

lower trophic levels can be utilized This can best me done by developing products which differ markedly from the traditional fish fillets, fish portion, canned fish, etc Such products might well be designed to be used as ingredients in other totally different nonmarine food products such as fish protein concentrate The development of new products and the demand for products, both of an industrial and edible nature, is a necessity for the successful stimulation and growth of an economically sound fishing industry "[1]

There is another problem, not mentioned above, but brought out by Roy Katnic, General Manager of the Fishermen's Cooperative Association, San Pedro It should be pointed out that Mr Katnic was not talking about tuna fishermen

> ASSEMBLYMAN THOMAS. Mr. Katnic, I was told by many fishermen that the last couple years have been the failure point and they haven't been able to make enough money to keep their families Is this an exaggeration? How much money have the crew members made this year? What is it this year? The local fisheries I'm talking about
>
> MR. KATNIC Mr Thomas, this is so true that it hurts The average local or domestic fisherman that does not ply in Mexican waters or foreign waters to fish has made under $2,500 so far this year.
>
> ASSEMBLYMAN THOMAS. That's members of your organization?
>
> MR KATNIC These are member boats of my organization
>
> ASSEMBLYMAN THOMAS How many boats are there?
>
> MR. KATNIC: On each vessel there is an average of approximately 8½ since some carry less and some .
>
> ASSEMBLYMAN THOMAS And they've made less than $2,500?
>
> MR KATNIC: That's correct, Mr. Thomas.[2]

Foreign Fishing. Added to these problems are increasing activities off the Pacific Coast by foreign fishing vessels We quote some of the testimony

From Donald R Johnson, Regional Director, Bureau of Commercial Fisheries, Region 6, Terminal Island

> "Since 1963 there have been periodic sightings of Soviet fishing vessels off our Pacific Coast States. Some of these sightings appear to have been Soviet vessels; for example, whalers enroute to training fishing grounds in other parts of the world However, beginning this year, particularly, Soviet fishing activity off the Pacific Coast has greatly increased It has been estimated that the Russian fleets operating in the Bering Sea in the Gulf of Alaska totaled 400 vessels Their operations have been extended farther south this year In June, a fleet of 3 trawlers and a 35-hundred ton refrigerated transport and a research vessel were sighted operating as far south as Cape Flattery, about 40 miles off shore from northwestern Washington In October, just a little over a month ago, about 40 to 50 Russian vessels were reported operating off

[1] *Edited Transcript of Hearing on Foreign Fishing Vessel Encroachment, Commercial Fishing Problems, Four Major Federal Laws*, December 2 and 3, 1965, San Pedro, Assembly Committee on Conservation and Wildlife, Appendix I

[2] *Transcript*, pp 319-320

British Columbia in the Queen Charlotte Islands area There also have been reports of Soviet vessels operating in waters off Oregon and California, as you know. To cite an example, the research vessel, Arban, was reported off San Francisco and the Catalina Islands

"Well, we ask, as you do, what does this mean? The Soviet Union today is a major fishing power, and I want to outline a few of the indications of this. In terms of fish catch, she ranked fourth in 1964, behind Peru, Japan, and Communist China In 1964, the Soviet Union landed 9 9 billion pounds of fish, not including marine mammals. This represents an increase of approximately 13% over her 1963 catch of 8 8 billion pounds Available reports indicate that Russians have already met their 1965 catch target of 11 billion pounds established under a seven-year plan covering '59 through '65. They have a new one It should be noted that the increase, 4 4 billion, in Russian catch in a decade alone approaches the total United States catch of 5 8 billion pounds for 1964 The Soviet Union has set a catch target of 22 billion pounds, including marine mammals, for 1970, indicating their intentions To reach that target, the Russians plan to invest heavily in fleet expansion For example, they plan to add to their fleet 200 support vessels, such as freezer ships, transport vessels, and factory ships. Emphasis is being placed on the construction of large mother ships and integrated factory ship trawlers. The Soviet Union is also actively seeking new fishing grounds throughout the world ocean She is sending to the eastern Pacific, our side of the Pacific, this year, an expedition of six vessels to explore the waters from Canada to Chile over a six-month period The fleet, led by the 2,400 ton factories stern floater, Lira, will be actively seeking such species as tuna, mackeral, sardines, spearfishes, and squid. Part of that fleet departed Vladivostok in October From known patterns of Soviet operations, we can guess, with some assurance, that the Russians will have a fleet exploiting, in about two or three years, any new fish resources the expedition should discover in commercial quantities "[3]

From Sam Hutchinson, Regional Director, Pacific Northwest Division, U S Bureau of Commercial Fisheries, Seattle, whose graphic description accompanied a showing of slides The testimony was more impressive than cold statistics

"The question always asked us, why this large build-up of foreign fishing throughout the world? And I wish to say at this time that it is due to the population explosion By 1970, the world will be populated with some 3 billion people and this will require some 80 million tons of animal protein food a year to feed these people. At the present time, we are only harvesting approximately 10 million tons of animal protein from the ocean But all of the countries of the world that have this population explosion build-up are moving to the sea to obtain this animal protein and that's why we have such countries as Japan China, USSR, and other major fishing countries in the North Atlantic harvesting this animal protein * * *

[3] *Transcript*, pp 42–43

"Just to set the stage, you can see how the world production of fishery products has been going since 1950 and it is increasing at approximately the same rate through 1965, although this slide says only to 1960 You also can see the United States production where we've only risen from 100% up to about 108% now while the other production has gone well over 200%. So let's take a look where this is occurring Here's the world fishery catch and you can see in 1948 it was about 18 million metric tons, and then from 1956 on through 1960, you can see that it has reached some 36 million metric tons So let's look and see where this is occurring In the United States, we've remained more or less constant In Europe, they've remained more or less constant The USSR has increased, but our tremendous increase has been in Asia and also in South America This slide shows the increase of the USSR catch in the Northwest Atlantic and, from about 1956 or 1955 when they started, it has increased up to almost 300,000 metric tons This is occurring also in the North Pacific at the same rate I want you to note that type of a vessel there This is a stern ramp trawler and there are at least 50 to 100 of these vessels now, fishing all of the oceans of the world This is really a productive type of a craft Here is what is occurring down in Peru Peru has the same phenomenal increase from about 1955 and it is rapidly producing, as I said before, the commercial fisheries Here they're producing over 400 million metric tons that are used for meal and oil * * *

"This slide was taken on May 15 of this year, when I was in Hakodati, Japan, and observed the sailing of the salmon fleet from this harbor. Some 369 catcher boats accompanied by 11 mother ships left the harbor there on this particular day. These are the catcher boats They're outfitted with flags and pennants; it looks almost like a fair for they have a little fir tree or a little evergreen up on the mast there, meaning good luck, and the pennants say that they hope for a safe return, a large catch, and a prosperous year Starting at 8 00 in the morning, aerial bombs were set off and every 20 minutes a group of these catcher vessels would sail out through the mother ships heading into the North Pacific

"This is one of the mother ships which I had the privilege of boarding It's the Nisa Maru #2 This is the bow of the vessel. You can see the wheelhouse is built right up forward Amidships is all clear for working for landing fish aboard out in the ocean. Below decks there are two high-speed cannery lines There's a freezer and also a reduction plant, I asked them if it was a reduction plant, but they said no, but it has the cookers and dryer and things to make oil and meal So nothing is thrown overboard These are large vessels, probably some 15 to 20 thousand tons This shows the sailing of that vessel on that day Members of the family come out and there are streamers of all kinds—of course, they're going out for a four-month cruise into the North Pacific

"This is the hospital ship that accompanies this fleet of 369 catcher boats and 11 factory ships, and in the background there is an important vessel that looked almost like the hospital ship This is to give you an idea of the size of the vessels and the type of con-

centration as they go out into the North Pacific to fish for salmon. Here are the catcher boats now parading out past the mother ships leaving the Port of Hakodati and headed into the North Pacific One thing you will note here is that all of the catcher boats are all painted the same—they have their number on the bow, the insignia for the company in which they fish painted on the side About 80% of the vessels are steel-hauled They have a crew of between 15 and 20 to 22 men aboard It varies according to the catcher vessel The rest of these scenes are showing the catcher vessels as they left the port that morning Nowhere in the world do I know that many companies will go together, all paint their boats the same and keep them about the same size. But this is a typical Japanese salmon catcher vessel as it left last May 15 to fish in the North Pacific You can see they are still flying the flags It's a heyday for anyone with a color camera Here you can see the concentration of these vessels and there were 369 of them * * *

"Here we are below decks on the Japanese mother ship and I must say that conditions are very good on the mother ships There are all stainless steel tables and all of the workers wear aprons and headgear They put up plastic tarps so no dripping will come down from condensation and they do put out a quality product. They have a number of inspectors and it's almost a handpacked product, and what they're preparing is salmon for sale on the world market This is their dollar income This is not for their home consumption They'll feed their people at home a different type of fish This is to bring in the dollars * * *

"This is a king crab catcher vessel and you can see the size of it There are from five to seven men bouncing around on this little catcher vessel that brings the king crab into the mother ship. They practically live aboard this It would be almost impossible to get American fishermen to endure this type of an existence for the salary they are paid I understand that these Japanese aboard are paid about 500 yen a day That's about $1 50 a day and all the fish and rice they can eat The space is so crowded aboard the little catcher boat that when they pick their nets they pick out the king crab alive, they pull their legs under and stack them up like waffles There you can see this stack up Space is so limited on those little catcher vessels that those all stacked up there in a pile, looking like a little round doughnut, is a king crab all folded together. These men stay out there in storms, in the tossing sea, and take the king crab out of the tangled nets and due to lack of space aboard the catcher boat, then bring them into the mother ship And here it shows the king crab being placed on deck of the mother ship.

"This is a chart of the USSR fisheries throughout the world and I have it here to show you the concentration of fishing in the various oceans They have silhouettes of Russian vessels and silhouettes of the type of fish that they are catching This picture was taken last spring in Moscow at one of their laboratories and you can note that they fished the North Atlantic heavily all along our Eastern coast, quite heavily down through Florida, all along the West Coast of Africa where they have a concentrated fishery In the North Pacific the only area they have avoided is South America to this

time, around India and the China Seas, because that's fished heavily all through there by Red China But this is the USSR fishery off the West Coast of Australia They are gradually moving now down our Pacific Coast and what I wanted to point out today is, as the stocks become depleted in the Bering Sea and the Gulf of Alaska, that they have their scout boats out now, moving down off the coast of British Columbia, off the coast of Oregon and Washington and soon will be fishing our stocks of fish probably clear down off the coast of California, moving off the coast of Mexico and I would imagine after that, South America. And this just shows the rate of incline of their catches of bottom fish

"The USSR has large concentrations of fishing vessels in the North Pacific They are there practically the year around It is difficult to give an exact figure on the number of vessels They vary from month to month and from season to season but they do fish right through the winter They like to get into the packed ice, as you can see in this slide It looks like a regular city out there with their large mother ships, their supply ships, their tugs, repair vessels and the catcher vessels Just another shot in the North Pacific—we're in the Bering Sea This is mostly for bottom fish, for shrimp, for herring and for ocean perch This is a typical Russian side trawler and the mother ship will have from four to twenty of these trawlers operating for it The concentration of the fleet right now is in the Gulf of Alaska There's some 90 to 125 vessels in the Gulf

"This is a typical Russian freezer ship and it had a little reduction plant aboard and about four catcher vessels would work for a ship of this size Russia has solved one sociological problem—they do not have to go back to port They stay out for practically 9 months to a year and they have both men and women aboard The women do the cooking, take care of the staterooms and work in the cannery, in the meal plant or in the freezer They work right along with the men

"This is the typical Japanese side trawler practically the same as the Russian trawler that fishes the North Pacific Depending on the time of the year there would be some 100 to 600 foreign fishing vessels of the size you have seen here fishing in the North Pacific

"Now earlier, I mentioned the stern ramp trawler and this is the vessel that is really making headway in harvesting bottom fish or the midwater fish It is built so that it can fish almost in any type of weather It fishes heavy gear and it makes tremendous catches A number of these vessels are now being constructed in Poland for the USSR I think they have some 50 under contract right at the moment, and there are somewhere between 60 and 100 of them already in operation in the various oceans of the world So let's go aboard this vessel and take a look at the operations Here you can see the size of the gear—it's all handled mechanically These are the floats and the leads as they are letting the gear out and they will tow this gear twenty minues to an hour and a half and will catch all the way from ten tons to thirty tons of fish in one-half hour to an hour tow So here's bringing the net back in as it pops to the surface practically filled with ocean perch Some

people call them red snapper here in the North Pacific, but they are not a true red snapper They are a rock fish The catch here, as you see, is about 95% pure ocean perch and they are very excellent food fish. And that's why there is such a high concentration of effort being placed at the present time on the ocean perch population. So here's the net as it comes in, all pulled in with heavy equipment. It doesn't take much manpower. The men just sort of guide it as it comes aboard and make sure the hooks are placed in the right place. A small amount of manpower harvesting a tremendous amount of fish. Here's about 20 tons right here of fish coming in As soon as it is taken aboard, another net is put right out or the same net is put out, so it keeps right on fishing

"This is the reason that both Japan and the USSR are harvesting well over 1 billion pounds of fish annually out of the North Pacific

"This is the fish as it is taken below decks and put into the checkers where they determine how they will use it Much of it is frozen in the round. They just freeze it into blocks without doing anything with it A lot of it is gutted and maybe the gills taken out, or headed and frozen Some of the choice fish that's going into the world market and probably being sold back in the United States as fish blocks, is taken and put in lines like this, where they go through processing lines and then are quick frozen It's a very excellent quality product that they put out They throw nothing overboard All of the racks or anything that's left over is reduced then to oil and meal

"In comparison, you all will recognize this—this is a picture of our well known salmon trolling vessel. It has from one to two men aboard. We have millions and millions of dollars invested in this type of a fishing vessel up and down our coast This is our Alaska limit seiner, limited to 50 feet in length, and the power block that you see in the rigging there is the most important invention in the last 25 or 30 years It speeds up the setting of the seine and it reduces the manpower that we have to have which enables our fishermen to become more competitive with other fishermen This is again a typical little three or four-man trawl vessel, and there you can see about 3 tons of fish that they've caught It takes a lot of labor to get them aboard Here they're just sort of hoisting it over the side, and compare this with the stern ramp trawler where they were bringing in 20 or 30 tons—the same amount of manpower, but this runs up our cost Here's the fish on deck with one of our small trawlers where they are sorting them out. Take a little closer look at that and you can see everything—ratfish, skates, rays, flounders, starfish So there's literally millions of pounds of this type of fish all along the coast of California, Oregon, Washington, and British Columbia, and this is exactly what the foreign fisheries are moving into our waters to help us harvest Also, there are large concentrations of shrimp, as you are well aware The Pacific shrimp are small and it takes considerable labor to shuck them or to prepare the products, but we can almost get pure samples of shrimp off the coast of Oregon, Washington, and

do the same here in California We do have some very valuable resources that need protection

"Here is what has happened to the United States in the last 10 years—we've dropped from second place in the production of fish down to fifth.

"Now these are pictures of the Russian fleet that came down off the mouth of the Columbia River We took these slides about six weeks ago We had two factory ships, four catcher vessels and two research vessels We have had research vessels off the coast of Oregon and Washington for the last nine months The research vessel just stays out there I think it monitors all of our fishbone talk and where the catches are being made I think it makes a few sets itself to determine where the fish are If it thinks that the fish build-up is enough, it calls its vessels that are fishing up around Dixon's Entrance or the Gulf of Alaska, and a part of the fleet up there splinter off, come down along the coast of Vancouver Island and along the coast of Washington And this is one of the typical mother ships You can see the bumpers on the side of it for catcher boats to come alongside to unload They fished for about two weeks off our coast about 50 miles south of the Columbia River and to within 25 miles of shore And here you can see the Russians on the stern of the vessel there They were a happy lot They would wave at you There are both men and women there I haven't exchanged anything with them, but some of our fishermen say that they like to get American cigarettes and they'll toss you a bottle of vodka So there's a little exchange out there "[4]

Finally, Mr Hutchinson again

"As soon as the runs drop off or the production drops off in the Gulf of Alaska or the Bering Sea, I think then, we can expect foreign fishing activity on all of our coasts up to within three miles of our shoreline * * *

"I think that the Japanese keep shifting their intensity of fishing from area to area. If one area goes down, then they will move into another area so they can keep up their production I have an overall figure here; it's estimates of the Japanese production of certain marine species in waters of the North Pacific, the Bering Sea and Gulf of Alaska for the years 1961 through 1964, which would give you an idea of the shift In 1961, they harvested some 2,773,000,000 pounds; in 1962, 2,481,000,000; and, 1963, their catch then went down in the North Pacific to 1,905,000,000; and in 1964, it went down a little more to 1,691,000,000 pounds and as this drops down in the Bering Sea and the Gulf of Alaska, they are going to move into other areas to try to keep their fish production up A very good example is the flounder production in this area, and Japan has fished this very, very hard. In 1961, they took over a billion pounds of flounder and by 1964 it had dropped down to 223,000,000 pounds; so they practically overfished that particular fishery and so they had to move somewhere,

[4] *Transcript*, pp 212–224

to bring up their catch somewhere else I think that we'll find them now in our area "[5]

Solutions: That's the problem And what do we do about it? The committee asked William C Herrington, Special Assistant for Fisheries and Wildlife, U S Department of State, if it is true that foreign vessels will harvest our ocean fish unless those fish are already being harvested to the maximum by domestic vessels

His reply:

"When a stock of fish is being harvested at the level which produces the maximum sustainable yield the size of the stock, that is, the number of fish is substantially less than when the stock is unfished or lightly fished This makes it less attractive for new fishermen, foreign as well as domestic Nevertheless, if the catch per unit of effort continues to be of such a magnitude as to make the foreign operations profitable, the foreign fishermen still may decide to enter the fishery. They then will participate in the fishing and if there are no conservation regulations, total catch of all countries would exceed the sustainable yield and the stock would be overfished If there were agreed-upon conservation measures that prevented overfishing, then the fishermen of both countries would be limited by such regulations United States Government under international law would not, because of the fact that we are fishing the stock, be in a position to prevent foreign fishermen from participating in the fisheries. But we would be in a much better position to press for full cooperation and a conservation program and for moderation in the extent of foreign operations "[6]

The committee came back to this subject several times during the hearing·

MR HERRINGTON * * * I've given you a summary of the international law dealing with the question and how you use a fish off the coast of California is a problem for California We don't pretend that—it's not the State Department's business—but if resources are not being utilized in this world which is increasingly hungry, we are not in a position to object to other countries using these resources We can press that they should use it in an intelligent way to assure that they don't overfish the resource and be sure the resource will continue to produce, but we will get no support anywhere in the world if we objected to fishing resources that weren't being utilized So that if we are utilizing them, we can talk, first, more convincingly about conservation and we can also urge moderation of their use which is going to have a direct impact on U S fishing We have done this in cases

CHAIRMAN DAVIS In other words, if these facts were substantiated by scientists that say that certain species of fisheries that should be or could be harvested without any damage to the fishery, you feel that probably California should interest themselves in fishing for these species?

[5] *Transcript*, pp 227–228
[6] *Transcript*, pp 10–11

MR. HERRINGTON: I will leave this question for California. I say if you don't use them, we aren't in a very good position to press other countries to cooperate.

CHAIRMAN DAVIS: To help, in other words, this is what you are saying.

MR. HERRINGTON: Yes.[7]

One other section of testimony is worth noting, from the standpoint of cooperation and conservation:

ASSEMBLYMAN JOHNSON: Do you find the Russians and the Japanese as concerned about conservation as we are? Is there evidence that they are practicing conservation in any way?

MR. HERRINGTON: This is a different question. Both governments profess a deep interest in conservation practice. Our experience varies somewhat and if you read the report from the North Pacific you will find that many of our people do not believe the Japanese industry, at least, is too much concerned with conservation.

ASSEMBLYMAN JOHNSON: What about the Russians?

MR. HERRINGTON: The Russians—we have had quite good experience with them in recent years of negotiations. They are tough negotiators, but we have usually come out with acceptable agreements with them.

ASSEMBLYMAN JOHNSON: Do they live up to the agreements?

MR. HERRINGTON: Yes, I think that the Russian Government makes a point of sometimes, maybe, to have misunderstandings or slowness of communication, there may be things that appear to be lack of living up to agreements, but when we've taken them up officially, we've usually come out with a good rejoinder for this.[8]

The testimony from Mr. Ander's prepared statement, quoted at the beginning of this section, indicates many of the potential solutions to problems of the fishing industry. But another valuable indication of what we need to do came via William F. Grader, Assistant to the Administrator of the Resource Agency:

MR. GRADER: Well, it seems to me that, first of all, we are very definitely behind, much behind, Japan and Russia, as was pointed out this morning, in the technical field, and we're behind in marketing and processing and methods of catching fish and we don't know where the fish are really yet. What we need to know is what's in the ocean and where they are in the ocean and how to catch them, and what use they are, and then how to sell them. And I don't think that industry can do this alone.[9]

It is interesting to point out that, of the "needs" cited by Mr. Grader, the State of California is involved only in two—what's in the ocean and where they are—whereas the federal government is involved in all five areas. California regulates the fisheries, and is thus the governmental agency with primary responsibility, yet we are doing less than the federal government to solve the industry problems.

[7] *Transcript*, pp. 29–30.
[8] *Transcript*, pp. 22–23.
[9] *Transcript*, pp. 114–115.

The State Department of Fish and Game has restricted its marine resource activities to biological questions The major if not sole, attempt by the Department has been to preserve the resource As laudable as this may sound, it has meant a one-sided approach to the complex problems of the commercial fishing industry It may be one reason why we are saving the fish and losing the fishermen

It is a little startling to realize that, despite having primary responsibility over an industry deeply involved in making money, the Department of Fish and Game has not one economist on its staff

This committee will support a Departmental request to hire economists and other professionals who can give the Department the capacity to consider the full range of problems besetting the fishing industry

It is not easy to point out the specific problems such a change would solve; but it seems almost a certainty that, without such a change, California will do little or nothing to help resolve the problems of this industry.

The committee will support reasonable general fund augmentations to accomplish any such staff increase

Fish Protein Concentrates. One of the most interesting prospects in the fishing industry is the possibility of a fish protein concentrate As explained by Mr. Don Johnson

> "We have mentioned fish protein concentrate as a possible development that could solve a number of problems Methods for the production of an odorless and colorless FPC are known and can be applied to the commercial production of a dietetically acceptable high-protein concentrate Our interest in FPC is two-fold, and foremost is the humanitarian issue
>
> "Hunger is the biggest human problem facing the world today More than half of the world's total population, two billion people, will go to bed tonight hungry and suffering from malnutrition, or under-nutrition This condition is primarily due to insufficient animal protein in the diet. Plant proteins generally do not contain all of the amino acids needed for growth and vigor
>
> "Apart from the humanitarian issue in connection with FPC are industry and economic considerations The production, on a mass scale, of a satisfactory FPC would provide a tremendous economic stimulation to our California fishing industry Species now considered latent, trashfish and those inadvertently taken in fishing operations with more valuable species, could be used in the production of a commercially valuable product with ensuing benefits to all segments of our industry The potential market is great and is both domestic and foreign in character "[10]

Development of such a concentrate could well solve many problems of marketing and selective fishing. The Legislature has passed a resolution, authored by Mrs Davis, in support of federal legislation to create experimental fish protein concentrate plants Congress has, since then authorized a plant but has not appropriated funds

The committee recommends adoption of a resolution asking Congress to provide funds to build and operate a plant as soon as possible

[10] *Transcript*, Appendix II

Eviscerated fish. Mr Don Johnson also brought out a problem about concentrate

> "At present use of whole fish to make FPC is prevented by ruling of the Food and Drug Administration Our Bureau is endeavoring to provide information that may cause the FDA position to be modified "[11]

Mr Grader was a bit more forceful

> "Perfectly pure food and a fine protein, yet we have the Pure Food and Drug Administration which has declared that if the fish is over a certain size and it isn't eviscerated, you can't use it for human consumption And I think this is a rather stupid and backward law."[12]

The committee recommends passage of a Concurrent Resolution to recommend that the Food and Drug Administration allow use of a whole fish for human consumption

Antiquated Laws. The committee has long heard grumblings about antiquated laws in the commercial fisheries field The San Pedro hearing was no exception, and Mr Katnic had this to say

> "Many of the legislative laws that are in effect today have actually hurt the commercial fishermen For instance, factory ships are outlawed in the State of California We cannot have a factory ship to process raw fish into a meal * * *[13]
>
> "Our laws have been that we cannot land certain types of fish, that we cannot have possession of certain types of fish Isn't it kind of ridiculous that if I caught a piece of sea bass or had a sea bass on my boat that I must show a receipt that I purchased it? But these are the laws and they should be corrected. I think a lot of our laws are antiquated and these are things that we should revise For all intents, they were probably done in the best interests of everybody, but today I feel that a lot of them should be liberalized; and I feel that we should do more for our commercial fishermen in this area "[14]

The committee believes a review of commercial fishing laws is desirable and recommends an intensive committee investigation be undertaken

Taxation. August Felando, General Manager of the American Tuna Boat Association, San Pedro, had some strong feelings on the subject of taxation

> "California has suffered to the gain of Puerto Rico As is well known, Puerto Rico has opened her doors by establishing tax rulings very favorable to new industry. Canners and vessel owners, vessel owners induced by the presence of such canners, obtain income tax and property tax exemptions This is why the frozen tuna-carrying capacity of the fleet in Puerto Rico is twice the

[11] *Transcript*, Appendix II
[12] *Transcript*, pp 115, 116
[13] *Transcript*, p 316
[14] *Transcript*, pp 318–319

size of the fleet located in San Pedro. This is why most, if not all, tuna vessels that have been converted from military vessels, or newly-built, are being operated in Puerto Rico Most canners located in Puerto Rico have 10 to 17 year exemptions dependent only on location According to a 1964 report by the American Can Company, by 1970, about 8 to 9 million standard cases of tuna will be packed in the three islands (Hawaii, Puerto Rico, and Samoa), well above the 5 3 million in 1963 Almost 80 percent of the net increases will come from Puerto Rican operations If past 1957 trends continue, California-based canners will pack approximately 9 4 million of an estimated 1970 domestic pack of 22 8 million cases Although slightly above the 1963 output, the expected 1970 pack will fall some 10 percent below 1962 levels

"I would like, at this point, to bring the committee up to date, just to give a little comparison here. The Puerto Rico pack, as of last month, came to about 4 1 million The pack in California is about 8 4 million, in standard cases

"Of particular significance is the fact that tuna vessels located in Puerto Rico are not subjected to personal property taxation. This fact is of considerable importance Take a new tuna vessel, built at a cost of $1,200,000, the fair market value can be reasonably based at $1,000,000 Using the law now in existence in California, the assessed value of that vessel is roughly $200,000 or $250,000. The rate in Los Angeles County is 8%—I think it's approaching 9%—in San Diego County about 7%, closer to 8% Thus the fixed annual expense of this owner would be in a range of $14,000 to $20,000 a year, just for the privilege of putting San Diego on the stern of his vessel, or Los Angeles

"If the vessel was based in Washington or Alaska or Oregon, the tax would be a fraction of this amount What benefits or protections do these vessels receive in California? I remember a comment in 1963, when we had a serious problem involving 21 vessels in Salinas and the statement was made, with a great tout, that California doesn't have a navy And we were left to our own to help ourselves down there We just fail to see, is there any logical connection between the taxes imposed and benefits received? Tuna vessels are at sea some 200 to 250 days a year In some instances, 300 days a year When they arrive in port, they pay direct or indirect port charges for everything they receive Yet every vessel of more than 50 tons burden engaged in the transportation of freight or passengers is exempt from personal property taxation in the State of California We believe that the taxation of California's commercial fishing vessels is discriminatory and inequitable In this respect, it is harmful to the interests of California's fishing industry I direct the attention of this committee to the House Resolution No 399, which was introduced in April, 1965 The resolution was introduced by Assemblyman Mills This resolution proposes an interim study of the personal property tax situation on fishing vessels operating from California I think the first report is due in 1967. It's a long time

"The exemption of commercial fishing vessels from personal property taxation will help the California fleet maintain its competitive

position with tuna fishing developments in Puerto Rico and in other states * * *

"I just fail to see how anyone who is going to invest in a large vessel can operate from a port in California in view of just the personal property taxation situation I think they are going to have to figure out some other place. Right now Oregon, Washington, and Alaska have California whipped on this personal property taxation in regards to fishing vessels" [15]

This subject was studied during the interim by the Assembly Committee on Revenue and Taxation. Therefore, this committee makes no recommendations

Marketing. Although there is general agreement that, if a demand can be created, the problem of supply of seafood will automatically take care of itself, there is nevertheless an inadequacy of market analyses, advertising, or promotion of seafood

Although the Bureau of Commercial Fisheries has moved into these areas, California clings to the view—perhaps correctly—that these should be areas of private endeavor.

The committee is not prepared to recommend state-sponsored advertising or promotion programs, however, it does feel the time is approaching when the State should seriously consider becoming involved in such areas as market analysis and quality control.

In the meantime, the committee strongly urges the industry to adopt the Fish and Seafood Advisory Board.

Financing. The federal government has stepped into areas where California has feared to tread · loans and grants to private individuals or organizations There are at least three federal programs affecting commercial fishermen.

MR ANDERS We have a branch of loans and grants which administers three programs. One is fishery loans for vessels and gear, one is federal fishing vessels mortgage and loan insurance, and one is fishing vessel construction differential subsidy * * *

This fishing vessel construction differential subsidy has to do with the costs of the vessels here as opposed to costs of building elsewhere, and we work with the Maritime Administration in this regard When application is made, if the application is approved, the design of the vessel is submitted to the Maritime Administration, and it tells us what it would cost to have this vessel constructed here, as opposed to somewhere else, and the amount of money which is put into it has to do with the difference in cost between constructing in this country and in another country * * *

MR JOHNSON · Perhaps I could add in reference to—Mr. Anders referred to the subsidy program Perhaps I could make a couple of references to the loan program. There are two One involves direct borrowing of federal money, in effect, and the other is more nearly comparable with an FHA loan where the government money insures the loan which is obtained actually from a bank Both of these are available through legislation that has been

[15] *Transcript*, pp 306–309

passed by the Congress Interest rates on the part of the federal government now with respect to the direct federal loan, as I recall, are 5%. I might add also that the direct federal loans are made only when bank money is not available and it can so be demonstrated by the applicant for the loan [16]

The committee assumes these programs are helping somewhat, but they were subject to some criticism Mr Carry stated the differential subsidy was not a subsidy for fishermen, but a subsidy for shipyards.[17] Mr Felando said the subsidy law failed to promote replacement of existing fishing vessels and, consequently, that the net worth of every tuna vessel owner in California is in serious jeopardy.[18]

Mr. Katnic also had his comments.

"The building subsidy that has been talked of, I just made some notes here, must be paid back. If $600,000 is borrowed and $400,000, for instance, the figure that was used, was given by the government, if the man had an occasion to sell this vessel to another government, he would have to reimburse the federal government for the $400,000. He would also be restricted to the type of gear he would be able to utilize, he would have to go into a new type of fishery, not in the fishery that he is now normally fishing; so as far as this type of help, we can do without it, as far as I'm concerned There may be advantages some time in the future." [19]

Finally, we return to Mr Carry

"It is true that the fishermen we have here in Southern California operating these purse seiners have had a real tough time for a number of years They can't do the things that I am talking about; they can't build stern ramp trawlers They don't have access to the capital to do it on the basis of what has happened to them in the past This is why we might need a little help—to help these fishermen help themselves Once they get that little bit of help, once they see the gold over the horizon, they will do these things They are the fishermen who are capable of it. They are presently financially handicapped They need a little help; they need the banks, private industry, the government, perhaps, to help them. This is what they need to get them able to go out to catch these fish that the Russians or the Japanese are going to catch, and I have the confidence that they are going to do it." [20]

Aside from any other valid criticism, the federal programs fall short in terms of money available. The subsidy program amounts to less than $10 million annually for the entire nation—an amount which can hardly be expected to provide the number of new, modern vessels necessary The direct loan is financed by a revolving fund which is, like most revolving funds, relatively small In addition, the direct loan requires the fisherman to show he cannot obtain a private loan, yet be

[16] *Transcript*, pp 47–48
[17] *Transcript*, p 286
[18] *Transcript*, p 304
[19] *Transcript* pp 314–315
[20] *Transcript*, p 291

able to repay the government loan. He has to be a bad risk and, at the same time, be a good risk

It is recommended that Congress be memorialized to re-evaluate its programs on behalf of the fishermen and determine whether changes are needed to make the programs more workable and useful.

The Commercial Fisheries Research and Development Act. This federal law, PL 88-309, provides 75 percent matching grants to the states for research and development projects California was to receive $246,000 the first year

Subsequent to the hearing, the Department of Fish and Game asked for, and received, $92,000 in matching general funds for these projects: Commercial Fisheries Coordination; Fisheries Resources Sea Survey, Food Habits Study; Shellfish Laboratory Operations; Shellfish and Bottomfish Data.[21]

It is hard to disagree with these projects So much needs to be done that it is virtually impossible to say what should be done first.

It is relevant, the committee believes, to point out that the Department of Fish and Game is apt to think in terms of basic research, and to also point out that several southeastern states are using their PL 88-309 monies to promote seafoods[22]

It is also hard to disagree with Mr Felando:

> "At the present time, I'm in no position to inform this committee on the particular projects we have in mind, but I can say that we are in interested in projects that will assist the California fisherman in 'devising more efficient harvesting methods'. The fishing vessel owners do not have the resources to finance research projects that deal with improved technology We look with envy at the progress made by the farmers in the State of California. For example the California tomato farmer just recently has been placed in a unique position to reduce his costs and become more efficient He will be able to purchase a tomato picking machine, a piece of equipment developed not by the farmer, but by the University of California at Davis.
>
> "The advances in the tuna fishery, such as the Puretic power blocks, came about only through the ingenuity of fishermen. In fact, a fisherman right here in San Pedro developed it back in 1954 This has completely revolutionized the fishing industry world wide, and particularly not so much to the advantage of the San Pedro fisherman, which was somewhat of a paradox, but in the tuna fisheries, the San Diego fisherman The industry, and particularly the fish producers, cannot depend on this type of chance innovation. Fishing on the world's oceans is becoming extremely competitive Only those who continually devise more efficient harvesting systems will survive. Proof of this can demonstrated by a look at the progress of the California farmer The fishermen of California must be assisted in like manner Under a proper implementation of the Commercial Fisheries Research and Development Act of 1964, a start in this direction can be made

[21] *California State Budget*, 1966–67, p 873
[22] *Transcript*, Appendix I.

"We agree with the statements of Dayton Lee Alverson, Director of the U S Exploratory Fisheries and Gear Research Base in Seattle, Washington He stated in an article entitled 'The Road Back', unfortunately, I was able to make only one copy, so Madam Chairman, you have the only copy of that article He stated, 'Improvement of America's competitive status in world fisheries is dependent, in part, on acquiring better understanding of the behavior, distribution, and magnitude of living resources in the oceans *But more important, at the present, is the development of effective harvest and processing systems which can provide the mechanism whereby geographic and bathymetric expansion and species diversification of our fisheries is possible* .

"'Increased harvest efficiency should have no particular bearing on problems of over-exploitation . . What has not been understood is that if we are to participate in producing even part of this maximum sustainable yield, our society requires that we be more efficient than our competitors' The projects that the State of California should plan and submit to the Secretary of Interior should be guided by the suggestions of Mr. Alverson "[23]

The committee recommends that the Department of Fish and Game contact as many segments in the fisheries industry as reasonably possible, and to give full consideration to their suggestions for projects under the Commercial Fisheries Research and Development Act

[23] *Transcript*, pp 302–304

THREE MAJOR FEDERAL LAWS

PL 89-304, The Anadromous Fish Act
PL 88-578, The Land and Water Conservation Fund Act, and
PL 89-72, The Federal Water Project Recreation Act

The San Pedro Hearing was also the setting for a discussion of four major federal laws, one of which, the Commercial Fisheries Research and Development Act, was discussed earlier

Anadromous Fish Act. Of the four acts, the Anadromous Fish Act is one of the most straightforward It will provide 50 percent matching grants to conserve and enhance our striped bass, salmon and other anadromous fish resources The program is to be in effect through 1970, and California can receive no more than $1 million annually Projects can include hatcheries, fish screens etc [1]

A total of $390,000 has been allocated to California for the current fiscal year, and projects must be submitted to the federal government early in 1967 The Legislature has thus been bypassed, apparently, through the accident of timing However, the committee is concerned that this not happen in the future

The committee does not want the Legislature to be faced with a simple "yes" or "no" choice on proposed projects *The committee recommends that the Department of Fish and Game, when it makes its state budget submittal for projects under the Anadromous Fish Act, include more than the minimum number of projects so the Legislature may choose alternative projects if it so desires*

It is recommended that the projects also be presented to the Assembly Committee on Conservation and Wildlife for review

These recommendations apply only to projects by the Department, and not to projects undertaken by the Wildlife Conservation Board The Board because of its makeup has built-in legislative review, and any further review would not only duplicate the Board's functions but would also tremendously complicate Board procedures

Land and Water Conservation Fund Act. This Act has a longer life span, and involves a wider range of projects and a greater amount of money than does the Anadromous Fish Act

This is a 25-year program aimed at providing needed public outdoor recreation areas and facilities California received something less than 4 8 million for fiscal year 1966–67 and stands to receive between $4 and $8 million in ensuing years The funds provide 50 percent grants for planning, acquisition or development projects One requirement is that projects come within the scope of a state plan—in our case, the California Public Outdoor Recreation Plan [2]

[1] *Edited Transcript of Hearing on Foreign Fishing Vessel Encroachment Commercial Fishing Problems, Four Major Federal Laws*, December 2 and 3, 1965, San Pedro, Assembly Committee on Conservation and Wildlife, pp 35, 36 and Appendix 1
[2] *Transcript*, pages 62–63

The testimony on this Fund can be summed up in this way·

1 The Resources Agency, not the Legislature, originally decided a large share of the funds should be distributed to local jurisdictions (The Legislature later went along with this, at least insofar as the 1966–67 state budget was concerned.)
2 Eligible projects were determined on the basis of a state plan not approved by the Legislature and on the basis of criteria developed administratively Criteria paralleled those used in the State Beach, Park, Recreation and Historical Facilities Bond Act of 1964.
3 A committee appointed by the Administrator made recommendations to the Administrator, who had the final decision.
4 The Legislature could say "yes" or "no"[3]

Two more things need to be said

—This committee flatly rejects the notion that legislative intent for all future outdoor recreation programs has been established by the State Beach, Park, Recreational and Historical Facilities Bond Act of 1964 The legislative policies laid down in that Act apply only to that measure, not to recreation programs now and forever

—The Resources Agency has been participating in the Land and Water Conservation Fund Act without specific authorization to do so A bill to provide such authorization, Assembly Bill 56, introduced by Mrs Davis in 1965, was pocket vetoed

The committee recommends

1 *That the Legislature adopt legislation specifically authorizing participation in the Land and Water Conservation Fund Act*
2 *That the plan be formally renewed every 4 years by the Legislature.*
3 *That the major criteria for participation in the Land and Water Conservation Fund Act be embodied in administrative regulations.*

The Federal Water Project Recreation Act. This Act is the most complex, and potentially the most expensive to California, of all the federal acts discussed at the hearing

The Act establishes a uniform policy which, for the first time, makes recreation and fish and wildlife enhancement project purposes in federal water projects[4]

Until now, such purposes were hit or miss, with the federal government varying from zero recreation at one project to 100 percent recreational development at another[5]

However, a non-federal agency must pick up ½ of the separable costs (costs not common to all project purposes, such as picnic tables, boat ramps or project modifications for recreation or fish and wildlife enhancement) and all of the costs of operation, maintenance and replacement of recreation and fish and wildlife enhancement features[6]

[3] *Transcript*, pages, 64–69
[4] *Transcript*, page 118
[5] *Transcript*, page 121
[6] *Transcript*, page 119

This, of course, is the provision which is to cost the State of California a great deal of money

Without going into all the details of the Act, it should be stressed that there is an extreme urgency for California to participate financially in these federal projects at the outset; otherwise, costs to water users will be higher, and any subsequent recreation and fish and wildlife enhancement developments will not only be more costly, but also may not realize their full potential.[7]

It is also clear that:

1 User fees cannot pay for operation and maintenance, let alone capital costs.[8]
2 Local agencies will almost invariably be unable to pay the required separable costs and costs of operation, maintenance and replacement[9]
3 State manpower must increase appreciably, because there must now be more evaluation and study of federal water projects, and more operation and maintenance personnel.[10]
4 The Fish and Game Preservation Fund cannot be used to any major degree to pay the separable costs for fish and wildlife enhancement.[11]

In short, either recreation and fish and wildlife enhancement must go begging, or the general fund must be tapped for additional funds

The committee has deliberately summarized the provisions and effects of this Act, because the Act lies basically within the jurisdiction of the Assembly Water Committee However, the committee is deeply concerned over the financial impact of this Act

[7] *Transcript*, pages 124–126, 173, 174
[8] *Transcript*, page 151, 152
[9] *Transcript*, page 122, 123
[10] *Transcript*, pages 175, 176, 177
[11] *Transcript*, pages 175, 176, 177

THE PROPOSED FISH AND WILDLIFE PLAN

The Assembly Committee on Conservation and Wildlife held two hearings during the interim on the proposed Fish and Wildlife Plan The first hearing on January 24 and 25, 1966 was to have the plan itself presented; the second hearing, on April 27, 1966, was to hear comments from various interests on the plan

The plan has been described as the most far-reaching of any in the nation This does not prove the plan is necessarily a good one; it may prove only how little other states have done in this area.

One of the committee's major concerns is that the plan could become a strong guideline for action, despite the lack of any official action on the part of the Legislature. We must point out that this is exactly what has happened with the State's Public Outdoor Recreation Plan; though never formally adopted by the Legislature, it has not only shaped administrative actions, but it has also been the basis for our distribution of funds under the Land and Water Conservation Fund Act

We consequently are concerned when we see the following language in the Preface of Volume I of the proposed plan—we repeat, "the proposed plan" "The documents which form this plan are not the end of planning They are the beginning They will be used by the Resources Agency of California, and the State Office of Planning in preparing the State Development Plan. They will be used as a functioning guide by the California Department of Fish and Game "

One of the major points of this report is to show why the proposed plan, in its present form, should not be a "functioning guide". Although this report is largely critical of the plan, we wish to make it clear that the plan in many ways is a valuable undertaking.

The Experts. Much has been made of the fact that the Fish and Wildlife Plan was developed with the advice and consultation of nationally known experts This point should be clarified because it is important to know the significance of the consultants to the plan

First of all, it must be said that it is not hard to pick experts who may agree with you This is not to say that the experts in any way compromised themselves; it is to say that the Department had many contacts with the experts in the past. The experts whose names appear in the report were the first men chosen; none refused the consultant's role

These men were A Starker Leopold, Professor of Zoology at the University of California; Carl W Buchheister, President of the National Audubon Society; Thomas L Kimball, Executive Director of the National Wildlife Federation, Richard H Stroud, Executive Vice-President of the Sport Fishing Institute, and Dr Milner B Schaefer, Director of the Institute of Marine Resources, University of California

These men were, with minor reservations, thoroughly in favor of the plan But the fact that they did have reservations should not be forgotten; for example, Dr Leopold was basically against the catchable trout program, and Dr. Schaefer did not agree that commercial fishing should be placed under the control of the Fish and Game Commission, as that commission is presently constituted

According to testimony of Walter Shannon, Director of the Department of Fish and Game, the experts met six times, for an average of 2½ days each time, to work on the plan.

It should be kept in mind that the "experts" are not the authors of the plan, this is the Department of Fish and Game's proposed plan. Any doubt of this is dispelled by the title pages to Volume II of the plan, part of which reads, "Wildlife Plans and Inventory were prepared under the supervision of Ben Glading, Chief of the Game Management Branch; by Carol M. Ferrel, Game Management Supervisor, Wallace MacGregor, Game Management Supervisor, etc " There are similar statements for other parts of the plan.

The committee feels it is important to make this distinction in authorship. Certainly, the experts made a contribution, but the fact is that this is still the Department's plan, and any disagreements are with that agency

Another point should be made clear. Judging from the testimony at our second hearing, most disagreements with the plan are not in the area of "scientific findings", but in the area of public policy It should be realized that a decision by the Department to increase anterless deer hunts is not necessarily a scientific decision Without taking any due credit away from the expert consultants, we believe it is accurate to point out that their national reputations were not built on the basis of expertise in questions of public policy

Financing and procedures. The first committee meeting on the Fish and Wildlife plan opened with an interdepartmental squabble

The Department of Finance and its State Office of Planning objected to the public release of the plan. It was to be, they said, a report to the Office of Planning for its consideration in preparing the State Development Plan The Planning Office disbursed the federal funds used by the Department of Fish and Game for the plan; and a contract with the Resources Agency stipulated no public release.

Hugo Fisher, Administrator of the Resources Agency, at that time testified that he wrote a sub-contract with the Department of Fish and Game, ordering release of the plan. It would be "illegal and unwise" not to publish the plan, claimed Mr Fisher; all the planning really amounted to was a speedup of regular planning processes of the Department

The argument was complicated by this statement, which appears at the beginning of the *mimeographed*, first version, of Volume I of the plan· "This document was prepared under contract to the California State Office of Planning by the Department of Fish and Game, the Resources Agency, State of California The conclusions and judgments contained herein are those of the authors alone and do not necessarily reflect the opinions and policies of the Office. The contents of this report may not be used or reproduced in any form without explicit written

permission from the Director of Finance, or his designated deputy, and the Administrator of the Resources Agency, and the Director of the Departments of Fish and Game "

Along came the second version of the Fish and Wildlife Plan, the *printed* version, which was, except for relatively few changes, identical to the first version But the statement quoted above was stricken completely from the second version!

The big question now is, what does the Fish and Wildlife Plan mean? What happens if it is partly in conflict with the State Development Plan? What happens, for that matter, if the Legislature or the Commission deny some of the recommendations in the Plan? Will the plan nevertheless remain intact? Will the Department continue to use the plan as a "functioning guide", to press for changes it desires?

We have always thought the duty of state agencies was to carry out the policies and desires of the Legislature We are not sure this is the way the department of Fish and Game intends to proceed.

A related point is that the Department spent $115,000 in federal funds, which it matched with state time totaling the equivalent of $110,206, to prepare the plan This was done without any mention in the state budget that $225,000 was to be spent to prepare a Fish and Wildlife Plan

Ignored was the fact that the Legislature was led to assume these persons were spending their "matching time" on other work, or at least on other planning

But the major point is that any time any agency intends to spend $225,000 on any one program, the Legislature wants to know about it, and wants to have it included, in some recognizable form, in that agency's budget

The Department's actions in spending the $225,000, however, were legal; the Legislature has left some latitude in the statutes

Alternatives. With the publication of the Fish and Wildlife Plan, the Legislature is once again faced with yes or no decisions on specific questions

With the publication of the plan, the Legislature is being asked to make decisions affecting the state through 1980 To do that, we believe we need a thorough explanation of the alternatives possible, both in a general and specific sense We are now placed in the unhappy position of making "yes or no" decisions or hiring a $225,000 staff to develop alternatives. We believe there is more than one good Fish and Wildlife Plan possible

The Department is the logical agency to develop alternatives We know what this means It means not only more time, but it means a kind of soul-searching and analysis that hasn't occurred in the fish and game field or, for that matter, in many state agencies

And, we also hope the Department realizes the Legislature dislikes the simple "yes or no" decision when alternatives are both reasonable and possible

The objectives. When Robert Jones, deputy director of the Department of Fish and Game, testified at the first committee hearing, he used part of a quote by Winston Churchill, which is also used at the beginning of the Fish and Wildlife Plan: "The first thing is to decide

where you want to go " As evidence of where the Department wants to go, Mr Jones cited the objectives of the Fish and Wildlife Plan·

"Once a broad statement of purpose has been set forth, the first step in preparing a plan is to develop and spell out the objectives which are to be achieved Planning then becomes a matter of determining the means to achieve these objectives

"In a broad and basic sense, the objective of the California Fish and Wildlife Plan is to insure that fish and wildlife are perpetuated to be used and enjoyed by the people in this State now and in the years ahead

"More specifically, the plan has the following four objectives

"1 *To maintain all species of fish and wildlife for their intrinsic and ecological values as well as for their direct benefits to man*

"The objective, 'to maintain', is a basic necessity if any species is to be used in the future, and this objective also embraces the principle that fish and wildlife should be preserved as a human environmental necessity. But it goes beyond this, in that the present generation assumes the obligation to pass on to future human generations all of the species that now exist, whether or not they are now used and enjoyed The present contribution that each species makes to the ecological balance is not always known and may well change in the future. It is presumptuous to tamper irrevocably with this balance without understanding fully the eventual result.

"The restoration of native species that no longer exist in California but still exist in other areas, the introduction of desirable new species compatible with existing species, and the exclusion of undesirable species, are inherent in this objective

"2 *To provide for diversified recreational use of fish and wildlife.*

"The objective 'recreational use', embraces all the ways that people may enjoy fish and wildlife Plans will be made for all the interests of the people, and a diversity of uses will be proposed for all species This diversity of recreational opportunity will enable each individual to select the quality of recreation most rewarding to himself. Single uses will not predominate merely because they might attract the greatest number of users

"The Department's objective envisions maintenance of fish and wildlife 'game' populations at levels that will provide harvestable surpluses so that hunting and fishing will continue to be enjoyed as two of California's traditional and leading forms of recreation

"3 *To provide for an economic contribution of fish and wildlife in the best interests of the people of the State*

"The third objective, 'economic contribution', covers several distinct interests concerned with the utilization of fish and wildlife resources These include the commercial harvesters of these resources and those people who provide goods and services to all resource users The plan will provide the maximum economic benefits to the people of the State commensurate with the maintenance of the resources and within the constraints of the other objectives

"4 *To provide for scientific and educational use of fish and wildlife.*

"The fourth objective, 'scientific and educational use', proposes to insure the availability of fish and wildlife for study and research by both scientists and students. Scientists need to conduct research to learn the needs of wildlife itself and to learn more about man and his place in the environment Future generations of students will need to study wildlife as an interesting and essential part of their environment

"The purpose of this plan is to point out, for each of California's fish and wildlife species or groups of species, how these objectives may be achieved Conservation enhancement, and restoration of fish and wildlife resources and habitats, and regulation of resource use are proposed to achieve them "

Mr Jones apparently realized the potential conflict of objectives at the first hearing, and commented that the first objective was basic to all the rest In other words it had the greatest weight and priority From the language of the third objective, "within the constraints of the other objectives", we assume this objective is at the bottom of the list The Committee realizes how difficult it is to precisely phrase objectives We believe the objectives in the plan can be better done

More guidelines. The reader who has picked up the first volume of the Fish and Wildlife Plan can read two quotes, one by Churchill and one by Robert Frost, then the Preface, then the Director's Foreword, then the Consultants' Introduction then the objectives indicated above If he goes on he will then run across the introduction to the major recommendations

He immediately hits "three assumptions on which the recommendations are founded " The assumptions seem harmless enough—in fact they could be eliminated altogether with no loss

If he continues he shortly comes across this paragraph "These are the recommendations which must be adopted if California is to care for its Fish and Wildlife Resources as outlined in the preceding 'Directors Foreword', 'Consultants Introduction', and 'Objectives' which form the precepts upon which this plan is built "

For the first time, the reader has learned that the "objectives" are "precepts" and are apparently no more or less important than the preceding "Foreword" and "Introduction", which are also "precepts" The reader might wonder why the "Preface" was so callously ignored

But the reader also finds that the Department believes the recommendations follow the "precepts"—a belief the Committee does share As pointed out earlier, different recommendations could easily fit the "precepts "

The reader goes on and soon hits a startling section If the reader is a legislator, he undoubtedly jumps up and starts mumbling aloud For the section reads like this

"These programs are predicated upon policy and practices derived from successive legislative enactments pertaining to the State's fish and wildlife responsibilities These are

1 To maintain and enhance the fish and wildlife of the State and the habitat upon which they depend

2. To achieve and encourage the optimum beneficial uses of these fish and wildlife resources recognizing recreational, commercial, scientific, and educational uses
3. To recognize that fish and wildlife have great value, some of which is not measured in economic terms
4. To give priority to recreational uses where a species or species-group under State jurisdiction is incapable of supporting both the reasonable requirements of the sport fishery and the existing or potential commercial harvest Where the optimum sustainable harvest of a species or species-group is insufficient to support both the recreational and commercial demands, first priority should be given to satisfying the reasonable and legitimate demands of the recreational fishery; the commercial fishery should be encouraged to use any harvestable surplus remaining after the recreational demand is satisfied
5. To encourage the growth of local commercial fisheries, consistent with other uses and resources to foster the full utilization of unused living resources, and to encourage the development of distant water and overseas fishery enterprises
6. To manage, on the basis of adequate scientific information, promptly promulgated for public scrutiny, the fisheries under the State's jurisdiction, and to participate in the management of others in which California fishermen are engaged, with the objective of maximizing the sustained harvest and promoting economic efficiency in the commercial harvest ''

The Department in fact is trying to legislate Using bits and pieces of legislation, we suspect we could make almost as strong a case for opposite policies and practices

But right or wrong, it is obvious the Department chose only those policies which suited its purposes Whatever happened to the legislative policy, for example, that supervisors should have a veto power over antlerless deer hunts?

For that matter, why are the ''policies and practices'' even listed? Certainly some of them are repeated and rephrased later in the plan Does that make them secondary objectives? Or secondary precepts?

In any case, the reader has now gone through a foreword, an introduction, objectives (all three of which are precepts), three assumptions and seven policies and practices

Loose language. It should be evident by now that the Department may be guilty of some awfully loose use of language One place where this is strikingly evident is the recommendation for eminent domain with the right of immediate possession This is already one of the hottest items in the plan

When asked about this recommendation at our first hearing, the Director of the Department of Fish and Game had this to say

> ''We are thinking—and we are changing this in the second printing of the plan—about the real critical areas We don't want to go out and condemn a farmer's field of beans and this type of thing. But in some places there is a real need for the State to

step in and protect the resource For instance, where a sand and gravel company is proposing on private land to dig out a real important salmon spawning bed I think in this case the State should step in and stop it Now, if you wait—and we say eminent domain and the right of immediate possession—if you wait until the Legislature appropriates funds and we negotiate with this person, by the time we do this, and I'm not criticizing the Legislature, but if you wait until you appropriate funds and you negotiate with this person, it's too late The issue's settled The salmon spawning beds are gone And this is what we're talking about in eminent domain, at a real critical place There's one place, Cahente National Conservation and Wildlife lands in San Luis Obispo County, which is a big area that was set aside by the federal government at our request It is 50,000 acres, and there's absolutely no way for the public to get in or out. Now, we've been negotiating with them for years and with the Bureau of Land Management but the people are just locked out Now it seems to me in a case like that, a little key spot could be condemned where the public would have access to this 50,000 acres This is what we're talking about in the way of eminent domain We certainly don't want to get into the area of condemning agricultural lands We're talking mainly about critical areas."

But the plan originally said the following, under a section entitled, "Private Lands Blocking Access to Public Lands"

> "Rights-of-way should be acquired by agencies administering lands which need access In some situations, it will be necessary to use eminent domain proceedings with the right of immediate possession to open extensive areas of public lands or waters."

The second version of the plan, the printed version, added this language to the preceding quote "This action would only be taken in very special circumstances, and would be considered as the last resort in cases of extreme public interest Such a procedure requires legislative authorization"

We wonder why "immediate possession" is necessary to obtain public access Surely the land is not going to go away And where is the language in the plan which says "Under no circumstances will the power of eminent domain with the right of immediate possession be used on agricultural land?" Or do they intend, after all, to use the power on agricultural land?

Another example of loose language appears in the following recommendation, under "major recommendations"

> "To permit suitable utilization of fisheries science in the manment of California's ocean resources, as is required under terms of the Geneva Convention of 1958, authority for the regulation of commercial fisheries should be vested in the State Fish and Game Commission and the Department of Fish and Game, subject to regular review by the Legislature"

The statement somehow has a ringing, authoritative tone. Perhaps it is because of the reference to the Geneva Convention of 1958.

The two pertinent sections seem to be these sections from the "Convention on Fishing and Conservation of the Living Resources of the High Seas":

> "Article 2 As employed in this Convention, the expression 'conservation of the living resources of the high seas' means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products Conservation programmes should be formulated with a view to securing in the first place a supply of food for human consumption."
>
> "Article 7. Section 2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled
>
> (a) That there is a need for urgent application of conservation measures in the light of the existing knowledge of the fishery,
>
> (b) That the measures adopted are based on appropriate scientific findings;
>
> (c) That such measures do not discriminate in form or in fact against foreign fishermen "

It should be clear from this that this convention in no way indicates that commercial fisheries should be placed in the hands of the Fish and Game Commission It should be equally clear that there is nothing which militates against the Legislature controlling commercial fisheries

Finally, the recommendation says "subject to regular review by the Legislature." We can understand a statement that said, "subject to review"; this would simply acknowledge a fact of life The Commission is always subject to review by the Legislature But the recommendation says "regular review"—and the only way one could guarantee "regular review" would be to grant temporary powers to the Commission Elsewhere, however, the Department recommends permanent powers for the Commission

The Good Things. Obviously, there are many good things about the proposed Fish and Wildlife Plans.

To the Committee, it appears the strongest and most valuable parts of the plan are the inventory sections and the "major problems" derived from them. The Department has pinpointed problems to an unprecedented degree—for example, the problem of diminishing wetlands and riparian habitat Simply the delineation of those problems will inspire more efforts at solutions—whether or not they are the kinds of solutions contemplated thus far by the plans. However, the closer the plan gets to issues of public policy, the weaker it gets.

Given the vague "objectives", it is not surprising that the species plans and recommendations are almost exact reflections of what Department personnel have been saying and thinking for several years But even this is valuable, because it makes the plan a compendium of Department attitudes on various subjects Many of the specific plans and recommendations in the plan are probably the proper ones; to assume otherwise is to assume the Department has been botching the

job for years and that the Commission and Legislature have let them get away with it

Conclusion. We believe the plan desperately needs tightening of language; some of the most valid criticism heard by the Committee is simply, "We don't know what this or that recommendation means."

We believe the plan desperately needs something we might call secondary objectives. The "objectives" listed in the plan do little and further refinements are necessary.

We believe the plan should be analyzed by the Department for underlying assumptions and policies, and, if found, they should be articulated There are basic policy questions that have not been asked and answered, and they should be. Alternative policies and courses of action must be presented, in sufficient detail to at least give the Legislature and the general public some idea of their impact on the resource and the problems it faces.

The Committee is interested by the kind of general policy laid down in relation to the put-and-take pheasant program and the catchable trout program. If private interests can supply the need, the State would get out of the program. This is the kind of policy definition needed in the plan; but also needed is at least an analysis of reasonable alternatives.

The Committee's biggest concern is that the plan could be adopted by default, approved by silence. We have heard it said the plan is only a beginning; that it will be refined in the future. Our point is that the plan is not yet an adequate beginning.

We don't know yet "where we're going", nor do we know the various roads by which to get there. The Department has only said, "Follow us."

The knottiest problem of all may be to recognize the other natural resource users in some way. We don't believe the Department can be asked totally to assume this job. We do believe, however, that new elements in the plan should not be adopted until the other resource users are at least heard from. We can only hope that the confrontation with other resource users will help reconcile some of the inevitable resource conflicts

The Department should know that, if this Committee had to make a choice on the total plan in its present form, we probably would reject it. We have not made this decision because we feel there is much that is valuable in the plan, and, with further work, the plan could become an extremely important State document

It would be relatively easy for the Committee to take positions on specific plans or recommendations in the proposed plan; but we have deliberately refrained from doing so Our point throughout this report has been that the framework on which to judge the specific plans and recommendations has not been established.

The Committee has three recommendations.

1. The Department of Fish and Game go back to work on the plan to meet the criticisms we have mentioned,

2 For the present, and until an adequate plan has been prepared, no major changes be made in present fish and game programs, and no new powers or policies recommended by the present plan be adopted by the Department or the Fish and Game Commission

3 Under no circumstances should recommended new powers or policies affecting other resource users be adopted until the needs and problems of those other users has been given adequate consideration.

SOIL CONSERVATION PROGRAMS

It is ironic that our soil resources have never received the emphasis given to resources related to, or dependent on the soil, such as water, timber, or fish and game Many reasons could be given for this, but the essential point is that other agencies have assumed the responsibilities that could properly have been given to soil conservation agencies

The land and its soils are obviously such a basic resource that the Resources Agency might be, theoretically, a Soils Agency, or Soil Conservation Agency. But this hasn't happened Instead we have a Division of Soil Conservation, located in the Department of Conservation—and even there, the Soil Conservation Division is overshadowed by the size and manpower of the Division of Forestry.

At the local level, powers that might theoretically have been given to soil conservation districts have been assumed by county and city governments by irrigation districts, flood control districts, fire districts, and others

The committee held a hearing in Riverside on July 28 and 29, 1966, to review the soil conservation program in California and to determine what, if anything, should be done A special effort was made to gather the opinion of local soil conservation districts

The Federal Program. The federal program far exceeds that of the state According to Thomas P. Helseth, State Conservationist for the U S Soil Conservation Service, U S Department of Agriculture, the Service carries on a broad program of soil and water conservation operation, including direct technical assistance to the landowners and operators in 163 soil conservation districts in California In addition, technical services are provided for other local, state and federal agencies and organizations

Specific activities include soil mapping, soil correlation, soil interpretations, soil investigations, and soil publications, helping find and improve plant materials; providing technical services in connection with other United States Department of Agriculture programs, and a number of other activities

The Service helps soil conservation districts analyze their problems and plan and apply locally adapted soil and water conservation programs on their land Each district prepares a written program of work which is the basis for formal agreements with the Soil Conservation Service.

Interestingly, assistance to local entities of government—including county boards of supervisors, planning commissions, special districts, etc —is provided through the medium of soil conservation districts

Two major activities of the Soil Conservation Service are the Watershed Protection and Flood Prevention Act, otherwise known as Public

Law 566, and soil mapping, both of which will be discussed later in this report.

According to Mr Helseth, the Service provided technical assistance to 21,824 landowners in 1965. To provide such technical assistance, there exist 7 area offices and 65 field offices

There were 507 full-time employees and 84 part-time employees on the payroll at the time of the hearing About 79 percent work in "Conservation Operations"—which include farm planning, soil surveys, and other activities—and about 20 percent in water-oriented activities, such as flood prevention, watershed protection, and river basin studies.

The 1965 budget of the U S. Soil Conservation Service in California was just over $10 million, slightly over half of which was for an item called "Watershed Protection" and which includes construction costs.

The State Program. In stark contrast, the State Division of Soil Conservation now numbers 44 people.

The program in California began in 1938, with the creation of the Soil Conservation Commission. In 1955, the Division was created.

Two years later, the Legislature decided it wasn't obtaining enough 566 projects, because the U S. Soil Conservation Service had a limited planning staff. Rather than contribute state funds directly to the Service, the Legislature decided to create a Watershed Planning Section in the State Division

The Division is now broken into three sections:

1 A Business Management Section of 8 people which, in addition to handling fiscal affairs, apparently takes care of the entire Division's typing and steno problems

2 An Operations Section of 12 positions, which handles creation of new districts, or transfers or consolidations of old ones (Since creation of the Division, the area included within districts has risen from 48 million to 70 3 million acres There are about 100 million acres in the State); advises districts on administration, programs and plans, and on laws and governmental assistance affecting them; and administers the State's Grant-in-Aid Program The section thus offers non-technical services to the districts

3. A Watershed Planning Section of 22 employees which handles the investigation and planning of 566 water projects. This activity parallels that of the U S Soil Conservation Service except, of course, that the two agencies work on different projects However, the Division alone conducts all the preliminary 566 investigations known as reconnaissance studies, studies intended to separate out those potential projects worthy of a full-scale feasibility study.

The Division's budget includes about $37,000 annually for support of the federal government's Plant Material Center

About $100,000 has been appropriated annually for the Grant-in-Aid Program; that amount was the limit for the program. However, the limit has now been removed by the Legislature, and all justified projects may be submitted

Not included in the Division's budget are state costs for lands, easements and rights-of-way in those 566 projects involving flood control

Soil Conservation Districts. The districts vary widely throughout the State. There are small districts and huge districts, new ones and

old ones, districts threatened by suburbia, and districts 80 miles from their county seat. Some are concerned about developing water, others in controlling floods, others in lowering the water table, others in subduing sand storms

Most of the districts include farm and range land But one district is in the Topanga Canyon area of Los Angeles, where the last vestiges of agriculture have long since disappeared, and where the problems include fires and slides; Governor Reagan was a founding member of that district Another district in the Sacramento Delta is a private duck club worried about salt water intrusion and proper duck feed.

Legislation has given the districts a wide range of interests, but few powers and less money The districts thus emerge as virtually voluntary associations, with all the advantages and disadvantages of those kinds of organizations Not surprisingly, the most successful districts appear to be those which have carried out an aggressive public relations policy—especially with their boards of supervisors Many, if not most, major district projects are carried out only with the cooperation of another agency—such as a flood control district, an irrigation district, or a county planning commission

Very few districts have full-time employees.

In view of all these factors, the accomplishments of the soil conservation districts are all the more remarkable The committee was deeply impressed by the many accomplishments listed at the Riverside hearing, and commends soil conservation districts throughout the State for their many efforts toward soil conservation and long-term betterment of the State

The Commission. There are 7 members on the State Soil Conservation Commission, appointed by the governor to four-year terms Five of the members must be directors of soil conservation districts, and must be so selected as to provide as nearly equal representation as possible from all portions of the state Two of the members are appointed at large, are agriculture representatives, and may or may not be directors

The commission members receive no compensation except necessary expenses The Commission determines and advises policies for the guidance of the Chief of the Division

In addition, according to statute, the "Commission shall cause to be studied and shall consider the whole problem of soil conservation within the state, and it may formulate, in cooperation with other state agencies, interested organizations, and citizens, a comprehensive soil conservation policy for the state."

The Commission is advised and assisted by an Advisory Board, consisting of the Director of the Agricultural Extension Service, the Director of the Department of Water Resources, the U S State Conservationist, and the chairman of the Agricultural Stabilization and Conservation Committee for California

Urban problems. Special emphasis should be placed on the many, but generally unrecognized, contributions of the soil conservation program to urban or suburban areas

The highest compliments to soil conservation districts at the Riverside meeting were made by representatives of San Diego County and Los Angeles County. In San Diego County, the districts have provided the impetus and leadership for flood control and water projects of vital importance to urban dwellers In Los Angeles County, the districts have led the way for soil surveys and mapping which will save millions of dollars for urban dwellers.

Soil surveys and mapping. One of the most important activities of the U S. Soil Conservation Service is the National Cooperative Soil Survey. Historically used for farms and ranches, the surveys are now equally important to urban areas. To quote Mr Helseth

> "County and community planning officials are requesting soil survey information to help locate areas that are suitable for housing, schools, shopping centers, roads, parking lots, industry parks and recreational areas Bankers, insurance officials and loan companies find soil surveys helpful in determining the soundness of proposed investments in land Engineers use soil surveys to assist in the location and design of highways, airports, sewers, pipelines, buildings and other structures. Planning commissions and governing bodies of cities, counties and regions are using this technical information to plan orderly land-use changes that are in harmony with the natural resource base and that will benefit the total community "

The U S S C S now employs 65 soil scientists on soil survey work Priority of surveys is determined not only by urgency, but by local initiative and matching funds Most surveys and mapping have been done through soil conservation districts The result has been a checkerboard quilt of completed surveys and maps

The U S. Soil Conservation Service has been mapping soils in California since 1935 About 35 percent of the state is surveyed According to Mr Helseth, about 20 years will be required to map the entire state (including both public and private lands) at the present rate of progress

As valuable as soil surveys may be, they are far more important if and when soil maps are published. One of the drawbacks of the soil survey program so far is that, of the 35 million acres surveyed, maps of only 10 million acres have been published

It should be mentioned that the Division of Forestry is involved in somewhat similar surveys known as soil vegetative studies Different areas and kinds of land are surveyed under this program, and the emphasis is on identifying soil types through the vegetation It is not as intensive a survey as that undertaken by the U.S. Soil Conservation Service

Similar in some ways are studies undertaken by the Department of Water Resources, intended to identify present and future land uses However, these studies are aimed at defining present and future water needs only, and are consequently less intensive than either of the two kinds of surveys mentioned above.

Related to these surveys is a most interesting suggestion made by Mr Goodier, to which we will return later

Federal Recommendations. It is the committee's inclination to heartily congratulate the U S Soil Conservation for its fine work and to ask that they spend even more money in California It hardly seems an auspicious moment to be asking for more federal money

The committee can hope however, for changes in the 566 program, also a major activity of the Soil Conservation Service

The 566 program is geared to small water projects, under the Act, projects are limited to watersheds of less than 250,000 acres Other federal agencies may talk in terms of $500 million water projects; the Soil Conservation Service talks in terms of $5 million projects

There are two primary purposes in 566 projects flood prevention and agricultural water management The local agency picks up the costs of operation, maintenance and administration, and the costs of acquiring lands easements and rights-of-way If it's a flood prevention program, federal funds can pay 100 percent of construction costs In a flood prevention project, California picks up the land costs for the local agencies.

The agricultural water management projects are primarily irrigation projects or drainage projects In this case, local costs are the same with two important exceptions federal costs cover only about 50 percent of construction costs; and California does not pick up the tab for land costs

Recreation and fish and wildlife enhancement are now secondary purposes which can be added to the project if the local agency picks up one-half of the special cost ("separable costs", technically) for those purposes

There is no federal cost sharing for other project purposes

The 566 program is ideally suited for gently rolling hilled areas where relatively cheap dams can provide high "benefits" Much of California does not fit this category Ruled out almost automatically are many mountainous and semi-desert rural areas and most urban areas of the state

If recreation and fish and wildlife enhancement were to be made primary purposes, "feasible" projects could be found throughout California Recreation and fish and wildlife enhancement are often as important economically to rural areas as flood prevention, and the same purposes are obviously important to urban areas

Without the support and understanding of the urban areas, the entire soil conservation program could fail It is the committee's belief that such a broadening of the 566 program would enhance the entire soil conservation program in California.

Although the 566 projects are relatively small projects, there is nonetheless a substantial amount of money involved The 10 projects authorized for construction have total project costs of $55.5 million There are, needless to say, more proposed projects under study or awaiting study.

The committee strongly feels that recreation and fish and wildlife enhancement should be made primary purposes of 566 projects The committee recommends passage of a resolution to that effect, and that steps be taken to convince members of Congress of the merit of the change

At the Riverside hearing, DeWitt Nelson, then Director of the Department of Conservation, recommended that when planning state water projects, study be given to 566 projects on the channels in the upper watersheds His point was that this would minimize sedimentation on the costly main reservoirs. The recommendation is a good one

Commission Recommendations. This committee believes the membership on the Soil Conservation Commission must be broadened We believe it is vital to widen the understanding and support of the soil conservation program. It should be mentioned that this is in line with recommendations of the National Association of Soil Conservation Districts

The committee recommends the Soil Conservation Commission membership be changed so as to include five soil conservation district directors, one agriculture representative, one recreation representative, one urban-interest representative, and one city or county planning official

The Chief of the Division of Soil Conservation is also the executive secretary of the Soil Conservation Commission, a carryover from days when the Division numbered less than half a dozen persons. *A separate executive secretary position is estabilshed by statute, and the committee recommends the position be filled.*

The committee recommends that the Advisory Board be abolished and the members of the Board be made ex-officio, non-voting members of the Commission. The committee believes there may be opportunities for heretofore unrecognized fish and wildlife enhancement opportunities in the soil conservation program, and recommends that the Director of the Department of Fish and Game also be made an ex-officio, non-voting member of the Commission

Division Recommendations.

1. It was proposed by Mr Nelson and Mr Goodier that the present nine offices of the Operations Section be consolidated into four area offices and that the staff be doubled from 12 members to 24 persons

The committee has no recommendation on the proposed consolidation as such; this appears to be an administrative decision on which we prefer to reserve judgment

2 According to Mr Goodier, a recent inventory indicates there are 18 million acres on which 566 projects can and should be built At the rate of progress in the Watershed Planning Section in 1965, it would take 130 years to complete the various projects on that acreage If the level of planning made possible by a budget augmentation in 1966 is maintained the time period is cut down to 90 years

Mr Goodier felt that the time span should be no longer than 40 years There is now a growing backlog of requests for 566 reconnaissance studies

3. Earlier, this report mentioned that, of 100 million acres in California, 35 million have undergone soil surveys, and soil maps have been published of 10 million of those acres. Mr. Goodier's suggestion in this regard was that a Land Resources Survey Unit be created within his Division.

This unit would do no field survey work Its major purpose would be to get soil facts to local cities and counties as soon as possible. The committee agrees there is an urgent need to furnish these facts for local agencies.

The unit would have two responsibilities One would be interpretative soil mapping to not only put on maps the result of soil surveys, but to so interpret that information so it is meaningful and valuable to local planning bodies In an attempt to get away from the hit or miss, random pattern of present soil surveys and mapping, Mr Goodier proposes that his Division obtain the federal 701 funds now disbursed by the State Planning Office to local agencies. He would use the funds to help set up a technical staff for interpretive soil mapping. The major point of all this would be to completely map the state, concentrating first on critical areas, in fewer than 20 years

The second responsibility would involve land need projections Using data gathered by the Department of Water Resources, Mr. Goodier was able to compile a chart, showing how much land would be available to agriculture from now through the year 2030 Needless to say, the result was frightening But the point is that this kind of information is vitally needed, not only for agricultural land, but for wildlife land, recreation land, and other purposes. It is needed, not only on a statewide basis, but also on a county-to-county and region-to-region basis This is the kind of information needed by counties to make intelligent zoning and planning decisions; it is essential to any comprehensive statewide land use policy. The point made by Mr Goodier is that most of the data needed is available; it simply needs to be compiled and interpreted

The committee has no recommendation at this time on the three problem areas listed under "Division Recommendations."

District Recommendations. Witness after witness arose at the Riverside meeting to recount the many accomplishments of the soil conservation districts And the committee was most impressed by those accomplishments.

The point was that the soil conservation districts had proven both their capability and responsibility, and should be entrusted with more power. The committee is most sympathetic to this viewpoint, but the problem is, what kind of power?

The only concrete proposal was that soil conservation districts be allowed to form improvement districts within their boundaries. However, soil conservation districts can now form such improvement districts for purposes of participating in 566 projects; and improvement districts or county service areas for other purposes can be formed via the county.

The main problem with extending powers of soil conservation districts is the potential conflict with, or duplication of, the efforts of other local agencies or districts Changes could be proposed in the statutes which would meet with no opposition in most counties, but would meet with vitriolic opposition in others

If soil conservation districts had been given more power originally, the problem of conflict or duplication would have shaken down by now But the very fact that the soil conservation districts are so dif-

ferent and in such different circumstances is what makes it so difficult to impose a uniform change at this point.

There is one possible solution to create two or more kinds of soil conservation districts with different powers, it is possible, in fact, to create 163 different *kinds* of soil conservation districts by statute

The problem apparently needs more study and thought, and we would suggest the California Association of Soil Conservation Districts make a special point of trying to come up with answers

The committee is sympathetic to the desires of districts for more powers, we believe problems are best solved at the local level But we cannot at this point recommend any changes in powers on a statewide basis

The committee is convinced, on the other hand, that the 1144 Grant-in-Aid Program has spurred many fine projects, and to the extent that money is power, perhaps the districts can be helped in this way.

The 1144 program usually averages $100,000 a year There is no reason why this can't be a bigger program; the annual amount is *not* limited to $100,000.

The committee recommends that districts make greater use of the 1144 program The committee also recommends that the Commission forward all justifiable projects to the Legislature.

Other Recommendations.

1 Mr Nelson made the recommendation to the committee that improved fire protection, like recreation and fish and wildlife enhancement, be made a major purpose of the State Water Plan It is an intriguing suggestion which we suggest the Department of Conservation develop more extensively—then turn over to the Water Committee for consideration.

2 At the Riverside hearing it was recommended by the representative of the Los Angeles County Engineer that soil surveys be expanded to include even more information; for example, detailed geologic data This makes a great deal of sense to the committee.

However, we recommend that any such stepping-up of information be primarily a local cost.

CRAB SEASONS

During the 1965 General Session, a dispute broke out concerning the opening days of crab seasons Eureka fishermen advocated a December 1 opening date; while Crescent City preferred the traditional December 15 opening—or even a later date.

A compromise was reached and the opening date was moved up to December 8. The Assembly Committee on Conservation and Wildlife was asked to study the problem Two field trips were made during the course of the study, and discussions held in both Eureka and Crescent City with fishermen.

It was the committee's impression early in 1965 that all elements would be satisfied if a uniform crab season could be achieved in the States of California, Oregon and Washington The only exceptions would be the San Francisco and Puget Sound areas Oregon and Washington, it should be pointed out, now open on December 1

It seemed clear, early in the going, that California fishermen would be happy if a uniform January 1 opening date could be decided upon This impression was dispelled when the committee held its meetings with fishermen There seemed to be little or no argument on what course the State should pursue

The issue boils down to one of quality and economics Biologists generally agree that crabs caught later in the season yield more and better meat; however, the very first crabs of the season bring higher market prices If most crabs were canned, the opening dates would probably be later in the year, because meat yield is then higher. However, most crabs are marketed in either fresh or frozen conditions Adding to the problem is the fact that more and more crabs are being taken early in the season.

It does not appear the fishermen involved in this dispute can come to the common agreement necessary before the further step of a uniform tri-state season can be negotiated. The committee is thus left with the sole issue of quality of the crab meat

There is no question that the quality of crab meat will usually be better the later the season begins

The committee strongly recommends that the crab season be opened not before December 15 and not later than January 1 It further recommends that any legislation setting such a date shall not carry a two-year limitation

The committee feels a uniform tri-state season is preferable, however, and will continue to work toward that solution

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FINAL REPORT OF

ASSEMBLY COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

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LETTER OF TRANSMITTAL

COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

HONORABLE JESSE M UNRUH
Speaker of the Assembly
and
MEMBERS OF THE ASSEMBLY

Dear Sirs

Transmitted herewith is the report of the Assembly Interim Committee on Elections and Reapportionment for 1965–66

This report is divided into three chapters corresponding to the areas studied by the three subcommittees of our interim committees The subjects covered are election administration, campaign practices and voting rights Of these areas, campaign practices is the only one which appears to require major legislative action in the near future In election administration and the protection of the rights to vote, California serves as a model for the nation Unfortunately, some candidates and campaign workers have failed to maintain the same standards of honesty and decency as the majority of participants in the electoral process Chapter Two contains specific proposals for remedying this situation

In addition to the material covered in this report, the committee staff has been engaged in population data compilation and analysis of forthcoming reapportionments of congressional and State Board of Equalization districts This work should prove to be invaluable during the 1967 session

We wish to thank the county election officials, candidates and other individuals who have presented the committee with so much useful information Their assistance was invaluable in preparing this report

Respectfully submitted,

DON A ALLEN, SR
Chairman

CONTENTS

Page

Chapter One—Election Administration 7

Chapter Two—Campaign Practices 12

Chapter Three—Voting Rights 26

Appendix A—Legislative Counsel's Opinion on Consolidation of Elections 27

Appendix B—Report of Orange County Grand Jury on 1966 Election Administration 31

Appendix C—1963 Purity of Elections Bill 39

Appendix D—Draft of Election Fraud Bill 83

Appendix E—Sample of Campaign Piece Referenced in Chapter Two 86

Appendix F—Exceptions to Committee Report by Assemblyman Charles J. Conrad 87

CHAPTER ONE

ELECTION ADMINISTRATION

The conduct of elections in California is constantly changing to meet the needs of our growing electorate This committee's investigations and hearings have convinced us of the high ability and dedication displayed by our local election officials, from county clerks and registrars down to the individual precinct board members The Legislature must cooperate closely with the local election officers to continually modernize and perfect California's election procedures

California's local election officials face tremendous problems stemming from the ever-increasing size and high mobility of the electorate and from the fact that current law requires services to voters and political parties which surpass those of any other state This section deals with various problems of election procedure in California and with their possible solution

A ELECTION DATES

1. Findings and Conclusions

a The great frequency of special elections for district purposes (school bonds, tax overrides, annexations, etc.) results in a chronically poor turnout of voters, a fact which is usually advantageous to the authorities calling the elections

b Confusion among voters and their failure to participate in hastily called special elections are detrimental to the democratic system of government

c Hundreds of thousands of dollars could be saved each year by consolidating all of the special elections which are now scattered throughout the year

d Special elections spend resources of the local election officials which could be better used in meeting the problems created by the growing electorate and providing additional services to voters, candidates and political parties

e Consolidation of all types of elections into an annual primary and general election would produce no serious inconvenience or difficulty for local authorities, would greatly enlarge citizen participation in local elections and would substantially reduce the public expense incurred in conducting these elections

f While the Legislature has the authority to create annual consolidated primary and general elections, a number of major exemptions would be provided under present law which would severely undermine the intent of such action by the Legislature A constitutional amendment would probably be required to effectively consolidate local elections (See Legislative Counsel's Opinion—Appendix A)

g Candidates, public officials, political party leaders, the press and public have expressed general agreement that the period between the primary and general elections should be reduced in order to cut down on the expense of campaigns and to eliminate the public apathy which often sets in during an extended campaign

h Moving the primary into the summer or fall could create a problem in presidential election years when the national conventions are traditionally held during the summer months The national trend has been to hold presidential nominating conventions later in the year, and the existence of a later California primary might considerably influence this trend

2. Recommendations

a. Legislation should be enacted to establish a statewide primary election in the summer of *each* year and a statewide general election on the first Tuesday after the first Monday of November of each year

b A constitutional amendment should be proposed providing that all local elections of every description (city council, school district annexations, etc) would be consolidated into the primary or general of either, but preferably the odd-numbered year Providing *four* generally recognized election days in every 24-month period should be sufficient for all election needs Normal special elections must continue for congressional and legislative seats because of the need to immediately fill vacancies in these positions as they occur

c A constitutional amendment to require that all recall elections be consolidated with the annual primary or general elections proposed in "(a)" above, and to further provide that a public officer may not be recalled during the first or last six months of his term of office, should be considered

d. The Legislature should consider, with this committee's favorable recommendation, a change in the date of the summer primary election (now the first Tuesday after the first Monday in June)

However, if the date of the primary is changed the Legislature should consider two alternatives relative to the presidential primary date

(1) The abolition of the quadrennial presidential primary, or
(2) Establishment of a *separate* presidential primary at a date (March or April) in which the California voters' decision will have a greater positive (and less destructive) influence on the convention choices

e Regardless of whether the date of the primary is changed, the Legislature should provide that, if *no bona fide* presidential candidate files a slate of delegates in the California presidential primary of a party (and, conversely, only uninstructed delegations are filed), no presidential primary for that party be held, leaving the selection of the delegation to a special convening of the party's full state central committee shortly after the close of filing

f The possibility of quadrennial statewide elections for both constitional and legislative offices should be explored as a possible means of reducing public expense

B. REGISTRATION DEADLINE

1. Findings and Conclusions

a While there is sentiment in some quarters to extend the franchise by reducing the deadline for registration from the present 54 days before an election to a date closer to election day, this could not be done without diminishing the services presently provided by local election officials

b The successful introduction of data-processing equipment into county election offices in California gives hope of somewhat reducing this period in the future Almost every large county in the state is either installing or expanding a data-processing system for the purpose, among others of reducing the time and money required to process new registration affidavits At this time, however, no one, certainly none of the election officials involved, is satisfied that any of these data processing installations has reached its full potential

2. Recommendations

a The committee recommends that the present 54-day period between the close of registration and election day be maintained until it can be reduced without unreasonable expense or curtailment of election services

b The length of the period should, however, be removed from the Constitution and placed under statutory law so that it can be more readily adjusted by the Legislature to meet existing conditions

C UNIFORM CLOSING TIME

1. Findings and Conclusions

a The present system of allowing smaller counties to close their polls at 7 p m , while the larger counties must stay open until 8 p m , has created a number of problems and has created a question of inequality of opportunity to vote in smaller counties

b Through the use of sophisticated sampling methods the news media have been able to publicly project the winners of statewide races before the polls have closed in some parts of the state This tends to discourage the individual voter and decrease his confidence in the significance of his own vote

c Any attempt to regulate the news media's use of election returns causes serious problems since the broadcast media are governed by federal law and since any regulation of the press involves a potential conflict over the First Amendment of the United States Constitution

2. Recommendations

a The committee recommends the establishment of a uniform closing time throughout California This closing time could be 7 p m , 7 30 p m or 8 p m , depending upon the outcome of further study It is clear, however, that differentiated poll-closing times throughout the state are potentially harmful to the democratic process

b Legislation should be enacted, in conjunction with a uniform closing time, to prohibit the counting of ballots until after the polls have closed officially This would effectively prevent the news media from making positive statements regarding state election outcomes before the polls have closed anywhere in the state

D. NEW ELECTRONIC VOTING MACHINES AND AUTOMATED VOTE-COUNTING SYSTEMS

1. *Findings and Conclusions*

a Our staff has communicated with a number of county election officials in regard to their utilization of modern voting and vote-counting equipment Those officials interviewed were uniformly laudatory in their comments on the automated systems

b The universal problem, involving automated equipment, concerned personnel—both in terms of training and ability Many of the precinct board workers failed to follow directions properly and their errors resulted in a general slowdown of counting procedures

c Our committee staff found no evidence that any of the machines in use produced inaccurate results On the contrary, spot checks showed remarkable accuracy Errors resulting from human fatigue are far less prevalent when electronic vote-counting machines are used in place of traditional hand-counting techniques

d Reports from counties recently installing automated voting and vote-counting equipment have indicated a substantial monetary saving over hand-counting methods

e None of the various types of automated machines which were used demonstrated any marked superiority and each has its own peculiar problems

(1) The Harris Votomatic Recorder and other voting machines which require the voter to actually punch an IBM card have been installed in a few California counties The principal problems involved with this kind of machine are created by the large initial cost of these machines If a county is unable to purchase an adequate number of machines, citizens will be forced to stand in line at large precincts—a practice which tends to discourage participation Another factor to be considered is the possibility that machine voting decreases the voter's confidence that his vote is actually meaningful and is being counted We would hope that the academic community would undertake a study of this interesting, if somewhat esoteric, problem.

(2) The Cubic Corporation's Votronics Vote Counter is also being used in some counties The problem with this machine, which is a ballot counter, is that a large number of operators are required to run the machine Recruiting and adequately training operators is a difficult task and our staff survey indicates a tremendous variance in productivity among operators The large number of vote-counting machines used in this process does, however, minimize the effects of individual machine breakdowns

(3) The third type of machine being utilized in California is the Coleman Electronic Vote Tally System Only a few of these machines are required to count a large number of ballots and these machines can be run by professional operators A mechanical breakdown in the Coleman system can create a major stoppage of the vote-counting procedures In Orange County,

officials have had some difficulty with the various marking devices used by the voters Further improvement seems necessary if the marking devices are not to reduce the performance of the entire system in future elections Orange County also experienced a problem caused by the inability of the local precinct workers to follow directions and handle the ballots properly The text of the Orange County Grand Jury's report on the 1966 general election (Appendix B) is included in this report as an illustration of the kind of problems found by local election officials

2. Recommendations

a The committee believes that all large counties should accelerate their efforts toward installing a more automated system of tabulating voting returns and counting individual ballots For counties which have not as yet installed such equipment, there are now numerous examples which will allow each county to make a sound and reasoned judgment as to which kind of machine and what quantity are required to meet the needs of that individual county It seems obvious that no one machine meets the needs of every county in the state The question now is not whether automated vote-counting equipment should be used, but what kind and how many?

b Those counties which are presently using automated vote-counting devices should carefully review their procedures and problems in light of the experience gained in the past few elections A much greater emphasis on personnel training seems mandatory While automated systems have demonstrated a marked improvement over conventional hand-counting methods they still have not reached their maximum potential in terms of efficiency and savings

E. COUNTY SERVICES

1. Findings and Conclusions

a County clerks are presently required to publish polling places and the names of election officers This would seem to be an unnecessary expense as long as candidates, political parties and interested citizens have free access to these lists

b Many county clerks object to the requirement that voter lists be maintained in street address order The clerks and local precinct board members would prefer a system of strictly alphabetical order listings to facilitate finding the name of the individual citizen at the polling place Candidates and political parties favor the street address order as more useful to their activities

2. Recommendations

a Sections 1622 through 1627 of the Elections Code should be modified to eliminate the requirement that polling places and the names of election officers be published except where determined necessary by the board of supervisors

b Counties should be permitted to create a cross-indexing system to simplify the procedure of finding individual voter names, but the street address lists should be maintained for the benefit of the candidates and the political parties

CHAPTER TWO

CAMPAIGN PRACTICES

Campaigning, like other activities, has undergone phenomenal change during the past decade The technological revolution in political campaign techniques has had a drastic effect on the electoral system and has created a number of sophisticated problems which either did not exist or were of little concern just a few years ago The advent of the electronic communications media, the use of data-processing equipment and other changes have greatly increased the costs of conducting political campaigns and, therefore, the need to raise funds for the candidates Unfortunately our election laws have not been updated rapidly enough to keep pace with this technological change in our political system

The Legislature has the obligation to regulate the conduct of election campaigns in order to protect the public interest and to maintain the equality of the democratic process in California The candidates, individuals, and organizations attempting to influence the electorate should have a fair and equal opportunity to do so On the other hand, the individual voter must be given a reasonable opportunity to make his decision based on facts and policies and not on fraud and deception This committee has made an intensive study of the problems surrounding current campaign practices and their regulation This section deals with our findings and recommendations in this area

A CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

1 *Findings and Conclusions*

a The problems which accompany the growing financial requirements of political campaigning raise a continuing problem revolving around the ultimate independence of elected officials

b Part of the eventual solution of the "campaign finance ethics" problem lies in prescribing meaningful requirements for total disclosure of all contributions and expenditures (consisting of *all* things of value) related, directly or indirectly, to a campaign for public office

c Proposals advanced to date, including those made available to this committee during the interim period, fail to provide anything approaching a complete answer to this problem and only serve to reveal further its complexity (The Purity of Elections Bill, coauthored by several members of this committee, is included in this report as Appendix C as a starting point for further attempts to solve this complex and ambiguous problem)

d In working to provide for better financial disclosure laws, an effort should be made to stimulate the interest of individual citizens in making contributions to the candidates of their choice It is in the interest of the democratic process that individual candidates have sufficiently broad-based financial support that they can be independent of undue pressures from large contributors

e Candidates must also be protected against the abuses of unscrupulous campaign managers and personnel and companies, such as public relations and campaign management firms

f State law cannot provide the complete answer to the problems surrounding campaign financing The federal government must also take appropriate measures in areas where it has primary jurisdiction

2. Recommendations

a Legislation should be enacted creating a Study Commission on Election Campaign Financing, consisting of

(1) Five members appointed by the Governor, not more than three of whom shall be members of any one political party
(2) Five members appointed by the Secretary of State, not more than three of whom shall be members of any one political party
(3) Five members appointed by the Attorney General, not more than three of whom shall be members of any one political party
(4) Five members appointed by the Speaker of the Assembly, not more than three of whom shall be members of any one political party
(5) Five members appointed by the President pro Tempore of the Senate, nor more than three of whom shall be members of any one political party
(6) The chairmen of the two principal political parties or their designates

The commission would have the power of subpoena and would be directed to report its findings and recommendations to the Legislature at the opening of the 1969 session

B POLITICAL PARTY ORGANIZATION

1. Findings and Conclusions

a Confused and contradictory as it may appear on paper, the statutory structure of political parties in California has one redeeming virtue—it works Or at least it has worked well enough to maintain a semblance of order within parties without the necessity for "boss rule" or "machine politics" which have tended to dominate the electoral system in other states

b The Legislature must work in conjunction with responsible officials of the political parties to effect any needed changes in the statutory party structure

c The 1965 reapportionment seriously affected the structural basis of state party organization in California and this structural defect should be remedied by the Legislature

d The Legislature has not to date received a single suggestion from a responsible officer of either party for a change in the Elections Code provisions governing political party structure

2. Recommendations

a The chairmen of the majority and minority caucuses are invited to submit comprehensive suggestions for any restructuring of party organization to this committee during the 1967 session of the

Legislature Suggestions from other responsible party officials are also welcome

b. The Legislature and the political parties should act to reorganize party structure on the basis of current legislative districts

C REVISION OF PENAL PROVISIONS OF ELECTIONS CODE

1. Hearings

The Subcommittee on Campaign Practices held hearings in Los Angeles on the subject of campaign practices and finances on October 6, 1966

Attorney General Thomas Lynch (ably represented by Deputy Charles McKesson) advised the subcommittee of the scope of the problem of fraudulent campaign activities

> "As chief law officer of California, the legal problems surrounding campaigns—and most recently campaign literature—are of particular concern to me
>
> "It has almost become a California tradition that election time finds the courts of our state jammed with suits and countersuits concerning campaign brochures, mailings and endorsements My experts in government law now prepare themselves for the final two-week onslaught of frantic phone calls from county registrars, private attorneys, and campaign managers concerning the multitude of campaign lawsuits
>
> "We must clarify the Elections Code and strengthen our laws to offset this legal morass which not only confuses the voters, but also does much to distract us from the important business of electing our government officials "

A specific problem raised by the Attorney General through his representative was that of fraudulent endorsements The Attorney General stated, in part

> "A particular problem, which I think you should consider, involves what might be termed fraudulent endorsements This situation concerns the endorsement of respected candidates by questionable groups on the far left and the far right
>
> "It has been called to the attention of our office that certain candidates—usually respected officeholders—have been endorsed by groups whose views are actually strongly opposed by the particular candidate
>
> "The literature advertising these endorsements in effect attaches the candidate's name and prestige to political positions which at best are neurotic and at worst subversive The main purpose of the literature is, in fact, to tie the official to the views expressed in the literature
>
> "Currently, the candidate involved can only issue a rejection of the endorsement, the group, and its views This is hardly an effective remedy after the literature has been distributed
>
> "This is a difficult and complex area involving both freedom of speech and freedom of the press Yet the truth-in-endorsement law—which touched on a collateral issue—has been upheld by the

Supreme Court I believe we might be able to at least require some disclaimer for unsought and unwanted endorsement ''

Subcommittee chairman George Danielson later asked Deputy McKesson a series of questions designed to further the subcommittee's understanding of the problem·

Chairman Danielson: I'd like to ask you another question, Mr McKesson, on the subject of fraudulent endorsements You may or may not be aware of the bill Senator Kuchel introduced August 17, 1966, Bill No S 3738 of the 89th Congress, which among other things would require that there be a notice on campaign literature to the voters of the fact that such an item is political advertisement, political ads, and that the name and address of some responsible person must be provided. Are you acquainted with that?

Mr. McKesson: Yes, I am. Of course, that follows very close our bill 2922 which is very much the same The purpose is to avoid misleading the voter

Chairman Danielson: That is correct

Mr. McKesson: I think that is an excellent thing

Chairman Danielson: This is very much like our own law that was passed three or four years ago in the Legislature.

Mr. McKesson: That is right

Chairman Danielson: Also very much like a law passed three or four years ago that was later declared unconstitutional because of some language in it, then it was passed this last year It required there be some identification on literature indicating who is responsible

Mr. McKesson: The character assassination bill—as I recall Assemblyman Conrad was a coauthor of that bill

Chairman Danielson: He may have been I believe Assemblyman Harvey Johnson was the lead author Nevertheless it had broad support in the Legislature Do you feel that if we could have the name and address of the responsible person on every piece of literature this might have some beneficial effect in cutting down the so-called fraudulent endorsement?

Mr. McKesson: It might have some effect, I'm not sure it would entirely solve the problem It would give the other candidates or law enforcement a person to hold responsible In that sense it would have a beneficial effect Whether it would preclude the practice or not I don't know, because we have seen it in recent elections. Many pieces of literature are put out that purport to have the name of the person on it with an address which may or may not be a phony address or fictitious person

Chairman Danielson: How about the name and address of the printer, or at least enough identifying data so that you could locate the printshop.

Mr. McKesson: Well, of course, I think in our campaigns today, most any candidate I'm familiar with, have literature with the union bug and the identifying label next to the bug. It can be traced that way, usually 111, and we can trace that It might be advantageous to have the name of the printer too, if that wouldn't amount to some kind of unsolicited advertisement for the printer

Chairman Danielson: I have only in mind enough identification, and a union bug would be enough because you can locate a printer However, there are shops that are not union Therefore, you cannot locate them through the bug, so they should have some identification so it would be possible to locate the printer Then if a phony or fictitious name and address are given, as the responsible person you might at least trace backward to the printer's record and find out who paid for the print

Mr. McKesson: Yes, I think that would be very beneficial Anything that gets behind the anonymous mailer or smear sheet would of course be helpful

Chairman Danielson: Were there any other questions on this subject?

I have one more question on character assassination As a lawyer you are familiar with the old saying, "You can't unring a bell" I suppose character assassination takes place at least one time in every election campaign The only remedy that exists so far as I know are the classical remedies of injunction, or if it is after the event, a suit for libel

Mr. McKesson: Defamation suit

Chairman Danielson: Both of these are so cumbersome the injunction process is useless because once it's published you can't unpublish it So an injunction is a useless remedy unless you happen to have a spy in the other headquarters and know about the piece in advance

Mr. McKesson: Which, of course, has given rise to another whole new industry in campaigning

Chairman Danielson: What, spying?

Mr. McKesson: Yes, spying

Chairman Danielson: But the other remedy of an action for libel for defamation seems to be valueless Such an action would take a year and a half at least to bring to issue in our courts

Mr. McKesson: Not only that, but it would be very difficult to effectively or permanently plead it in view of the recent Supreme Court decisions on defamation of public figures—that is not just officials

Chairman Danielson: Speaking for yourself, not for General Lynch, because we are speculating at this time, can you think of anything that could be done to prevent character assassination?

Mr. McKesson: Well, I think that identification of the author would be one of the first steps Widespread publicity, I suppose, is the best possible answer to it Publicity of the fact that it is just that—character assassination Obviously that runs into political difficulty because you are then publicizing the name of your opponent

Chairman Danielson: Well, isn't there another factor there? If the character assassination takes place on the Saturday or Monday before the election, is it physically or financially possible to counter it?

Mr. McKesson: Well, no, in a practical sense I don't know that it is I suppose the ultimate remedy would be to make the person guilty of character assassination ineligible to hold the seat

Chairman Danielson: I can see two problems, possibly three, arising out of that One, if the offended person wins the election then people will say, "Well, why bother, you won anyway" It could be

dragged out 20 years later as in the case of Mr Christopher, for example, to make his future political life almost untenable If the offended person loses, then would it not be considered sour grapes?

Mr. Conrad: Mr Chairman, I think we have one additional factor on statewide candidates and that is, in fairness to all the candidates, they don't control what is put out at a lower level At our level probably we see every bit of campaign literature that goes out, but in fairness to either of the gubernatorial candidates I know doggone well they don't see a newspaper clipping that has a picture of a swastika or hammer and sickle that is tied in somehow with extremism Or a picture of Brown or Reagan as the case may be saying that Brown or Reagan would be disqualified because some committee in "X" county put that out—I think this would not be fair to them

Mr. McKesson: Well, I had in mind, Mr Conrad, only if it were proven that the candidate himself were responsible for the piece of character assassination

The present system for enforcement of election laws was a further subject of testimony from the Attorney General's representative Chairman Danielson asked

> "I have one more thing that has come up as a result of this exchange I would like to know if you could tell the committee what facilities the Attorney General's office has which would assist the investigation of these alleged campaign law frauds, possibly the facility to investigate as well as prosecute and how quickly they could be invoked

Mr. McKesson: Well, you understand by the Constitution the Attorney General exercises only supervisory law enforcement power over the district attorney of the county who has autonomous law enforcement ability As I understand it, by the Constitution, the Attorney General only comes in if the law has broken down in the county, providing statutory authority for our entering into it

We have the Department of Criminal Identification and Investigation which is available for statewide investigations and readily available on very short notice On election day we maintain an open telephone line with one of our deputies in the government section to answer any legal questions that come in from any registrar of voters or any polling place

Chairman Danielson: Would it be a correct statement then that any complaint on these violations would have first been referred to a district attorney who failed to do something before it would be proper to call on the facilities of the Attorney General?

Mr. McKesson: Unless it is a multicounty situation, generally speaking, yes

Chairman Danielson: If it crosses county lines in a material degree then you can go in for primary jurisdiction?

Mr. McKesson: Yes, we would coordinate investigations and prosecutions by rotating district attorneys in different counties You might consider (now again I'm speaking personally) a statewide law which would prohibit the unauthorized sniping practices which are so prevalent these days Every local municipality has an ordinance against

sniping, in the common sense of the word, but I've never seen a prosecution or a case brought for violation of that Oh, a lot of people try You might well consider that possibility if you think it would be advantageous

Chairman Danielson: The other remaining point, I think I'm just trying to clarify in my own mind the suggestion of Don Allen, namely, that by the use of fraudulent endorsements, character assassination or by any of these other bad campaign literature practices Are we not actually fraudulently depriving the voter of his right to a free choice in determining for whom he shall vote and at the same time depriving fraudulently the candidate of a right to a free election?

Mr. McKesson: Yes, I think so

Chairman Danielson: Now I know under the federal fraud laws you can have a successful prosecution under fraud The thing of value need not have a pecuniary value, but the fact of the right to free election would be considered a thing of value, and heaven knows it is

Do you know if there have been any prosecutions for fraud under our California Penal Code based upon these nonpecuniary things of value?

Mr. McKesson: I don't know specifically, I have the impression there have been but I cannot give you a citation

Chairman Danielson: Do you believe that such could be a violation?

Mr. McKesson: Yes, I do I think it would be beneficial if there were such an action brought

The subcommittee's understanding of the problem of fraudulent literature was enhanced by testimony from a victim of such tactics

Chairman Danielson: We are also pleased to have with us this morning Mr Richard English, who is presently a candidate for the office of Assembly and has in the past been quite actively engaged in the campaign on his own behalf and others as well Would you care to give us your observations, Mr English?

Mr. Richard English: Yes, Mr Chairman, I appreciate the opportunity to appear before the committee I am at present a candidate in the 52nd Assembly District and would like to give you the benefit of my part in the campaign of two years ago when Mr McKesson referred to the primary election in the 23rd Congressional District I was one of the candidates in that Democratic primary and it was very important—a two-to-one Democratic district held by a Republican incumbent at the time who won it in the special election This was the first general election to follow the special election—it was very vigorous and unusual—at least I like to think it was an unusual campaign that year I am proud to say my campaign was conducted in a very positive and clean way, although tempted a few times because of the things that happened

I would like to refer to three pieces of literature that were used I have a sample of one in particular that was used in the campaign I would like to keep one to refer to and pass the other among the members, they are available to the committee, but these are reprints I have the originals but I cannot locate them at this time The red border on

front was put on following the election but the piece itself is reproduced exactly, it is an offset printing The pamphlet is a little different from the ones you usually see because it urges my election and allegedly was sent out ostensibly by a committee supporting my candidacy

The 23rd Congressional District is in southeast Los Angeles with a predominantly Caucasian electorate Only West Compton is predominantly Negro This literature was sent out districtwide a few days before the primary election, sent out in blank envelopes from the Compton Post Office to the 95 percent Caucasian area of the district It was very clever, and when I first saw it I was, of course, disturbed Then I thought well—people know I wouldn't be sending this out, I'm not that stupid I found out later that wasn't the case—my accountant who I had known for years and is a CPA, and has done work on my law practice, he actually felt I had sent it out and he disagreed with me He thought I was a little foolish to send it out but he believed I had sent it out Of course, when I told him that I didn't and that it was used to hurt me—well, it all fell into place But here was a man who knew me personally, let alone the many people who only read my literature and possibly meet me on one occasion and were considering my vote and the possibility of voting for me There is no question in my mind that this cost me the election I lost that election by 148 votes out of some 70,000 or 75,000 that were cast I know it cost me the election because many people have told me so, as well as strong supporters who were ready to support me until they received this in the mail

Mr. Ryan: That was in the primaries?

Mr. English: That is correct There was no time to answer it. A few newspapers did put in a little article quoting me as denying that I sent it out but it was of no real value This same piece was used this year in the primary election in the new 31st Senatorial District in Southwest Los Angeles I did see a copy but I do not have one

Chairman Danielson: Mr English, who were the candidates?

Mr. English: In the 31st?

Chairman Danielson: Right

Mr. English: Steve Smith was one Mr Wedworth was another, and I believe there was another candidate named Mr Wyatt but I wasn't very close to that campaign I heard about the pamphlet because it was from my campaign and I did see it after the election It is exactly the same, with different names and a few different words, and the story has been changed a bit The damaging and clever part is that some of it is true I did support Lionel Cade when he ran for election in West Compton, he was a very well-qualified Negro to represent a 95 percent Negro district, for the city council—and he was running against a Republican I was on the county committee and they endorsed his candidacy But most of this is not true I was supported by organized labor and, as you see here, it stands for the principles of CORE, COPE and UCRC Well, COPE—yes, generally I was endorsed by COPE, but CORE took no part in the campaign The back of the pamphlet has "Cutt endorses" me and "COPE endorses" me There was such a committee—the Committee to Unite the Twenty-third I received a questionnaire from them which I answered but I did not receive their endorsement They supported the third candidate

in the race, Mr Hegner, I believe, because my position on some of the issues was not in line with their thinking, but it was an excellent committee to have endorse my candidacy in this race The address exists, and a women lives there who is a leader in the community, but she wasn't supporting my candidacy, that's for sure

I don't know how much damage the same pamphlet did against Steve Smith He said it wasn't sent out districtwide, he knows it did him damage, but he did authorize me to pass that on to the committee He couldn't evaluate as I can with 148 votes I would conservatively say that this cost me at least two or three thousand—possibly five or six thousand

Mr. Conrad: Was there any other reason this was blocked out?

Mr. English: Yes, you weren't here, Mr Conrad This is a reproduction, an offset printing, and we were only able to obtain a few for this meeting I do have a few originals but I could not find them for this meeting We just referred to the fact that my opponent did use the Rumford Act and Proposition 14 that year as the sole basis of his campaign I haven't to this day been able to pinpoint where it was printed, who paid for it I do know where it was sent out, but I'm satisfied that there are people who know about it and just won't tell me Quite a bit of investigation was done on this in addition to my efforts after the election In losing by that close a margin then going through a recount, by the time I got around to investigating it, somebody told me it was printed in Canoga Park somewhere, but I don't know what information the district attorney's office has on this I know they have a file on it and that no prosecutions were ever followed through

Chairman Danielson: Let me ask you a couple of questions just to supplement your testimony for the record In the first place the little portion that has been covered by white—it looks like a duplisticker—that little portion was not on the original?

Mr. English: Oh, no

Chairman Danielson: This was something added to the duplicate of the original, except that little portion in red had been added by you?

Mr. English: That's right, exactly It was an offset printing, they just took a picture of it

Chairman Danielson: Secondly, you mentioned in going down on the back page that there was such a committee—a Committee to Unite the Twenty-third

Mr. English: That is correct

Chairman Danielson: Did you by any chance contact them

Mr. English: Oh, yes Esther Jackson is the woman who lives at that address and of course she had people coming over to her house because no telephone number was listed She was asked about it and she denied any knowledge of it and I'm sure she didn't have any knowledge of it

Chairman Danielson: As far as she is concerned someone simply imposed upon her by using her address

Mr. English: She was a good person to have as she was active in this committee, there is no question about it She may have been the chairman, I don't know

Chairman Danielson: But the point is she didn't publish the document, somebody simply imposed upon her by using her address and so forth as window dressing on this particular piece

Mr. English: That is correct

Chairman Danielson: There is no union bug, I notice, and, with the exception of that address to which we have adverted, there is no other address, no other indication of who may have been responsible for the piece This came how long before the election?

Mr. English: Tuesday It started hitting on Wednesday, I believe, before Thursday, Friday and Saturday I think all of them were hit mainly on the weekend, Saturday

Chairman Danielson: Was this first-class mail?

Mr. English: Yes, it was four cents, I believe, but it wasn't sealed I think it went first class

Chairman Danielson: At least it was in an envelope and no return address on the envelope?

Mr. English: No return, blank envelope

Chairman Danielson: But they were postage stamps, not a bulk mailing permit?

Mr. English: That is correct

Chairman Danielson: And it came over a period of several days you say?

Mr. English: Yes When we first heard about it we were hoping it just went over a little area

Chairman Danielson: How were they addressed, by handwriting or duplisticker type?

Mr. English: They were addressed by duplisticker, and we did some lead on that, but the duplisticker matched a similar duplisticker that was sent out by one of the primary candidate in the 52nd Assembly District that year who was running against the incumbent, George Willson

Chairman Danielson: Let me finish one more question on this point Was the duplisticker the automated type?

Mr. English: No, it was not

Chairman Danielson: It was a home type Go ahead, Mr Ryan

Mr. Ryan: Talking about legislation to tighten up this thing is a pretty good example I think this is a clear case of fraudulent intent, fradulent effort to mislead the voters I don't believe there is any question about that I wonder if it would be possible, perhaps not going as far as Mr Ferrell's suggestion with the photograph (it might be a little bit unwieldly) but it would be possible to provide for some kind of registration process for those engaged in printing, running any kind of printing operation, that is the commercial printing operation where you simply request it or you require those printing establishments engaged in, or contract for political printing of any kind (a partisan or even nonpartisan race perhaps) be required to simply register their operation, work could be identified No printer, under penalty of some kind, would be allowed to print who does not register as such ahead of time

You might go one step further Mr Ashcraft has a suggestion which I think is worth toying with In order to make anyone respon-

sible it might be worth considering some kind of bonding process where you require the candidate or printer, or both (some kind of combination like that), to take out some kind of small performance bond which can be subject to forfeiture if any kind of claim of fraud is filed, and subsequent to the filing of the claim through investigation by the CII or Attorney General's office or whatever, fraudulent intent is proved Wouldn't this make people stop and think of those who might be involved in this a second time before they got into the thing?

We already have a requirement that any kind of literature, I believe, indicates some kind of legitimate address and a committee as being responsible for whatever literature is sent out—obviously that is violated here

Chairman Danielson: Well, I certainly agree that something like this ought to be done, but I wonder if it isn't an exercise in futility It is about the same as saying that anybody who robs a bank has to leave his name and address with the cashier or something like that I don't know—I'm in favor of something like this if we can do it, and that is precisely one reason we are having a meeting here today

Mr English, I would like to ask you this, may we keep one copy? With the permission of the committee I would like to have it reproduced in whatever report we produce at the end of this session, because I think the entire Legislature ought to have a chance to look at it (See Appendix E)

Mr. English: I may be able to find you one of the originals You may have this copy, and if I can find one of the originals I will send it to you I notice Mr Conrad was interested in the red part, and I have no objections to reading this I have another one in my briefcase, although it really has nothing to do with the problem

Chairman Danielson: Let me suggest this If we could have one that hasn't been pasted over we could print the original and the facsimile in our final report

Mr. Ryan: May I ask one question for clarification, was this in the primary?

Mr. English: That is correct

Mr. Ryan: For a congressional seat?

Mr. English: That is right

Chairman Danielson: I can see how this could be used and probably has been used in general elections as well, the same technique

Mr. English: Yes, it was very effective because you stand up and say I'm not for equal rights. Well, sure you are for equal rights

Chairman Danielson: One of the situations where you try to correct the damage and you probably make it worse

Mr. English: Right The other piece that was used was a "Citizens for Johnson" folder that was sent out districtwide I recall when the union label was mentioned (I don't have one with me but I would like to send it to you) there was a union label but it was obliterated It was supposed to objectively review the three leading candidates in that race The part that hurt me wasn't nearly as devastating as the one I have shown you today and did not go out until just before the election—it went out about five weeks prior to the election Here again a

lot of it was true, it painted me as a fellow who does a lot of handshaking, and that in a way is flattering, but then it tells about my position on the House Un-American Activities Committee and that I favored its abolishment Well, I did not take that position in that area, mainly because it wasn't my position However, Clyde Doyle was on that committee and it was a very sensitive issue down there, and since I did not have any strong convictions on its abolishment it was listed very dogmatically that it was my position and that I was on record accordingly

Chairman Danielson: For the record, Clyde Doyle to whom you referred is the late Clyde Doyle who was the preceding Democratic incumbent Congressman

Mr. English: He served seven terms in Congress and for many, many years was vice chairman on the House Un-American Activities Committee So, it was something the voters of that district were well aware of, and I would say 90 percent favored the continuation of the committee Also, it completely distorted my position on the Rumford Act I knew how sensitive the issue was in that area and took a position similar to the George Murphy position of that year, that it was a state issue and the voters would decide—and that would be acceptable to me As it turned out that area voted 7 to 1 in favor of Proposition 14

Chairman Danielson: Do you have a copy of that?

Mr. English: I do, but not with me

Chairman Danielson: If you are able to locate it would you mind sending it to be incorporated into the report?

Mr. English: I will be glad to do that, but here again my position on that issue was completely distorted as a strong pro-Rumford supporter

There was another thing used I wasn't going to touch on it, but since newspaper advertising endorsement was brought up, it is worthwhile mentioning. My name was used in the general election in at least a couple of newspaper ads along with several hundred other people supporting "NO" on 14 I did not see these ads and I was never asked for my consent—or paid for them—and I did not see them until recently when my present opponent sent me a copy I am not concerned really about this but I bring it up for this reason, it may in another situation be very damaging to a candidate who, two years later, has never seen the ad, and now his name appears on it It is hard to say, "Well, I didn't authorize my name, I did not consent to it and have never seen the ad " People just don't believe you They say, "Well, you must have seen the ad—it was in the newspapers " But I am sure you gentlemen realize that could easily happen, especially in a local newspaper in a community in your district This was used again like now it is being waved around that I was one of the bad guys—using a misrepresentation over and over again The original was bad enough but it is used in the future in other campaigns and I think it is worthwhile mentioning to you as an example As I say, I'm not too concerned about it Only a fool doesn't change his mind, and even if I had consented to the ad I don't see the relevancy in this campaign, but it is being used and could be used in other situations devastating to a candidate where originally he didn't consent to an ad

I don't have any specific solutions to offer the committee outside of possibly having printers and post office people cooperate The pamphlets that do the damage are the ones that are sent out districtwide, and usually it would be 200 or more pieces they could send in small amounts Licensing of printers and small numbers in the corners of the piece would not destroy the effect I would be in agreement with that, because, as I say, union labels can be obliterated I don't think it is done very often, but it was done in this case

Chairman Danielson: Let me interrupt you here I think what we are all talking about is that we are not going to limit free speech but make free speech more responsible Anybody who wants to say something about you, me, or any other candidate probably has a right to say that but if he's going to say it he should be prepared to assume any responsibility that comes along by having made that statement Wasn't that exactly what you had in mind?

Mr. English: Well, any of the electorate is very interested in getting literature I believe strongly in direct mail A lot of people don't read it, but a lot of people do and I think it is fair to the voter to give him this information, but I think he also relies on the information being fairly accurate I know that it would be self-serving if he accepts that, but a piece of literature like this is just what a voter doesn't want because it completely distorts the whole system

Turning to the subject of campaign finance, the subcommittee received what it considers an excellent summary of the nature and complexity of this subject from the Attorney General

"Basically, I think we must realize in this entire area that the ultimate problem springs from the fact that the affluent society has left the political arena untouched The amount of money available to political campaigns today is the ultimate creator of this situation It pays for the massive amounts of questionable mailers, and it pays for the lawyers who bring the lawsuits to stop the mailers

"We must realize that probably 10 million dollars—a minimum figure—will be spent on political campaigns in California this year

"Political campaigns—their management and their operation—have become a major business, employing hundreds of people The problems with campaign literature are just one aspect of this business

"I believe it is time for the Legislature to take a full look at campaign financing, campaign expenditures, and campaigning as an industry

"We should consider the effect of this development upon our democratic process Is this new industry a healthy addition to the body politic? And should we ponder ways to restore perspective in a possibly overexpanded situation?

"We all know that good government is not free But $10,000,000 is quite a bit of money for the show that is going on this year—or any such show in any year

"I don't intend this as a criticism of anyone who is campaigning this year As you know, once you are in such a situation—there is only one way to go, straight ahead Yet after this election, we should take a serious look at this problem before it has a chance to escalate further.

"It has been suggested that there will always be some way to get around any limitations on campaign contributions and expenditures Some legislators have in the past proposed complete disclosure laws as a possible solution In my opinion, such laws might work—but only if criminal sanctions are attached "

2 Findings and Conclusions

a Over a period of many years the electorate has been increasingly victimized by deliberate acts of fraud in election campaigns through deception, falsification, gross misrepresentation and groundless defamation

b The voters may be deemed to have an obligation to exercise due caution in evaluating what is said and done during the course of a political campaign At the same time, the voting public has the right to protection from willful fraud in campaign practices

c Every elector has the right to vote and to have his vote count for the purposes which he intends The Legislature has the authority to enact legislation to prevent the fraudulent deprivation of these electoral rights in a political campaign on the same grounds that it has the power to enact legislation to prevent willful deception and fraud in commercial activity

d The practices indulged in by a small minority of unscrupulous candidates or campaign operatives in the 1966 primary and general election campaigns strongly indicate the need for effective new legislation to curtail fraudulent deception of voters

3 Recommendations

a Legislation should be enacted to prevent further deception of voters A draft bill has been prepared by staff and is included in this report as Appendix D

CHAPTER THREE

VOTING RIGHTS

A. CONSTITUTIONAL AND STATUTORY REQUIREMENTS FOR VOTING

1. Findings and Conclusions

a An informal investigation was conducted, in part, for the purpose of determining if the right to vote was interfered with in the 1966 elections in the same manner as it was in the previous recent elections The committee concluded, with deep satisfaction, that the legislation of the 1965 session reforming voter challenge procedures, proposed by the previous interim committee and ably sponsored and developed by Assemblyman Song, has apparently proved effective and a strong deterrent to a particularly vicious form of voter intimidation

b In the 1965 session, the committee and both houses of the Legislature approved a constitutional amendment to extend the right to vote to a small group of American citizens who have lived in this country for many years and who are literate in a language other than English This committee believed this moderate extension of the franchise was adequately justified—However, this amendment—as Proposition 15—was rejected by the voters in the 1966 general election

c The committee notes with satisfaction the recent improvements in the clarity of language used in describing and analyzing ballot propositions by the Attorney General (for ballot language) and the Legislative Counsel (for ballot pamphlet explanations) Increased clarity of language enhances public understanding of the issues at stake in a "yes" or "no" vote on increasingly complex issues

d Proposition 1-A on the 1966 ballot, approved by the voters by an enormous majority, included provisions revising the initiative procedure The proposition eliminates the seldom used "Initiative to the Legislature" procedure The proposition replaces this procedure by reducing the number of signatures required for a "direct" initiative measure from 8 percent to 5 percent of the previous vote for Governor

The committee believes that the initiative has been used for mischievous (and sometimes unconstitutional) purposes in recent years Whether the changes in the initiative process embodied in Proposition 1-A will serve a good purpose time will soon tell Some degree of permission is justified

2. Recommendations

None

APPENDIX A

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL
Sacramento, California
December 6, 1966

HONORABLE DON A ALLEN, SR
3450 West 43rd Street
Room 110
Los Angeles, California 90008

ELECTIONS—#8521

Dear Mr Allen

You have brought to our attention a proposal that the Legislature provide by statute for an annual primary election on the first Tuesday after the first Monday in August and an annual general election on the first Tuesday after the first Monday in November The primary and general elections in even-numbered years would be for state offices and measures, and the primary and general elections in odd-numbered years would be for local offices and measures All district and special elections would have to be consolidated with one of these elections.

You have raised two questions concerning the proposal which we will answer in series

QUESTION No. 1

Are the proposed provisions for the dates of primary and general elections valid?

OPINION No. 1

In our opinion, the provisions for the dates of primary and general elections as proposed are valid As we note below, however, there are several practical problems concerning the preparation of general election ballots and the canvassing of primary election returns which are involved

ANALYSIS No. 1

The California Constitution provides that the election of state legislators shall take place on the first Tuesday after the first Monday in November in even-numbered years, unless otherwise prescribed by the Legislature (Art IV, Sec 2(b)) It also provides that the election of the Governor (Art V, Sec 2), Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer (Art V, Sec 11) shall take place at the same time as the election of state legislators, and provides that the election of all officers provided for by the Constitution shall take place in even-numbered years (Art XX, Sec 20) Finally, the Legislature is required to enact laws providing for primary elections and may prescribe that any such primary election be mandatory (Art II, Sec 2 5) In the light of the foregoing provisions, we think it clear that the Legislature may validly provide for the dates of the primary and general elections as proposed

We are of the opinion, however, that several practical problems would arise in fixing the date of a primary election later than the

last day in July if the date of the general election which follows is to remain the first Tuesday after the first Monday in November, at least so long as present election procedures are followed In determining the latest date to which the primary may be moved under present procedures without problem, consideration must be given to two factors

First, sufficient time must be allowed for the preparation and printing of the general election ballot Under present law, the general election ballot takes its final form on the 45th day prior to that election, that being the last day to omit the names of deceased candidates (Elec C, Secs 6653, 6657, 6659) We understand at least one county presently requires 45 days in which to prepare, print, and distribute its ballots

Secondly, consideration must be given to the time required to canvass the returns at the primary The time presently required for such canvass is 39 days, since several counties still tabulate by hand The last day for the canvass at the county level is the 30th day after election (Elec C, Sec 18464), and the Secretary of State is presently required to complete his compilation by the 39th day after election (Elec C, Sec 18471)

It will be seen that by adding the 45 days required for the preparation of the general election ballot to the time required for the primary canvass, an interval of at least 84 days is presently required between the two elections to avoid a conflict This does not take into consideration the fact that additional time should be left between the completion of the primary canvass and the final date for preparing the general election ballot to enable the state and county central committees to meet and fill vacancies caused by the death of candidates nominated at the primary Assuming that at least a week should be allowed for those meetings, an interval of 90 days would seem to us to be the shortest interval which could be achieved under present election procedures without problem

Taking a situation in which the general election falls on November 2, which is the earliest possible date on which that election could be held under present law, the primary would have to be held under the foregoing analysis, at the latest, by the last day in July Since the proposed legislation would set the date for the primary election as the first Monday after the first Tuesday in August, some consideration may have to be given to the practical problems noted above, under present election procedures

QUESTION No. 2

Are the proposed provisions for the complete consolidation of elections valid?

OPINION No. 2

In our opinion, while some provisions may validly be made regarding the consolidation of elections, special elections relating to recall of state officers, referendum measures, initiative measures, vacancies in the Legislature, adoption of charters for cities, counties, or cities and counties, amendment of charters of cities, counties, or cities and counties, and local elections in chartered cities, counties, or cities and counties would have to be exempted

ANALYSIS No. 2

The California Constitution provides for a number of elections which are designated as special elections * or required to be held, or permitted to be held, at times other than those set for the election of state legislators and other state officers

(a) Recall elections are required to be called by the Governor not less than 60 days nor more than 80 days after the certification of the recall petition (Art XXIII, Sec 1)

(b) Referendum measures may be decided at special statewide elections called by the Governor, as well as at general elections (Art IV, Sec 23(c))

(c) Initiative measures may be decided at special statewide elections called by the Governor, as well as at general elections (Art IV, Sec 22(c))

(d) Vacancies in the Legislature are required to be filled immediately by a special election called by the Governor (Art IV, Sec 2(d))

(e) Adoption of charters of cities, counties, or cities and counties requires the election of a board of freeholders who must be selected at a special election called by the board of supervisors of the county not less than 20 nor more than 60 days after the enactment of the special ordinance or presentation of the special petition as required, unless a general election falls within that period The board of freeholders so chosen are then to propose a charter which must be presented to the people at a special election not less than 30 or no more than 60 days after completion of the required notice, unless a general election falls within that period (Art XI, Secs 7½ and 8)

(f) Amendment of charters of cities, counties, or cities and counties must take place at a general or special election held not less than 40 days (30 days in the case of counties) nor more than 60 days after completion of the required notice (Art XI Secs 7½ and 8)

(g) Local elections in chartered cities, counties, or cities and counties may be held at such times as the charter designates, should the charter so provide (Art XI, Secs 7½ and 8(4))

Thus, while the Legislature has broad powers over elections in general as noted in the preceding opinion, any bill for the consolidation of elections would have to exempt the elections mentioned above from its provisions The provisions noted above could always be changed by constitutional amendment, of course

Furthermore, it is our opinion that such a proposal would present several practical problems under existing election procedures, even though the exemptions in question were to be made

Under present law, it is possible for a voter to reside in a great number of districts For example, his residence may be within a school district, a fire protection district, a police protection district, an irrigation district, and a great number of other districts It may be that the boundaries of no two of the districts will coincide

* "Special election" is an election, the specific time for the holding of which is not prescribed by law (Elec C, Sec 30)

Under present law, the county clerks and registrars of voters keep the registration records by precincts In most, but not all, elections the right to vote depends upon the registration In some situations it might be extremely difficult to precinct so that all of the voters could vote in all of the consolidated district elections

In the case of multiple noncontiguous district elections under the proposal, separate ballots would be required Only those ballots which could be voted by him would be given to the individual voter This would make the procedure at the polls quite complicated If a person were given the wrong ballots and voted them there would be no way to rectify the matter because the ballots are, of course, unidentifiable

In some districts the voting is done on the basis of ownership of property and not on the basis of registration For example, in California water districts and California water storage districts voting rights are based upon the number of dollars of assessed valuation the person owns (Secs 35003 and 41001, Wat C) When one or both of such districts' elections were consolidated with other elections the precinct officials would have to conduct the consolidated election on two different bases As to such districts it would always be necessary to have separate ballots

Finally, we note that present law provides that the presidential primary, which is held on the first Tuesday after the first Monday in June of each year in which delegates to national party conventions are to be chosen (Elec C , Sec 2503), must be consolidated with the direct primary (Elec C , Sec 23300) Since the national party conventions have traditionally been held in the summer months, the presidential primary could no longer be consolidated with the direct primary, under the proposal to set the date for the direct primary on the first Tuesday after the first Monday in August

Very truly yours,

GEORGE H MURPHY
Legislative Counsel

By TRACY O POWELL II
Deputy Legislative Counsel

APPENDIX B

ELECTION PROCEDURES SURVEY BY 1966 GRAND JURY OF ORANGE COUNTY

The entire grand jury, working as a committee of the whole, examined the election process during the November general election, from beginning to end All members participated in several subcommittee assignments in on-the-spot personal investigations We have no criticism of the Coleman ballot-counting mechanism There were numerous human failures which slowed down the process and can be avoided in future, but none which affected the accuracy of the vote count

SELECTION AND TRAINING OF ELECTION PERSONNEL

1 Instruction by different persons did not always cover the same points

2 Some workers arrived late, others left early, many did not attend at all, in spite of explicit instructions that they must do so

3 Some election board members are too old to remember and follow detailed directions under pressure

4 Some of the perennial complainers and questioners who do not read their material take up the time of the instructor when he should be teaching

Recommendations

1 A motion picture, or slides should be prepared for instruction The cost would be offset by the resulting increased efficiency

2 Workers who fail to take the instruction should be discharged Two members of each precinct board should be required to take the instruction, in case one has to be absent on election day for any reason At least an accurate record of all who attend should be kept Clerks who wish to attend should be allowed to do so

3 Grand jury observers at the polls noticed that many errors were made by workers who had not attended instruction If the registration office keeps track of where problems and mistakes occur, careless or inadequate workers can be identified

4 If a "gripe" and question session is held at the end of the instruction period, interruptions can be held to a minimum Some who hold their questions find they have been answered in the instruction

5 The work required is too strenuous and too exacting for very elderly persons A personal interview with those over a given age might determine capability

6 Increase the pay for election board members to the state maximum

7 More publicity about the need for election board workers in newspapers, at service clubs, P T A 's, political clubs, League of Women Voters, etc , should bring in adequate, capable people

8 Return to alphabetical listing of voters' names in voter indexes would make the work less frustrating and time-consuming for workers and for voters

9 Public understanding of the voting preparations through illustrated lectures, movies, television would reduce criticism, inspire new workers and impress citizens with the tremendous efforts made to help them exercise their obligation as participants in their government

POLLING SITES, MATERIALS AND SUPPLIES

Members of the grand jury spot-checked 180 polling places, or more than 15 percent of the total, from early morning until past closing time

Recommendations

1 We recommend continued grand jury examinations of election processes on a sampling basis

2 A more *satisfactory delivery method* should be employed for supplies and furniture

a If a responsible member of the precinct board is to sign for their receipt, they must be delivered on the date set Some materials were left at schools, without knowledge of precinct board Some ballot boxes were damaged on delivery Frequently, no one signed the receipt.

b In at least one case, booths were left at the polling place since the primary election

3 The *new square booths* for *all* precincts must be supplied as soon as possible The triangular booths are causing constant, widespread complaints Piecemeal changeover is taking too long

4 *Ballot boxes* should be reinforced at the top opening and attention called to handholds provided at sides People inevitably lift boxes by grasping at the top slit, and the cardboard breaks, even when box is empty Few inspectors mended them This is just cause for voter complaint, giving the impression of someone rifling the box

5. *Ballot boxes* are too small for most precincts Repeated shaking down of ballots leads to breaking top slit

6 Mandatory *folding of ballots* in a uniform way needs enforcement Variety of folding methods resulted in crowding ballot boxes and consequent wrinkling and crushing of ballots

7 Print in large black letters "*Seal Here*" at bottom of ballot box, and make directions to inspector explicit A large percentage of boxes were not sealed at the bottom

8. When a polling place is initially selected a *personal inspection* should be made by an employee of the registrar to verify

a. Central location in precinct

b *Geography* in relation to voter accessibility should be considered, and address of voter checked In at least two cases, voters had to drive miles to polling place (Voters from Irvine campus had to go around Upper Newport Bay to vote in a county precinct corridor in Costa Mesa Some precincts in Laguna Beach include voters on either side of a deep arroyo)

c Adequate outside lighting

d Adequate inside lighting.

e Adequate floor space
f Adequate heating
g Safety and convenience of approach (traffic dangers) and parking space

Many polling places fell short of one or more of these requirements

9 *Large printed signs* on stands saying "VOTE HERE" and containing arrows should be supplied when polling places are in back rooms, not easily found from the street Handmade ones are not adequate, and frequently precinct board has no materials to make them

10 *Flag* should be large, and possibly of plastic not affected by rain It should be displayed at the street, and another at the polling site if site is in a schoolroom or distant from the street

11 Polling places *other than garages* should be found, if possible Garages are too cold, in November, for workers to sit in all day Lighting is rarely adequate and telephones are not readily accessible

12 *Telephone communication with headquarters* must be improved Headquarters service, to be of any value at all, must be expanded

13 Laws governing *poll-watching* should be posted at polling places

14 Accuracy of *number of ballots* provided should be responsibility of headquarters, and burden of proof not placed on the inspector

15 *Both political parties* should be represented on the election board It should be possible to employ a worker from a neighboring precinct when both parties are not represented within a precinct

16 At least *three members* of the election board should be on duty at all times, one of them the inspector or the judge Time off for meals should be specifically limited, and not taken at busy hours

17 *Maps or lists* of adjacent precincts would help to redirect voters who have lost or mislaid their polling addresses

18. *Directions for the election board* can be simplified and made clearer Some directions are repeated unnecessarily, others omitted Envelopes No 2 and No 4 say "Return to Registrar of Voters" but do not say how, or in which box to put them

19 *Alphabetical listing of voters'* names on indexes would eliminate much delay and confusion Voter needs should take precedence over political party needs when convenience is at issue

20 *Collection and reissue of marking devices* should be insisted upon Too many workers do not follow this directive

21 *Absentee voter lists* must be delivered at least the day before election

TRANSPORTATION AND SECURITY OF BALLOTS

Each grand jury member watched the closing of one poll, and counting of ballots, and accompanied delivery of ballots to collection place and then to headquarters Efficiency and security measures at collection centers and throughout the transportation process was excellent

Recommendations

1 In addition to bonding of carrier, when private delivery service is employed, all materials and furniture should be insured

2 Insist on presence of two election board members, preferably representing each party, when transporting ballots and materials to collection point In spite of directions, this was not usually observed

3 Security factors and even flow of boxes at tally center outweigh the importance of speed Some slowing was caused by transporting only 10 or 20 ballot boxes per trip

4 We repeat that inadequately prepared precinct workers not only contribute to inefficiency but jeopardize security *Directions must be made understandable and explicit, and they must be followed*

a Many cars arriving with ballot boxes carried odds and ends of materials not in boxes as directed—even voter rosters
b Handling of unused and voided or rejected ballots was not uniform
c Extra folding of ballots was damaging and time consuming
d Many ballot boxes were not sealed during the day (One used only the outside box, with ballots resting on the floor until box was lifted)
e Packing of equipment and assembling of materials could be done during last slow hour, thus eliminating confusion and possible errors when ballots are to be counted and spindled
f *Spindling of ballots must be improved* Tearing and additional handling not only result in the need for additional employees at headquarters, but create problems in running them through the ballot counter The more handling needed, the more opportunities there are for error

5 Security at headquarters

Candidates should not be allowed inside ballot-counting area (Exception must be made for the registrar of voters when a candidate, since he is charged with the responsibility of overseeing the election Candidate members of the board of supervisors, even though members of the election board, should stay out of the area also, since noncandidate members can oversee the process)

THE ELECTION SERVICES CENTER AND SECURITY MEASURES

Of the five grand jury members on this subcommittee, one or more remained on watch throughout the night at headquarters, during ballot counting While no abuses or interference with the election process were noted, greater precautions could be taken at many points, both to insure security and to improve voter confidence

Recommendations

1 Stricter security should be enforced at the election center throughout the day of election All cars should be challenged upon entering the fenced area

2 Distribution of badges should be controlled by a security officer Signature and identification of all personnel should be required and again when badges are returned

3 No candidates should be allowed in the restricted area, even though state election laws do not prohibit (See section on transportation and security of ballots)

4 Press credentials should be issued *only* to bona fide members of the working press

5 All rules established should be enforced without exception These rules should be distributed in advance to all working personnel and also posted at the election center in various places

6 A more thorough training program for personnel employed in the ballot counting area should be initiated, possibly a training film could be prepared

7 Wearing of campaign buttons on the floor of the ballot counting area should be prohibited

8 Investigate using only county personnel with the exception of political party observers, for work in ballot-counting area, and offer either compensatory time off or remuneration

9 More supervisorial staff on the counting floor might insure greater efficiency of workers Any employee not doing his job should be dismissed at once

10 Condition of spindled ballots as received from the precincts was highly irregular, many directions having been ignored This caused increased work and handling at the headquarters Inspectors and judges responsible for these conditions should be investigated Whether errors were deliberate or unintentional, persons responsible should be discharged

Conclusions

While some ballots were torn during the ejection process after being counted, there was no evidence that any ballots had not been counted There was absolutely no evidence of ballots being torn inside the counting machines and therefore not being counted The committee members believe that the Coleman machine does an excellent, dependable job

At 10 15 a m on November 9, 1966, an inspection of the storage warehouse was made All ballot boxes were in their proper places and properly safeguarded Uniformed sheriff's deputies will be on duty on a 24-hour basis to insure that no tampering with ballots is possible, and will continue to guard for at least a month, or until ballots can be legally placed in storage

COMPUTER OPERATIONS

The members of this committee and an outside expert consultant who observed the final election tabulation process which made use of the county's IBM equipment in the Engineering Building submit the following conclusions·

1 The computer operation was well managed by knowledgeable personnel

2 Excluding a relatively minor problem involving "batch" cards for the first few precincts, which was corrected promptly, the overall operation appeared to be very efficient

3 We believe that the reporting was consequently accurate

4 Programming provided "audit trails" which permitted verification of any apparent or suspected discrepancies

5 Security was such that "fixing" of the results was not possible, excluding the very remote possibility of collusion of several persons

directly involved in the programming and actual operation of the computer

In addition to the above inspection during the night of November 8, 1966, and the morning of November 9, 1966, the committee observed a "dry run" on November 3, 1966, and spent several hours discussing the process with Mr R Farmer, manager of data services for Orange County, with members of the data services staff and with Mr Phil Silvers, IBM service representative

The letter of Mr Robert Jahncke, the consultant referred to above, is on file To quote three paragraphs

"It is my opinion that if any person or group of persons wished to 'fix' the election, their efforts would be detected within a 24-hour period of the vote counting There were several procedures required in order to cross-check the results during the counting and during the final summation

* * * * * * *

"Another example of the checking capability is the use of statistics to notify the operator of odd situations For example, if the voter turnout was close to 80 percent for most of the precincts and one precinct had a 90 percent turnout, the computer would notice this peculiarity, and cause the operator to request a closer look at the precinct involved

"Between the audit checking, and the counting ability of the Coleman machine, it appeared to me that this method of counting ballots was far more accurate and less costly than doing the same counting job by hand "

REQUESTS TO STATE LEGISLATURE

From 1966 Orange County Grand Jury

To Elections and Reapportionment Committee of the Assembly
Elections Committee of the Senate
All Orange County representatives to the State Legislature

Subject Changes in the Elections Code

1 We request that the voter indexes or precinct lists be arranged in alphabetical order, as in previous years The recent change to listing by address, or "walking lists," has resulted in confusion and delay at the polls We believe that efficiency at the polls is more important than political party workers' convenience

2 We request that the Elections Code be amended prohibiting the presence of all candidates for election within the ballot-counting area at county election headquarters Exception must necessarily be made when the registrar of voters is a candidate to succeed himself

3 We request that authorized representatives of both political parties be required to be present at all times during the vote-counting process when electronic vote-tallying is used This practice is now followed in Orange County, but we believe it should be made mandatory

4 We request that every candidate for election be sent a list of all other candidates together with the designations they have supplied for identification on the ballot Voters are too frequently misled by the candidate's claim of a profession, occupation or vocation Each candi-

date should be informed of the law, namely, Section 10301, paragraph c Also, all candidates should be informed of Section 6403 of the Elections Code which provides that he may have recourse to the courts to challenge a false or misleading identification by any candidate

5 We request that Section 10301 be amended to allow for abbreviations in a candidate's identification on the ballot and that the identification be limited to one line of printing Candidates who claim lengthy titles attract undue attention to their names on the ballot, giving them an unfair advantage

6 The Orange County Grand Jury requests that each violation of the Elections Code be defined as to whether such violation is a misdemeanor or a felony, and the penalty clearly stated

REQUESTS TO THE BOARD OF SUPERVISORS

1 We request that the board of supervisors pass an ordinance prohibiting all candidates from being present in the ballot-counting area at the election center during election day and the following day This must necessarily except the registrar of voters when he is a candidate to succeed himself Although the Elections Code does not include this prohibition as yet, common sense should indicate the wisdom of such an ordinance

2 We request that the personnel needs of the registrar of voters' department be scrutinized Under the present system of centralized vote counting, unusual demands are made upon the staff for many days in succession The logistics are tremendously demanding So, too, is the special training for election board workers and for the regular staff The county clerk has only one assistant who has the full knowledge of the system There is no backup for this one man Serious consequences might result for the whole election procedure if he should be suddenly incapacitated A number of weaknesses discovered by the grand jury in their investigation of the election procedure can be laid to inadequate staffing in the department

3 We suggest the supervisors investigate feasibility of employing a certified public accountant, preferably of national reputation, to audit at least once each two years the county clerk's or registrar's election procedures These officers and the public, in the jury's opinion, are entitled to such audit protection

APPENDIX C

AMENDED IN ASSEMBLY JUNE 12, 1963

AMENDED IN ASSEMBLY JUNE 7, 1963

AMENDED IN ASSEMBLY MAY 30, 1963

CALIFORNIA LEGISLATURE, 1963 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 3041

Introduced by Assemblymen Bane, Allen, Crown, Danielson, Petris, Ryan, and Waite

April 26, 1963

REFERRED TO COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

An act to repeal Chapter 1 (commencing with Section 11500) of Division 8 of, to add Chapter 1 (commencing with Section 11500) to Division 8 of, to amend Sections 12301, 29131, and 29132 of, to add ~~Sections 11800.5 and 12301.5~~ SECTION 11800.5 *to, the Elections Code, and to amend Section 24343 of the Revenue and Taxation Code, relating to political contributions*

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

1 SECTION 1. Chapter 1 (commencing with Section 11500) of
2 Division 8 of the Elections Code is repealed.
3 SEC. 2. Chapter 1 (commencing with Section 11500) is
4 added to Division 8 of said code, to read:
5
6 CHAPTER 1. PURITY OF ELECTIONS
7
8 Article 1. Definitions
9
10 11500. This division shall be known and may be cited as
11 the Purity of Elections Law.
12 11501. Unless the context otherwise clearly requires, the
13 definitions set forth in this article shall govern the construc-
14 tion of this chapter.
15 11502. "Candidate" means any person who seeks or pub-
16 licly announces his intention to seek nomination or election to
17 a federal, state, county, judicial, municipal, or district office
18 at any election or primary conducted within the State. "Can-

didate" also includes persons seeking election to a county central committee at the direct primary election

11503. "Committee" means a committee or group of persons engaged in aiding, endorsing, or defeating, directly or indirectly, the nomination or election of any candidate or group of candidates, including party state and county central committees and party organizations affiliated therewith.

11504. "Campaign statement" means an itemized statement prepared on one of the forms prescribed in this chapter (or on a substantially identical duplication of such form) by a candidate and by the treasurer of a committee showing:

(a) In detail all campaign contributions furnished, directly or indirectly, to the candidate or treasurer or for use of the candidate or treasurer, in aid of the candidate's nomination or election

(b) All money contributed, loaned, or expended, directly or indirectly, by the candidate or treasurer or through any other person, in aid of the candidate's nomination or election.

(c) The amount of each contribution, together with the name and address of the person furnishing it.

(d) The names of all persons to whom such money was contributed, loaned, or paid, except for petty cash items in an amount not to exceed 5 percent of the total expenditures made or five hundred dollars ($500), whichever is lower.

11505. Lawful expenses are expenses for the following purposes only:

(a) For the preparing, printing, circulating, and verifying of nomination papers and for the candidate's official filing fee.

(b) For the personal traveling expenses of the candidate and of campaign personnel.

(c) For rent, furnishing and maintaining headquarters and halls and rooms for public meetings, including light, heat, and telephone.

(d) For payment of the following personnel:

1. Campaign managers.
2. Advertising agencies and publicity agents.
3. Stenographers and clerks.
4 Precinct workers
5 Speakers
6. Entertainers.

(e) For the preparing, printing, and posting of billboards, signs and posters.

(f) For the preparing, printing, and distribution of literature by direct mail, including postage, throwaways, and handbills

(g) For newspaper advertising

(h) For radio and television advertising and speech time

(i) For office supplies, precinct lists, postage other than that provided for in subdivision (f), expressage, and telegraphing relative to candidacy.

(j) For making canvasses of voters and public opinion surveys.

(k) For conveying voters to and from the polls.
(l) For supervising the registration of voters.
(m) For watching the polling and counting of votes cast.
(n) For photographs, mats, cuts, art work and displays
(o) For petty cash items relative to candidacy.

11506 "Person" means any individual, committee, firm, association, labor union, public or private corporation, or other group of persons, whether incorporated or not, which contributes or expends any money or valuable thing, directly or indirectly, to aid or defeat the nomination or election of any candidate or group of candidates

11507 "Campaign contribution" includes any gift, loan or payment of money or other valuable thing or promise to give, lend or pay money or other valuable thing made or furnished, directly or indirectly, for the purpose of aiding or defeating the nomination or election of any candidate or group of candidates, subject, however, to the provisions of Section 11509.

"Campaign contribution" also includes the following

(a) Contributions of the services of employees, including the granting by an employer of time off with pay on the condition or with the understanding that the employee will spend his time in aiding the campaign of a candidate

(b) The granting of a reduced rate on any service which fixes the price thereof below its actual cost

(c) The granting or relinquishing to the candidate or committee of the right to use or purchase billboard space or radio or television time, which right belongs to a person or organization as part of a business contract

(d) The excusing or forgiveness of any portion of a lawful claim for goods or services, if the amount paid and remaining balance, when added together, are below the actual cost of the goods or services furnished

(e) Expenditure of the candidate's own personal funds

11508. "Campaign expenditure" includes any money, obligation for money, or other valuable thing expended or undertaken, directly or indirectly, for the purpose of aiding, endorsing, or defeating the nomination or election of any candidate or group of candidates; subject, however, to the provisions of Section 11509.

11509. Neither "campaign contribution" nor "campaign expenditure" includes:

(a) Any news item, comment or article, for which no consideration, direct or indirect, is paid by or on behalf of any candidate or committee, and which is published in any regularly published newspaper or periodical which in the ordinary course of business publishes political news items, comments or articles, or which is broadcast by any radio or television station

(b) A sum not exceeding fifty dollars ($50) in the aggregate expended by a person for any lawful purpose out of his own funds to aid or defeat any candidate or group of candidates, where the sum is not to be repaid to him.

(c) An individual's contribution of his own home as a meeting place to aid or defeat any candidate or group of candidates, where no remuneration or reimbursement is or is to be received by him.

(d) The cost to any bar association, including the State Bar of California, of taking plebiscites of its members as to candidates for judicial office or the qualifications of any such candidates and the cost of publishing the results of such plebiscites.

11510. The Secretary of State shall cause sufficient pamphlet copies of this division and of Division 15 to be printed and shall arrange for the distribution thereof, through the offices of the various county clerks to candidates, treasurers of committees, and other persons considered appropriate by the clerks.

11511. As used in this chapter "county clerk" includes "registrar of voters" and means the county clerk or registrar of voters of the county wherein is located the residence of the person filing the statement or form

Article 2. Committees and Campaign Treasurers

11530. Each committee shall appoint a treasurer who shall receive, disburse, and keep a true account of all money contributed and disbursed for campaign purposes, and who shall, in the same manner and on the same type of forms as required of candidates, file a campaign statement.

(a) No committee shall receive any campaign contribution for the purpose of aiding or defeating the nomination or election of any candidate without first appointing an individual to act as its campaign treasurer. Before or immediately after the first contribution has been received, the treasurer shall file with the county clerk a certificate of such appointment setting forth his name and address.

(b) No committee shall make or undertake any campaign expenditure in aid of the nomination or election of any candidate unless said candidate has first filed a written authorization for such committee, which authorization shall be filed with the county clerk The authorization shall set forth the name and address of the committee's campaign treasurer A subsidiary committee may proceed under the authorization filed for its parent committee whenever it is identified and the name and address of its campaign treasurer are set forth in the authorization

11531 A candidate may act as the campaign treasurer of his committee but may not act as treasurer for another candidate When acting as a campaign treasurer, the candidate may sign the campaign statement of the committee

11532 Every candidate shall appoint an individual to act as his campaign treasurer and shall forthwith file a certificate of such appointment, setting forth the campaign treasurer's name and address, with the county clerk A candidate may

appoint himself as his own campaign treasurer but may not act as treasurer for another candidate No candidate shall receive any campaign contribution or make or undertake any campaign expenditure without first having complied with this section. Any candidate who fails to appoint his campaign treasurer, and any candidate whose campaign treasurer dies or resigns, shall automatically serve as his own campaign treasurer pending a subsequent appointment A person may be appointed and act both as a candidate's treasurer and as treasurer of a committee aiding that candidate's election

11533. Every campaign treasurer shall establish a bank account as a campaign depository The name and address of the campaign depository shall be filed with the county clerk

11534 A campaign treasurer may appoint as many deputy campaign treasurers as he considers necessary and may designate one additional campaign depository in each county in which the campaign is conducted or may change a campaign depository in a county The candidate or committee shall file the names and addresses of the deputy campaign treasurers and campaign depositories with the respective county clerks.

11535 Every candidate or committee may, for any reason and at any time during the campaign, revoke the appointment of any individual as campaign treasurer by giving notice of such revocation in writing to the campaign treasurer and by filing a copy of said notice with a certificate of appointment of a substitute campaign treasurer, setting forth the substitute campaign treasurer's name and address, with the county clerk

11536 No campaign contribution or campaign expenditure shall be made, received or undertaken except through a duly appointed campaign treasurer Each campaign treasurer shall keep a true account of all campaign contributions received by or for the use of the candidate or committee and of all campaign expenditures made or undertaken by or on behalf of the candidate or committee through said treasurer He shall prepare and file campaign statements as provided in Section 11563

Each campaign treasurer, when depositing campaign contributions in a campaign depository, shall prepare and retain duplicate deposit forms, itemizing cash as to source, and shall make thereon a list of checks or money orders by the name of the maker or owner and bank identification number, if any, on the face of the check

11537 Each campaign treasurer shall retain possession of, for a period of two years after the date of the election, all books, records, accounts, check stubs, claims, and receipts, or photocopies of the same

11538 No person shall in any name except his own make or pay any campaign contribution to any candidate or committee, or to any other person acting under the authority or on behalf of such candidate or committee, nor shall any candidate or committee knowingly receive a campaign contribution or cause the same to be entered in its accounts in any name other than that of the person by whom it is made

Article 3 Campaign Statements and Other Reports

11560 Each candidate and the treasurer appointed by each candidate and each committee shall make and file a campaign statement following the election or primary, as the case may be. A campaign statement shall be verified The verification shall state that the candidate or treasurer has used all reasonable diligence in its preparation, and that it is true and is as full and explicit as he is able to make it

11561 Each of the following persons and business concerns shall file a report with the county clerk showing the source and amount of funds given to or received from campaigns and the amount and purposes of expenditures of such funds

(a) Newspapers which receive money from a campaign for any purpose

(b) Television stations, radio stations, and advertising agents, public relations firms, or publicity agents which receive money from a campaign

(c) Professional campaign managers, which shall include only those persons who receive more than one-third of their annual income in the year preceding the election from salaries or fees paid by political committees or candidates, who receive money from a campaign.

(d) Printing concerns which receive money from a campaign

(e) Concerns which specialize in mass mailing services and which receive money from a campaign

(f) Concerns which provide door-to-door delivery of circulars and which receive money from a campaign

(g) Billboard companies which receive money from a campaign

(h) Persons or firms making public opinion surveys for a fee which receive money from a campaign.

(i) Any person, committee, organization, or business concern which makes campaign contributions to candidates or committees which, in the aggregate, exceed one thousand dollars ($1,000)

11562. If a candidate at any election seeks to avoid the responsibility of any illegal payment made by any other person in his behalf, he shall set out that illegal payment in the campaign statement and disclaim responsibility for it.

11563 All candidates for either nomination or election, the treasurer appointed by each committee, and each person and the principal officer of each committee, organization, or concern required to file reports pursuant to Section 11561 or 11573, shall file their campaign statements or reports within 35 days after the election or primary, in the office of the county clerk of the county in which they reside The county clerk shall transmit a photocopy of each campaign statement, report, certification and other filing made by a candidate, person, organization, or committee to the Secretary of State, the Attorney

General, and the district attorney of the county in which the statement or report is filed.

11564. Each campaign statement showing expenditures in excess of one hundred thousand dollars ($100,000) shall have attached to it a written report of an audit by a certified public accountant, other than the treasurer of the candidate or committee.

11565. The Attorney General shall cause a photocopy of each campaign statement or other report, and supporting documents, filed pursuant to Sections 11563 and 11564 to be provided to the Franchise Tax Board and to the United States Director of Internal Revenue.

11566 The Supreme Court of California may order the examination of the books and accounts of any of the persons or concerns listed in Section 11561, which the court has reason to believe has contributed funds, or has received funds from a campaign and has provided goods and services in consideration thereof, and the business accounts of any candidate or committee treasurer or employee of either. The result of such examination shall be kept confidential unless a court action follows or unless a legislative body to which the candidate is elected subpoenas the results of such examination. The examination may include the taking of photocopies of accounts and records.

11567. No officer shall issue any certificate of nomination or election to any person until his campaign statement has been filed. The officer with whom campaign statements must be filed shall send to the candidate, not more than three days after the election, the necessary forms for submitting his campaign statement. The nomination for or election to any office of a candidate who violates a provision of this chapter, or whose campaign treasurer or deputy campaign treasurer violates a provision of this chapter with such candidate's knowledge, shall be void, and the office shall be filled as required by law in the case of a vacancy. When violations of this act are alleged, the candidate's right to office may be tested by a writ of quo warranto and all cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure a speedy disposition of the matter.

11568. No fee or charge shall be made or collected by any officer for the verifying, filing, or recording of any campaign statement.

11569. Campaign statements shall be held by every officer with whom they are filed during the term of office for which they are filed and for four years after the expiration of the term. Thereafter they may be destroyed by that officer. Such statements shall be available on demand for inspection by any person during normal office hours

11570 The Secretary of State shall prepare appropriate forms of campaign statement in accordance with Article 6 of this chapter. He shall cause adequate supplies of such forms to be printed and shall arrange for the distribution thereof

through his own office, through the offices of the various county clerks or otherwise. Upon request, candidates and campaign treasurers shall be entitled to receive sufficient copies without charge

11571. Every campaign statement shall contain the following signed declaration: "I declare under the penalty of perjury that I have used all reasonable diligence in the preparation of the foregoing campaign statement and that to the best of my knowledge it is true and correct."

11572 Notwithstanding the provisions of Section 11560, the campaign statements of a committee may include all the information otherwise required to be shown in the campaign statements of any committee subsidiary to it; in which case the campaign treasurer of the subsidiary committee is excused from compliance with Section 11560.

Any campaign statement filed under the provisions of this section shall segregate the receipts and expenditures of the subsidiary committee, shall designate the latter by its name, and shall set forth the name and address of its campaign treasurer.

11573. Each director, chief officer, assistant director, or assistant chief officer of an executive department of the State or of any county or city; each member of a commission or board of the State or of any county, city, district, or authority, who is compensated for his services; each judge appointed to his office within the five years preceding or following any election; and each state inheritance tax appraiser shall file a report with the county clerk showing any campaign contributions made by him directly or indirectly and indicating those government facilities and services, under his control, which were used in behalf of candidates or committees, or both

Article 4. Lawful Expenses

11580 No campaign treasurer shall directly or indirectly make or undertake any campaign expenditure, except for lawful expenses.

11581. No payment of money shall be made by a committee or candidate for the rent of any premises to be used as a committee room or headquarters, for holding a meeting, for the purpose of promoting the election or nomination of a candidate, or on account of or in respect to the conduct or management of an election, where alcoholic beverages are sold for consumption on the premises or are supplied to members of any club, society or association

Nothing in this section applies to any part of the premises which is ordinarily let for the purposes of offices for holding public meetings, if that part has a separate entrance and no direct communication with any part of the premises on which any alcoholic beverages are sold or supplied

11582 No person shall contribute to a campaign with instructions or with the understanding or intent that his contribution be used for illegal purposes Any violation of this section constitutes a misdemeanor

Article 5 Campaign Advertising Media

11600 Every person, business concern, or corporation, including but not limited to newspapers, magazines, radio or television stations, printers, billboard companies, or their agents, which offers to any candidate or committee a service or facility at a rate which is higher than the rate which is charged to other users or customers of the same service or facility, is guilty of a misdemeanor

11601 Every newspaper, magazine, radio or television station, which offers advertising space or time for sale, and every person, business concern, or corporation, which owns, or leases for the purpose of subleasing or renting, billboards or signboards of any size or dimensions, which offers or makes available to rent or lease such billboards or signboards for posting or painting political signs thereon, to any candidate or committee, or to any committee formed for the purpose of promoting the passage or defeat of any ballot measure, or to any qualified political party, shall, at the same time, offer or make available the same amount of advertising space or time, or as the case may be, the same number of billboards or signboards, located in similarly advantageous locations and positions, and under the same terms, to each opposing candidate or committee, or to each opposing committee promoting the passage or defeat of the ballot measure, or to each opposing qualified political party, as the case may be It shall be unlawful to charge a different rate for such advertising space or time, or such billboards or signboards to political candidates and committees than would be charged under the same conditions to commercial users in the ordinary course of business Any commercial agreement between a newspaper, magazine, radio or television station, or billboard concern and a candidate or committee shall be in writing as to all details thereof, and a copy of such an agreement shall be sent to the district attorney. Any violation, or conspiracy to violate or evade the provisions of this section shall constitute a misdemeanor.

11602. No person or business concern shall pay money or other valuable consideration, other than an advertising agent's commission of not to exceed 20 percent of the price of the goods or services, to any person or business concern placing an order or referring or recommending the placing of an order for goods or services to be provided to a candidate, committee, or political party organization. Any violation of this section is a misdemeanor

If such person or business concern does pay money or any other valuable consideration including commission to a person

or business concern for placing an order or referring or recommending the placing of an order for goods or services to be provided to a candidate, committee, or political party organization, it shall inform the candidate, committee, or political party organization of that fact and of the amount paid

11603 In addition to any other penalty, no payment shall be made or allowed to any person in consideration for his having prepared, printed, published, or circulated, or assisted in the preparation, printing, publishing, or circulating of any advertisement, bill, placard, poster, pamphlet or other printed or duplicated matter in violation of Section 11604 ~~or 11605~~. Any person who pays or receives a payment in violation of this section is guilty of a misdemeanor

11604 Every advertisement, bill, placard, pamphlet or other printed or duplicated matter having reference to an election or to a candidate, for which consideration of any kind will be paid to any person for the preparation, printing, publishing, duplicating, posting, or distribution thereof, by any candidate, person, or committee, shall bear the name and address of the printer and publisher and person or committee responsible therefor.

~~11605 Every advertisement, bill, placard, pamphlet or other printed or duplicated matter having reference to any candidate for nomination for partisan office in the direct primary election, for which consideration of any kind will be paid to any person for the preparation, printing, publishing, posting, or distribution thereof, by any candidate, person, or committee, which contains a statement or words to the effect that the candidate has been endorsed or is being supported by a political party, political party organization, or organization using as a part of its name the name of a political party or derivative thereof, shall bear on each surface, page, or fold thereof on which such statement or words appear, in type or lettering at least as large as the type or lettering of such statement or words or in 12-point roman type, whichever is larger, in a printed or drawn box and set apart from any other printed matter, the following statement:~~

~~NOTICE OF VOTERS~~

~~(Required by law)~~

~~The endorsement claimed hereon is by an unofficial private organization. Official organizations of the (name) Party are prohibited by law from endorsing candidates in primary elections.~~

Article 6 Forms

11610 The campaign statement of a candidate shall be in substantially the following form:

CANDIDATE'S CAMPAIGN STATEMENT OF RECEIPTS AND EXPENDITURES

I, ____,
(Full name)

was a candidate for (nomination) (election) to the office of
(strike out word inapplicable)

____

at the election held on the ________ day of ________, 19___

All moneys or other valuable things paid, loaned, contributed, or otherwise furnished to me, or for my use, including my own personal funds, in aid of my (nomination) (election)
(strike out word inapplicable)
and the names and addresses of all persons and organizations who paid, loaned, contributed or otherwise furnished such moneys or other valuable things were to the best of my knowledge and belief as follows, to wit:

Receipts

1 Personal checks, money orders, and other negotiable instruments

Contributor's name and address	Identify (personal check, money order, other)	Date received	Amount

If necessary, use additional sheets and attach

Total (1) ______ $________

2. Cash

Contributor's name and address	Date received	Amount

If necessary, use additional sheets and attach

Total (2) _____ $_____

3. Personal and professional services (list here all services provided to you without charge or at a charge below cost by person who offers such services professionally for a fee, other than services provided by or under auspices of a political party state or county central committee, giving a fair and honest estimate to the best of your knowledge and belief of the actual cash value of such services) ·

Name and address of person donating service	Description of service	Date(s)	Estimated value

If necessary, use additional sheets and attach

Total (3) _____ $_____

4. Use of equipment (if you received the use of machinery, automobiles, and other mechanical devices, make a fair and reasonable estimate of cash value based on such factors as time, wear and tear, depreciation, loss of time from profitable use)

Description of equipment	Use	Estimated cash value

If necessary, use additional sheets and attach

Total (4) _____ $_____

5. Cost-price difference (if you received a service, goods, or materials at a charge below actual cost, show difference as a contribution).

Description of service, goods, or materials	Cost	Amount charged	Difference

If necessary, use additional sheets and attach

Total (5) _____ $_____

6. Commercial privilege loaned, given, or assigned (if you have received any commercial privilege, including but not limited to contractual reservations of space in any advertising media or television or radio time, make a fair and reasonable estimate of cash value of such privilege or advan-

tage, including hypothetical loss of sales to donor, on the commercial market).

Description of commercial privilege	Estimated cash value

If necessary, use additional sheets and attach

Total (6) _____ $_____

7 Release of employees (if employees were granted time off with pay with the understanding that they would spend such time in aiding and promoting your nomination or election, show the hourly rate of pay, or calculate the hourly rate if employee is on monthly salary, and show cash value).

Name of employee	Hours released for and engaged in campaign work	Hourly rate	Total value

If necessary, use additional sheets and attach

Total (7) _____ $_____

8 Other valuable things (list here every valuable thing, other than those accounted for above, received by you or furnished to you Give a fair and honest estimate to the best of

your knowledge and belief of the actual cash value of all such valuable things):

Contributor's name and address	Description of other valuable thing	Date(s) received	Estimated cash value

If necessary, use additional sheets and attach

Total (8) ..... $_____

Total, all categories $_____

All moneys contributed, loaned, or expended by me, directly or indirectly by myself or through any other person at my direction, in aid of my (nomination) (election), and the names of all persons to whom such moneys were contributed, loaned, or paid were to the best of my knowledge and belief, as follows, to wit

Expenditures

1. Paid

Description	Check number or date	Payee's name and address	Amount

(a) For the preparing, printing, circulating, and verifying of nomination papers, and for the candidate's official filing fee.

		Total	(a)

(b) For the candidate's and campaign personnel's personal traveling expenses.

		Total (b)	

Description	Check number or date	Payee's name and address	Amount

(c) For rent, furnishing and maintaining headquarters, and halls and rooms for public meetings, including light, heat, and telephone

		Total (c)	

(d) For payment of personnel (itemize separately: (1) campaign manager or managers, (2) advertising agency or agencies and publicity agent or agents, (3) stenographers and

clerks, (4) precinct workers, (5) speakers, and (6) entertainers)

		Total (d)	

Description	Check number or date	Payee's name and address	Amount

(e) For the preparing, printing, and posting of billboards, signs, and posters

		Total (e)	

(f) For the preparing, printing, and distribution of literature by direct mail (including postage), throwaways, and handbills.

		Total (f)	

(g) For newspaper advertising.

		Total (g)	

Description	Check number or date	Payee's name and address	Amount

(h) For radio and television advertising and speech time.

		Total (h)	

(i) For office supplies, precinct lists, postage other than that provided for in subdivision (f), expressage, and telegraphing relative to candidacy.

		Total (i)	

Description	Check number or date	Payee's name and address	Amount

(j) For making canvasses of voters, and public opinion surveys.

		Total (j)	

(k) For conveying voters to and from the polls.

		Total (k)	

(*l*) For supervising the registration of voters

		Total (*l*)	

Description	Check number or date	Payee's name and address	Amount

(m) For watching the polling and counting of votes cast.

		Total (m)	

(n) For photographs, mats, cuts, art work and displays.

		Total (n)	

(o) For petty cash items relative to candidacy (list by check number or date, and designate as "petty cash", showing amount of check)

		Total (o)	

Total (1) _____ $_____

2 Unpaid claims (list here all bills, claims, and unpaid balances outstanding at this date).

Description	Creditor's name and address	Amount

Total (2) $_____

If necessary, use additional sheets and attach

Expenditures grand total $_____

I have used all reasonable diligence in the preparation of this statement and it is true and is as full and explicit as I am able to make it.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed by me at _____, California, this _____ day of _____, 19___.

_____
Signature of candidate

NOTE. All campaign statements must be filed with county clerk or county registrar of voters, who will make photocopies thereof and forward one each to the district attorney, the Secretary of State, and the Attorney General

Any campaign statement showing expenditures in excess of one hundred thousand dollars ($100,000) must be accompanied by a written statement and report of the findings and results of an audit by a certified public accountant who is not the candidate or a committee treasurer.

11611 The campaign statement required of a committee shall be in substantially the following form:

COMMITTEE'S CAMPAIGN STATEMENT OF RECEIPTS AND EXPENDITURES

I, _____
(Full name)
was treasurer of a committee known as _____
_____
(Full name of committee)
which aided and promoted the (nomination) (election) of the
(strike out word inapplicable)
following candidate(s).
(Name) _____
For the office of _____
(Name) _____
For the office of _____
(Name) _____
For the office of _____
(If necessary use additional sheets and attach)

Check one:

☐ This statement covers the above-named committee only. Each subsidiary committee, if any, will file a separate statement

☐ This statement covers the above-named committee and all subsidiary committees, if any, operating under its direction and control

---

All money or other valuable things paid, loaned, contributed or otherwise furnished to the committee was in my custody and control or in the custody and control of an assistant treasurer under my direction, as are accurately reported herein, to wit:

Receipts

1 Personal checks, money orders, and other negotiable instruments

Contributor's name and address	Identify (personal check, money order, other)	Date received	Amount

If necessary, use additional sheets and attach

Total (1) ______ $__________

2. Cash

Contributor's name and address	Date received	Amount

If necessary, use additional sheets and attach

Total (2) _____ $_____

3. Personal and professional services (list here all services provided to the committee without charge or at a charge below cost by person who offers such services professionally for a fee, other than services provided by or under auspices of a political party state or county central committee, giving a fair and honest estimate to the best of your knowledge and belief of the actual cash value of such services:

Name and address of person donating service	Description of service	Date(s)	Estimated value

If necessary, use additional sheets and attach

Total (3) _____ $_____

4. Use of equipment (if the committee received the use of machinery, automobiles, and other mechanical devices, make a fair and reasonable estimate of cash value based on such factors as time, wear and tear, depreciation, loss of time from profitable use):

Description of equipment	Use	Estimated cash value

If necessary, use additional sheets and attach

Total (4) _____ $_____

5. Cost-price difference (if the committee received a service, goods, or materials at a charge below actual cost, show difference as a contribution):

Description of service, goods, or materials	Cost	Amount charged	Difference

If necessary, use additional sheets and attach

Total (5) _____ $_____

6 Commercial privilege loaned, given, or assigned (if the committee has received any commercial privilege, including but not limited to contractual reservations of space in any advertising media or television or radio time, make a fair and reasonable estimate of cash value of such privilege or advan-

tage, including hypothetical loss of sales to donor, on the commercial market) ·

Description of commercial privilege	Estimated cash value

If necessary, use additional sheets and attach

Total (6) _____ $_____

7. Release of employees (if employees were granted time off with pay with the understanding that they would spend such time in aiding and promoting the candidate's nomination or election, show the hourly rate of pay, or calculate the hourly rate if employee is on monthly salary, and show cash value):

Name of employee	Hours released for and engaged in campaign work	Hourly rate	Total value

If necessary, use additional sheets and attach

Total (7) _____ $_____

8 Other valuable things (list here every valuable thing, other than those accounted for above, received by the committee or furnished to the committee Give a fair and honest

estimate to the best of your knowledge and belief of the actual cash value of all such valuable things)

Contributor's name and address	Description of other valuable thing	Date(s) received	Estimated cash value

If necessary, use additional sheets and attach

Total (8) ------ $_____

Total, all categories $_____

All moneys contributed, loaned, or expended by me, directly or indirectly by myself or through any other person at my direction, and the names of all persons to whom such moneys were contributed, loaned, or paid were to the best of my knowledge and belief, as follows, to wit:

Expenditures

1. Paid

Description	Check number or date	Payee's name and address	Amount

(a) For the preparing, printing, circulating, and verifying of nomination papers, and for the candidate's official filing fee.

		Total (a)	

(b) For the candidate's and campaign personnel's personal traveling expenses.

		Total (b)	

Description	Check number or date	Payee's name and address	Amount

(c) For rent, furnishing and maintaining headquarters, and halls and rooms for public meetings, including light, heat, and telephone

		Total (c)	

(d) For payment of personnel (itemize separately (1) campaign manager or managers, (2) advertising agency or agencies and publicity agent or agents, (3) stenographers and

clerks, (4) precinct workers, (5) speakers, and (6) entertainers)

		Total (d)	

Description	Check number or date	Payee's name and address	Amount

(e) For the preparing, printing, and posting of billboards, signs, and posters

		Total (e)	

(f) For the preparing, printing, and distribution of literature by direct mail (including postage), throwaways, and handbills.

		Total (f)	

(g) For newspaper advertising.

		Total (g)	

Description	Check number or date	Payee's name and address	Amount

(h) For radio and television advertising and speech time.

		Total (h)	

(i) For office supplies, precinct lists, postage other than that provided for in subdivision (f), expressage, and telegraphing relative to candidacy.

		Total (i)	

(j) For making canvasses of voters, and public opinion surveys.

		Total (j)	

Description	Check number or date	Payee's name and address	Amount

(k) For conveying voters to and from the polls

		Total (k)	

(*l*) For supervising the registration of voters.

		Total (*l*)	

(m) For watching the polling and counting of votes cast.

		Total (m)	

Description	Check number or date	Payee's name and address	Amount

(n) For photographs, mats, cuts, art work and displays.

		Total (n)	

(o) For petty cash items relative to candidacy (list by check number or date, and designate as "petty cash", showing amount of check).

		Total (o)	

Total (1) $_____

2. Unpaid claims (List here all bills, claims, and unpaid balances outstanding at this date)

Description	Creditor's name and address	Amount

Total (2) $_____

3 Given to Candidate(s) (List here all direct payments to candidates, candidate's treasurers, candidates' committee treasurers) ·

Check number or date	Name of candidate or person to whom actually given	Amount

Total (3) $_____

4. Given to other committees (List here all direct payments to other committees as defined in Section 11503 of the Elections Code):

Check number or date	Name of person to whom actually given and name of committee or organization	Amount

Total (4) $_____

If necessary, use additional sheets and attach

Expenditures grand total $_____

I have used all reasonable diligence in the preparation of this statement and it true and is as full and explicit as I am able to make it.

I certify (or declare) under penalty of perjury that the foregoing is true and correct

Executed by me at _____, California, this _____ day of _____, 19___.

_____

Signature of treasurer

NOTE. All campaign statements must be filed with county clerk or county registrar of voters, who will make photocopies thereof and forward one each to the district attorney, the Secretary of State, and the Attorney General

Any campaign statements showing expenditures in excess of one hundred thousand dollars ($100,000) must be accompanied by a written statement and report of the findings and results of an audit by a certified public accountant who is not the candidate or a committee treasurer.

11612. The report required of persons and concerns listed in Section 11561 shall be in substantially the following form:

CAMPAIGN MEDIA, AGENT'S, AND CONTRIBUTOR'S STATEMENT

I, _____
(Full name)

hereby declare or certify that I am. (check one or more)

- ☐ The principal officer of a newspaper which received money from
- ☐ The principal officer of a television or radio station which received money from
- ☐ An advertising or publicity agent or principal officer of a firm of advertising or publicity agents which received money from
- ☐ A professional campaign manager, defined as a person who received more than one third of his annual income from salaries or fees paid by a political committee or candidate, who received money from
- ☐ The principal officer of a printing concern which received money from
- ☐ The principal officer of a firm providing facilities or services in mass mailing campaigns which received money from
- ☐ The principal officer of a firm providing door-to-door delivery of circulars which received money from
- ☐ The principal officer of a billboard company or a sign painting or posting concern which received money from
- ☐ The principal officer of a firm providing public opinion surveys or polls which received money from
- ☐ A person, or the principal officer of a business concern, corporation, committee, organization, or labor union contributing more than $1,000 in the aggregate to political candidates, organizations, or committees during any calendar year, which contributed money to

_____
(Name of candidate; if more than one candidate, fill out additional sheets)

a candidate for (nomination) (election) to the office of _____
(strike out word inapplicable)

_____

in the election held on the _____ day of _____, 19___,
(or)

_____,
(name of political organization or committee)

and that the following is a true and accurate account of all such transactions, to wit:

Receipt of Money

Date of each payment received	Give reason payment was made	Amount

If necessary, use additional sheets and attach

Total _____ $_____

Contribution of Money

Date of contribution	Form (cash, check)	Name of person to whom actually given	Amount

If necessary, use additional sheets and attach

Total _____ $_____

I have used all reasonable diligence in the preparation of this statement and it is true and is as full and explicit as I am able to make it

I certify (or declare) under penalty of perjury that the foregoing is true and correct

Executed by me at _____, California, this _____ day of _____, 19___

_____
Signature

If for firm, corporation, organization, or labor union:

_____
Title

_____
Name of firm, corporation, organization or labor union

NOTE: All campaign statements must be filed with county clerk or registrar of voters, who will make photocopies thereof and forward one each to the district attorney, the Secretary of State, and the Attorney General.

11613 The report required of public officers under Section 11573 shall be in substantially the following form

PUBLIC OFFICER'S CAMPAIGN STATEMENT

This is to certify that on _____, 19___, I was appointed by _____
(Name of person making appointment)
to the office of (check one or more)

☐ Director or chief officer, or assistant director or assistant chief officer, of an executive department of the State of California or of a county, city and county, or city, to wit:

_____
(Title of office)

☐ Member of a commission or board of the State, county, city and county, city, district, or authority for which compensation is received, to wit:

_____
(Name of board or commission)

☐ Judge (within five years preceding or following an election)

☐ State inheritance tax appraiser

The following is a full and complete statement of contributions and activities for which I was responsible directly or indirectly during a political campaign ending with election held on the _____ day of _____, to wit.

1 Contributions of money (list here all contributions, loans, or gifts of money to political candidates and political committees made by you directly or through any other person):

Date	Name and address of person to whom contribution was given	Amount

If necessary, use additional sheets and attach

Total (1) _____ $_____

2 Public facilities and services (list and describe here all public facilities, services, time, and equipment, under your direction and control which were used, expended, loaned, or given for use by any political candidate or political committee, including but not limited to the use of portions of your working hours or those of employees under your direction for which public compensation was paid, use of public property, use of equipment including automobiles, mimeograph or multilith machines, telephones, and travel for which public mileage compensation was paid for trips on which services were rendered for or on behalf of political candidates and committees) ·

Date	Description in full	Estimated value

If necessary, use additional sheets and attach

Total (2) _____ $_____

I hereby certify (or declare) under the penalty of perjury that the statements made herein are true and as full and explicit as I am able to make them.

Signed and executed by me this _____ day of _____, 19___.

_____
Signature

_____
Title

Article 7 Presentment and Payment of Claims

11620 Every claim payable by a candidate or committee on account of or in respect to any expense incurred in the conduct and management of an election held within this State or on behalf of the candidates of the political party, organized assemblage, or body which the committee represents shall be presented to the candidate or committee within 15 days after the election If not so presented, the claim shall not be paid, and no action shall be commenced or maintained on it.

11621 All expenses incurred by and properly presented subsequent to the filing of a final campaign statement shall not be paid, unless the claim has been included in the final campaign statement

11622 Any person who makes a payment in contravention of this article is guilty of a misdemeanor

11623 The superior court of the county in which a campaign statement is filed or is required to be filed may, on the completion of proper proceedings by either the committee or candidate or a creditor of either, allow

(a) A campaign statement to be filed after the time limits specified in this chapter

(b) An incorrect campaign statement to be corrected.

(c) Any claim to be presented and paid after the time limits prescribed by this article.

11624 If the application is made by a creditor, the court may, under like conditions and upon a like showing, order the claim to be paid A creditor is entitled to his costs

11625 The claims of one or more creditors may be united in the same application, but the amount and specific nature of each claim shall be fully stated.

11626 A person may obtain from the superior court the relief specified in Section 11625 if he shows by competent evidence that the failure to comply with this article was occasioned not by any want of good faith on the part of the applicant but by.

(a) The absence, illness or death of the candidate.

(b) The absence, illness or death of the treasurer of the campaign committee

(c) The misconduct of any person other than the applicant.

(d) Inadvertence or excusable neglect

(e) Any other reasonable cause

11627. Proper proceedings, as used in this article, consist of:

(a) The filing of an application in the office of the clerk of the superior court showing facts sufficient to entitle the applicant to relief

(b) Such notice of the application as the court may require

(c) Satisfactory proof by competent evidence of the allegations of the application.

11628 An order of the superior court relieves the applicant from any liability or consequences under this chapter in respect of the matters excused by the order

11629 After an order by a superior court allowing a claim to be paid, and after payment, the committee or candidate shall file in the same office as the original campaign statement of the committee or candidate was filed

(a) An amended campaign statement in the same form and containing the same information, as supplemented, as the original campaign statement.

(b) A certificate of its allowance.

Article 8. Publication of Statements

11640 Every person who, in any written or published statement, commentary, news report, or campaign literature, quotes from or cites figures or names attributed to a campaign statement of a candidate or a candidate's committee the filing of which is required by this chapter shall

(a) In the case of a newspaper, or radio or television station, which, in a news report or commentary, cites the name of a contributor and the amount of his contribution as reported in a campaign statement, where the amount thereof is one thousand dollars ($1,000) or more for a candidate for a statewide office, or two hundred dollars ($200) or more for a candidate for any other office, such newspaper shall print in the same news story, or such radio or television station shall broadcast or telecast in the same news report or commentary, as the case may be, the entire list of all such contributions and the names of contributors of one thousand dollars ($1,000) or more, or two hundred dollars ($200) or more, as the case may be, as contained in the campaign statements of such candidate and candidate's committee, and the entire list of contributions and contributors in the same category contained in the campaign statements of all other candidates and candidate's committees for nomination or election to the same office at the same election.

(b) In the case of a newspaper or radio or television station which, in a news report or commentary, cites or quotes the total amount of contributions of all descriptions as such total appears in a campaign statement of a candidate or candidate's committee, such newspaper or radio or television station may satisfy the requirements of this section by quoting the total amount of contributions of all descriptions reported in the campaign statements of each of the other candidates and candidate's committees whose names appeared on the ballot for the same office.

(c) In the case of a newspaper or radio or television station which, in a news report or commentary, cites the fact that a particular person or organization has contributed to a candidate's campaign as evidenced by his name appearing in the list of contributors in that candidate's or candidate's committee statement, shall, without regard to the amount of such contribution, in the event that the same person or organization has contributed to one or more other candidates or candidate's committees for the same office, report that fact in a manner which would lead a reasonable man, reading the news report or listening or viewing the radio or television program, to conclude or understand that such person or organization has contributed to the campaigns of two or more candidates for the same office

(d) In the case of a radio or television station which presents a news story or commentary subject to the definitions of

this section, the requirements of this section shall be met if, in lieu of reading in full the statements of all candidates and candidate's committees, the radio or television news broadcaster or commentator, immediately following the quotation or citation of names or figures from a campaign statement, reads the following statement, in whole or substance: "Candidates must file a complete statement showing the source and amounts of all contributions In an effort to present both sides of election controversies and to improve public knowledge, this station offers without charge reprints of the campaign statement of contributions by all of the candidates for the office of (name of particular office) For your free reprints, write to this station at (address and city)", provided that such accurate reprints of all such statements for the particular office are actually available at such radio or television station and are actually provided, without charge and not less than five days after receiving a request for such reprints, by mail

(e) Any news release or campaign literature from a person, candidate, or candidate's committee containing information as defined in paragraphs (a) through (c) of this section shall be subject to all the requirements contained in paragraphs (a), (b), or (c), as the case may be

11641. Every person who violates the provisions of Section 11640 is guilty of a misdemeanor Any written or published commentary, or news report in violation of Section 11640 is conclusively presumed not to be a privileged communication within the meaning of Section 47 of the Civil Code

SEC. 3. Section 11800.5 is added to said code, to read:

11800 5 To the extent that the requirements of Chapter 1 (commencing with Section 11500) of this division are more stringent, or are in addition to, the requirements of this chapter, the requirements of Chapter 1 shall be applicable to persons subject to the provisions of this chapter.

SEC. 4 Section 12301 of said code is amended to read:

12301. It is unlawful for any person which includes in any part of its name the name of any political party which was qualified to participate in the last preceding primary election, to directly or indirectly solicit funds for any purpose whatsoever upon the representation either express or implied that the funds are being solicited for the use of that political party unless that person shall have previously obtained the written consent of one of the following: national committeeman or committeewoman from California, chairman of the state central committee, executive committee of the state central committee, or executive committee of the county central committee of the party whose name is being used in the county in which the solicitation is to be made If the county central committee of the party in that county does not have an executive committee, the written consent of the chairman and secretary of that county central committee is sufficient.

It is unlawful for any person to directly or indirectly solicit funds for any purpose whatsoever upon the representation either express or implied that the funds are being solicited for the use or on behalf of a candidate for public office unless that person shall have previously obtained the written consent of that candidate or the written consent of the candidate's treasurer.

No consent given pursuant to this section for the solicitation of funds shall be given for a period in excess of one year, and, unless renewed, such consent shall be considered to be automatically revoked upon the expiration of one year.

~~SEC. 5. Section 12301.5 is added to said code, to read:~~

~~12301.5. The state convention, state central committee, and the county central committee in each county are the official governing bodies of a party qualified to participate in the direct primary election. The state convention, state central committee, and the county central committee in each county, and the officers, employees, and agents of such convention or committees acting on their behalf shall not contribute money or aid or assist in the solicitation and contribution of money to aid or assist, and shall not endorse, support, or oppose, any candidate for nomination by that party for partisan office in the direct primary election. No candidate for such nomination shall claim, nor shall any other person claim on his behalf, that he is the official candidate or the officially endorsed candidate of that party, or that he has received any contribution of money from an official governing body of his party when such is not the case.~~

SEC. 6. Section 29131 of said code is amended to read:

29131. Every person or corporation is guilty of a felony who, directly or indirectly, by himself or other person ~~on~~ *in* his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens the infliction, by himself or through any other source, including an agency of the government, of any injury, damage, harm, or loss, or in any manner practices intimidation or coercion upon or against any person, in order to induce or compel him to make or refrain from making a campaign contribution or to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person at any election, or because any person voted or refrained from voting at any election.

SEC. 7. Section 29132 of said code is amended to read:

29132. Every person or corporation is guilty of a felony who, by abduction, duress, or any forcible or fraudulent device or contrivance whatever, including threats or warning of official penalty or punishment, impedes, prevents, or otherwise interferes with the free exercise of the elective franchise of any voter, or who compels, induces, or prevails upon any voter either to give a campaign contribution or to give or refrain from giving his vote at any election, or to give or refrain from giving his vote for any particular person at any election.

SEC. 8. Section 24343 of the Revenue and Taxation Code is amended to read:

24343. (a) There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the income year in carrying on any trade or business, including—

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered; and

(2) Rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

(b) No deduction shall be allowed under subsection (a) for any expenses paid or incurred if the payment thereof is made, directly or indirectly, to an official or employee of a foreign country, and if the making of the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee

(c) No deduction shall be allowed under subsection (a) for any contribution or gift which would be allowable as a deduction under Section 24357 were it not for the percentage limitations, or the requirements as to the time of payment, set forth in such section.

(d) For purposes of this part, whenever the amount of capital contributions evidenced by a share of stock issued pursuant to Section 303(c) of the Federal National Mortgage Association Charter Act (12 U S C, Section 1718) exceeds the fair market value of the stock as of the issue date of such stock, the initial holder of the stock shall treat the excess as ordinary and necessary expenses paid or incurred during the income year in carrying on a trade or business

(e) All expenditures used directly or indirectly for the promotion of political purposes, associations, parties, or candidates, or to influence legislation, or to influence public opinion on political or governmental questions, which expenditures are not directly related to the business of the person, firm, or corporation making such expenditures, shall not be allowed as deductions under this section, provided that this exclusion shall not apply to

(1) The sponsorship as a public service of television or radio broadcasting of a national convention of a political party;

(2) Advertising in a journal or other publication of a political party or organization, if such advertising on its face shows intent to promote the products or services of the person, firm, or corporation

O

APPENDIX D

An act to add Chapter 4 (commencing with Section 29500) to Division 15 of the Elections Code relating to election fraud

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

SECTION 1 Chapter 4 (commencing with Section 29500) is added to Division 15 of the Elections Code to read as follows

CHAPTER 4 ELECTION FRAUD

Article 1 General Provisions

29500 This chapter shall be known and may be cited as the Election Fraud Act

29501 The Legislature hereby finds and declares that

(a) Over a period of many years the electorate has been increasingly victimized by deliberate acts of fraud in election campaigns through deception, falsification, gross misrepresentation and groundless defamation

(b) The voters may be deemed to have an obligation to exercise due caution in evaluating what is said and done during the course of a political campaign At the same time, the voting public has the right to protection from willful fraud in campaign practices

(c) Every elector has the right to vote and to have his vote count for the purposes which he intends The Legislature has the authority to enact legislation to prevent the fraudulent deprivation of these elecroral rights in a political campaign on the same grounds that it has the power to enact legislation to prevent willful deception and fraud in commercial activity

29502 No part of this chapter shall be interpreted to apply to, or to proscribe in any manner, fair comment or criticism When two or more persons known to each other engage in the same act of election fraud at the same time with the identical purpose, a conspiracy to commit election fraud shall be rebuttably presumed to exist, for which all such persons are parties

29503 As used in this chapter

"Candidate" includes any person who has been nominated for, or has filed a declaration or other document with any public officer signifying his candidacy for, an elective public office, or who has publicly announced his candidacy or intention to become a candidate for such public office

"Political campaign agent" means a person or persons, other than a candidate, engaging in or intending to engage in acts designed to promote or aid the election or defeat of a candidate or prospective candidate for public office, or the approval or defeat of any measure submitted or proposed to be submitted to the voters through the initiative, referendum, or recall processes

29504 The provision of this chapter shall be in addition to and shall not be deemed to replace any other provision of law governing either election campaign practices or criminal fraud

29505 If any part of this chapter is found to be unconstitutional the remainder of this chapter shall not be affected by such finding

Article 2 Penalties

29510. Every person who knowingly and willfully commits any of the acts prohibited by this chapter is guilty of election fraud, a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or both, for each count upon which he is convicted

29511 Every person who conspires to commit the crime of election fraud is guilty of a felony, and upon conviction thereof, shall be subject to a fine of not more than five thousand dollars ($5,000) or imprisonment in the state penitentiary for not less than one nor more than 10 years, or both, for each count upon which he is convicted

When two or more persons known to each other engage in the same act of election fraud at the same time with the identical purpose, a conspiracy to commit election fraud shall be rebuttably presumed to exist, for which all such persons are parties

29512 Every candidate who, within 24 hours after learning the fact or substantial allegation that a political campaign agent has committed or conspired to commit, or intends to commit or conspire to commit, an act of election fraud, fails to report such knowledge or allegation to the district attorney of the county in which such act has been or will be committed, is guilty of conspiracy to commit election fraud

29513 Every person is guilty of a felony who, having once been convicted of election fraud, subsequently commits another act of election fraud, and upon said subsequent conviction thereof shall be subject to imprisonment in the state penitentiary for not less than two nor more than 15 years

~~Article~~ 3 Acts ~~Constituting~~ Violation

29520 Every person is guilty of election fraud who with fraudulent intent

(a) publicly utters, or publishes with intention to circulate, or circulates, any statement or allegation in opposition to any candidate, or any ballot measure, which statement or allegation is, to his knowledge, false and malicious, if such utterance or publication is intended to induce any voter to vote or withhold his vote in any manner relying in whole or substantially part on such statement or allegation being true

(b) Publishes with intent to circulate any document intended to induce or persuade any voter to vote or withhold his vote in any particular manner in reliance in whole or substantial part on the validity of such document, where the document is false and fictitious and where the person publishing or circulating such document has full knowledge that such document is false and fictitious

(c) Induces, encourages, or proposes that another person become a candidate for office with the expectation or intention that the presence of that person's name on the ballot will serve to confuse or deceive any voter into voting in a manner other than he intends due to a resultant similarity of candidates' names, where any voter might reasonably be expected to become so confused or deceived. The fact that the person who is induced or encouraged to become a candidate under the circumstances set forth herein does not actually become a candidate, or the

fact that, on becoming a candidate pursuant to such inducement or encouragement, he actually wages a bona fide campaign on his own behalf, shall not be a conclusive defense to a charge of conspiracy against him or the person engaging in the inducement or encouragement If any such person who is induced or encouraged to become a candidate under the circumstances set forth herein, and who becomes a candidate with the intention that his candidacy shall act to deceive or confuse the voters in the manner described herein solicits, receives, or agrees to receive, any money or other valuable thing by gift or loan for any purpose in connection with his being a candidate or becoming a candidate, that fact shall constitute evidence of conspiracy to commit election fraud, of which he shall be a party Every person is also guilty of election fraud who engages in any act, including but not limited to the contributing, giving, furnishing, or loaning of money or other valuable thing, with the malicious intention of enhancing or enlarging the probability that any voter will be confused or deceived in voting for a particular office due to a similarity of candidates' names

(d) Publishes with intent to circulate, or circulates, any literature, handbill, leaflet, mailer, letter, or other written or printed matter, or any sign, bill, or poster, the content of which implies or suggests to a reasonable person that the same originated with, was published by or on behalf of, or extolls the virtues or policies of any candidate, but which in fact is not authorized or sanctioned by that candidate and is designed and intended to act to the detriment of that candidate because of the manner, circumstances, time, or place of its publication, posting or circulation or intended posting or circulation

(e) Publishes with intent to circulate, or circulates, any printed matter which is a facsimile of, or is intended to represent a facsimile of any official ballot or any sample ballot furnished to voters by any public officer, which facsimile ballot contains markings opposite any candidate's name, or any other markings intending to convey the endorsement or sponsorship of any candidate by the person or group publishing or circulating said facsimile ballot

(f) Engages in any act in the election campaign intended to influence any voter if the same act would constitute criminal fraud if committed in any commercial enterprise or activity covered and protected under the Penal Code

Article 4 Civil Remedy

29530 The commission of any act of election fraud shall be deemed to render irreparable harm both to the voters and to any candidate who is an intended victim of such act The superior court of any county shall have jurisdiction to issue a temporary restraining order, temporary injunction, or permanent injunction to prevent the commission of any act which it believes constitutes an election fraud Any registered voter may bring an action for such person and such action shall be in a preferred position for trial to insure the speedy and timely disposition thereof

APPENDIX E

CUTT

ENDORSES

COPE

ENDORSES

RICHARD "DICK" ENGLISH

for

CONGRESS

A FIGHTING YOUNG ATTORNEY WHO WILL NOT TAKE "NO" FOR AN ANSWER ON CIVIL RIGHTS

Committee to Unite the Twenty-Third

1400 S BROADACRES AVE COMPTON

WE SHALL OVERCOME

NOT WORDS !

RICHARD "DICK" ENGLISH

CIVIL RIGHTS LEADER

There is only one candidate for Congress—Dick English with a record of ACTION and not mere empty words on Civil Rights

We must elect this militant fighting young attorney! He stands for ACTION!

He is for the Rumford Fair Housing Law all the way! He supports the Federal Civil Rights Act! And these are not mere empty words for he led our drive to elect Isaac Cade as the first Negro City Councilman of Compton — a drive that failed only because of the violent resistance of the white supremists and the real estate lobby the same forces that now seek to repeal the Rumford Fair Housing Law

Don't let anyone tell you that we have won the fight in Southern California. West Compton is still the Negro ghetto of the 22nd Congressional District. We still have de facto segregated schools in Compton and South Gate

Our fight will not be won until anyone of us of any race or creed can buy a home — or rent an apartment — in any part of this District. Then — and only then — will de facto segregation be ended

We must tear the mask of phoney rights from the ugly face of bigotry

ACTION!!!

A VOTE FOR

ENGLISH

IS

A VOTE FOR

EQUALITY

DICK ENGLISH . . .

- ★ Supports the Rumford Fair Housing Law
- ★ Will fight for full enforcement of FEPC laws
- ★ Supports the Federal Civil Rights Act
- ★ Stands for the principles of CORE, COPE and UCRC
- ★ Will fight for full Racial Equality backed up by full force of law

DICK ENGLISH WILL NOT TAKE "NO" FOR AN ANSWER ON CIVIL RIGHTS

APPENDIX F

ASSEMBLY, CALIFORNIA LEGISLATURE
January 6, 1967

MEMORANDUM

To Don A Allen, Sr, Chairman
Committee on Elections and Reapportionment

From Charles J Conrad

Re Exceptions to the final report of the Elections and Reapportionment Committee

1 The consolidation of special elections is a desirable goal but there must be some flexibility Grave emergencies may confront a district where a long delay in calling an election would be disastrous

2 If the date of the primary election is moved closer to November, I support the proposal that no presidential primary be held where only one delegation has qualified but I strongly oppose the recommendation that the membership on that delegation be selected by the full state central committee I favor retaining the present system in which the committee forming the delegation chooses its membership

3 I oppose removing the closing date for registration from the Constitution and placing it in statutory law Registration dates should not be arbitrarily changed to suit the whim of a particular Legislature

4 I do not believe the proposed legislation entitled, "Election Fraud Act" will accomplish the purpose indicated in this report although I have no substitute to offer at this time

5 I strongly dissent from the statements in Chapter Three on voting rights The report states that, "An informal investigation was conducted, in part, for the purpose of determining if the right to vote was interfered with in the same manner as it was in the previous elections" I have seen no reports of such an investigation and no supporting material is included in this report

In my opinion the legislation by Assemblyman Song limiting the right of challenge at the polls is an open invitation to fraudulent voting and should be repealed In addition, I coauthored the argument against Proposition 15 which was rejected by the voters at the 1966 general election This indicates that the people of California are unalterably opposed to voting by illiterates, and this in turn indicates the need to restore the right to challenge, at the polls, any illiterate who is fraudulently attempting to cast a ballot

Respectfully submitted

CHARLES J CONRAD

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ASSEMBLY INTERIM COMMITTEE REPORTS
1965–1967

VOLUME 8 NUMBER 10

REPORT OF THE

ASSEMBLY INTERIM COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

to the

1967 Regular Session of the California Legislature

House Resolution 710.10

MEMBERS OF THE COMMITTEE

CARL A BRITSCHGI
TOM CARRELL
LOU CUSANOVICH
F DOUGLAS FERRELL
LEROY F GREENE
RAY E JOHNSON
JOSEPH M KENNICK
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Published by the
ASSEMBLY
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CONTENTS

		Page
	Letter of Transmittal	5
I	Amateur Athletics in California	7
II	State Licensing of Masseurs	15
III	Registration of Professional Engineers	20
IV	Licensing of Professional Foresters	24
V	Licensing of Osteopathic Physicians and Surgeons	28
VI	Licensing and Regulation of Jai Alai	33

COMMITTEE LETTER OF TRANSMITTAL

ASSEMBLY CHAMBER, STATE CAPITOL
Sacramento, California, January 6, 1967

HON JESSE M. UNRUH
Speaker of the Assembly

MEMBERS OF THE ASSEMBLY
Assembly Chamber, Sacramento, California

ASSEMBLYMEN.

Pursuant to House Resolution No. 710.10, 1965 session of the California Legislature, your Assembly Interim Committee on Governmental Efficiency and Economy herewith submits its final report covering its studies and activities during the 1965–1967 interim.

Herein are summarized the committee's findings and recommendations. They are based upon hearing transcripts, correspondence, and interviews with persons concerned about the topics we have studied

Respectfully submitted,

LESTER A McMILLAN, *Chairman*

MEMBERS OF COMMITTEE

CARL A. BRITSCHGI
TOM CARRELL
LOU CUSANOVICH
F DOUGLAS FERRELL
LEROY F. GREENE
RAY E JOHNSON
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ALFRED H SONG, *Vice Chairman*

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ASSEMBLY INTERIM COMMITTEE ON
GOVERNMENTAL EFFICIENCY AND ECONOMY

1965–67

I

AMATEUR ATHLETICS IN CALIFORNIA

House Resolution No 595 by Assemblyman (now Superior Court Judge) Burt M Henson, 1965 Regular Session, relative to amateur athletes and amateur athletic competition, was assigned to this committee in the wake of the spring 1965 controversy over track and field sports which raged between the Amateur Athletic Union of the United States (AAU), the National Collegiate Athletic Association (NCAA), and the United States Track and Field Federation (USTFF) During a two-day hearing held in Los Angeles (December 1965), the committee explored not only the elements of this organizational dispute, but, in addition, discussed larger questions of how track and field amateur athletics are organized and promoted in California, what programs might be developed to foster greater participation by the state's youth, how to finance such a broadened program, and what youth problems might be met in part by a broader and more imaginative statewide program of amateur track and field competition.

Much of the discussion centered on several measures introduced by Assemblyman Henson during the 1965 session. The committee was fortunate to hear of the experiences and the ideas of several Olympic track and field athletes resident in California, prominent physical education teachers, sports writers and commentators, and officials of both state and national amateur sports organizations

The findings and recommendations presented below reflect the breadth of the committee's concern and considerations, as well as its proposals for establishing a better program of amateur athletic development and competition for the youth of our state

FINDINGS

1. California schools and athletic groups produce more national, international and Olympic competitors than any other state in the Union Athletes native of California or attending California schools and colleges made up fully one-third of the 1964 United States Olympic team which competed in Tokyo. California athletic programs in our secondary schools and colleges, their coaches and facilities, plus our state's excellent climate, continue to attract to the state hundreds of young athletes who desire to further their athletic and competitive development here The fact that fully one-fourth of the national champions in all amateur sports groups represent California schools or athletic groups illustrates the impact of California's athletic programs and competitive conditions on the nation's athletic scene. This impact and the conditions underlying amateur athletic develop-

ment and competition in California make it a matter of some importance to state officials

2. California amateur athletic competition and development, especially in the track and field sports, have experienced many difficulties. This is a result of conflicts which developed over a period of years between collegiate and noncollegiate athletic groups, chiefly involving the control of amateur competitive events. Given the importance of California's athletic prowess and the role of our state's athletes in the nation and the world, it is natural that disputes between the chief amateur athletic organizations, the Amateur Athletic Union and the National Collegiate Athletic Association and its sister group, the United States Track and Field Federation, would develop significantly in California. Disputes over the sanctioning of competitive events and their management, and the question of multiple authorization of competitive events has resulted in restricted competitive opportunities for athletes, especially during the spring of 1965.

3 There exist in California a number of amateur athletic organizations which raise considerable amounts of money by public subscriptions, private donations and contributions by other public and private groups interested in amateur athletics Most of these groups are private, nonprofit, incorporated associations which should be filing required financial statements with various state agencies at least once a year Limited inquiry has revealed that few, if any, of these amateur sports groups are filing proper or complete reports with either the Secretary of State, the Franchise Tax Board or the Attorney General's Registry of Charitable Trusts The absence of these supposedly required reports, as well as the lack of clarification on which groups must file what financial information has been the basis of numerous charges of financial mismanagement and unaccountability by citizens concerned with athletic development programs and athletes themselves. Doubts and suspicions, whether well-founded or wholly unjustified, cannot be resolved by current practices and procedures on the part of the athletic groups themselves or the state's execution of laws regulating the financial activities of such groups

4. Many athletes and sports officials have expressed the view that the amateur athlete himself is often the person caught in the middle, and it is his welfare which is most often disregarded in national jurisdictional disputes waged over events or organizations located in California Athletes of national and international stature have been subject to numerous competitive restrictions and threats to their amateur status for having competed in jurisdictionally disputed meets They have had records and performances delayed or disputed which occurred at competitive meets conducted during disputes Finally, their views and wishes have often been wholly disregarded in settling points of the dispute which has raged between the competing amateur athletic governing organizations

5. In spite of the already significant number and the caliber of California amateur sports programs, many recreation, athletic, and physical education officials see the need for a number of new athletic programs, state and local, to provide greater development and competitive opportunities for California's youth, boys and girls Even with the efforts now made in the schools and colleges, and by noncollegiate athletic organizations, many California youth now are not participating in comprehensive sports programs, or enjoy only seasonally limited programs in which to participate The many youth who are school dropouts constitute one such group which is not significantly involved in any program of athletic development and competition Many California youngsters have only very limited athletic recreation programs available to them during the summer months, a time when many athletic facilities—especially track fields and sports stadiums—are getting only infrequent use

6. The committee has discovered that while many knowledgeable persons have expressed concern with both the effects of organizational disputes which have occurred in California and the problem of developing more athletic opportunity for California youth, a coordinated and comprehensive program to solve these problems has not been designed. For instance, in an effort to explore and propose some solutions to these athletic needs and problems, the Bureau of Health Education, Physical Education and Recreation of the State Department of Education has been unable to obtain the necessary funds to hire a staff to study existing local athletic programs in all the state's school districts, discern gaps, and make recommendations to fill them Believing that programs are needed to supplement existing ones in schools as well as out of them, this committee has found it impossible for the Department of Education, for example, to study the situation in depth due to limited research manpower in its sports and physical education division

7. While finding that there currently exist for many California youth only limited programs offering athletic development and competition, the committee has learned of a number of local efforts to change this condition Some large school districts have begun to offer summer sports and physical fitness programs. The San Juan Unified School District of Sacramento County now has a six-week summer sports and physical fitness program for boys 9 through 15 The Los Angeles City School District sponsors numerous track and field competitions through its all-comers meets.

   The poverty program through some 150 teen posts in Los Angeles has sought to involve many poverty youth who are dropouts in a similar program of track and field competition. Recently the Southern California Municipal Athletic Federation was formed by representatives from 200 public and private groups to consider aspects of the disputes between the major amateur organizations and to devise broad new programs in southern California communities to expand athletic opportunity for all youth there

All of these programs are new, all are in great need of funds, and all hope to serve many more youth than they do now, by sponsoring a variety of athletic programs for urban youth, especially underprivileged ones

8 The problem of juvenile delinquency and increasingly strained relations between youth and community police officials, as well as the need for better communication between them cannot be spelled out in detail in this report However, some metropolitan police departments in our state, notably Oakland's and San Francisco's, have initiated efforts to curb and/or cure crime by youth and improve police-community relations

Oakland's Police Department, through its Police Citizens League, sponsored 39 baseball teams this past summer for the second year in a row, involving some 600 boys, mostly of minority background This is twice the number engaged during the summer of 1965, and cost a total of $8,000 for equipment and trophies, all privately donated In addition, the Oakland Police Department each summer sponsors its Junior Olympic competition which, during the summer of 1966, saw over 3,000 boys and girls compete in eight separate northern California meets

San Francisco Police Department personnel, through their incorporated Police Athletic League, sponsor baseball, football, basketball, bowling, soccer, boxing and track and field competition for over 3,000 boys between 8 and 16 The result in both cities has been not only to provide extensive athletic opportunities to many youth, but also promoted better communication and relations between the police and youth For many youth—and their parents—this entirely different relationship with police personnel has become the basis for a better understanding of modern urban police problems and provided activities whether in the summer or year round, which did not exist before for many Bay Area youth

9 In studying the activities of many local amateur athletic groups —including schools, athletic associations, police departments, religious organizations, and public and private recreation bodies— the committee has found in many instances there exists little communication between or coordination of athletic programs sponsored by these groups In many communities, some youth are well served with a variety of athletic programs, while other youths, in other neighborhoods, if of limited means, if out of school, or if of only average physical prowess are not able to participate in any type of athletic activity, training, or competition There, is, in short, both an unevenness of programs, a lack of program coordination, and a lack of comprehensive knowledge by any one statewide group of what sports opportunities exist, what athletic problems there are, and by whom and how they should be met

10 During the 1965 Regular Session of the Legislature, then Assemblyman Burt M Henson (now a Judge of the Superior Court for Ventura County) proposed the establishment of a State Amateur Athletic Commission to deal with many of the problems mentioned

above, and to serve as an overall coordinating and promoting body for amateur athletic activity in California In every instance, amateur athletes have expressed enthusiastic support and the need for such a body. While many education and amateur sports officials have done the same, some have stated reservations as to the functions or powers of such a new body, especially if it sought to control the powers or activities of the major national amateur sports organizations in the conduct of its national or international programs

This committee recognizes that conflicts between national groups are beyond the jurisdiction of any existing or proposed state athletic body. It also recognizes that efforts are being made now by persons appointed by the Vice President of the United States to both resolve existing conflicts in the amateur sports world and devise a broad new program of federal support for outstanding amateur athletes who qualify for national and international competition However, we also find that the many needs within California for sports programs for youth of *all* ages and abilities could be better served by the formation of such a proposed Amateur Athletic Commission

We find that there is the need within our state for a commission composed of persons from all aspects of the amateur athletic world—recreation, education, physical fitness, public and private athletic groups and clubs—to study in detail existing programs, to compile a directory of amateur sports program resources, and to chart a course for future new athletic programs in order to insure that all California youth enjoy the many physical and spiritual, and personal and social benefits which accrue from participation in sports activities

With the myriad problems facing our society, many of these problems might be well served by the understanding, the health, and the opportunity for character as well as physical development which ensue from programs now existing in some California communities All of these need greater public support—financial, informational, and wider understanding. We find the approach of a solid commission study to be perhaps the most feasible way at this time of furthering the goal of greater athletic opportunity for all our state's youth

RECOMMENDATIONS

1 There exist today in California a great number of small, worthy and poorly financed efforts to provide more youth with meaningful and challenging athletic development and competitive opportunities At the same time, all knowledgeable persons agree on the need for more such activities, due to the fact that many California youngsters are outside the sphere of these programs To study existing programs and propose future ones, this committee recommends the establishment of a State Amateur Athletic Advisory Commission, its members selected by the Governor and the Legislature. This commission should be charged with undertaking a comprehensive study of existing athletic organiza-

tions and programs which serve the entire amateur sport-participating group of our state. This commission should also study in depth how all these efforts are financed, and make recommendations concerning better administration of such funds. Much information needs to be gained about the cost-benefit impact of athletic funds to determine who gets what for what type effort, and how these funds are raised The question of funding neighborhood sandlot baseball as well as that of sponsoring world-renowned California athletes must be of great concern to the proposed commission.

In addition to compiling a comprehensive directory of amateur athletic resources this study commission should have a mandate to prepare a comprehensive plan for the future development of amateur sports activities for every age and ability level, for youth as well as adults, beginners and national champions.

We believe that the full development and athletic welfare of California youth is an important enough public question to warrant the appropriation of funds necessary to staff and finance an advisory commission for a period of at least two years during which it could study the goal of providing every one of our state's youth with at least one easily accessible sports program for that individual's physical development and well-being.

(ASSEMBLYMAN BRITSCHGI is not in favor of the establishment of this advisory commission at this time because of the necessary expense involved.)

2 Given the continued existence of a deep-seated and complex dispute between the two major national amateur sports groups, and the fact that in most instances athletes themselves have become the pawns of disagreeing association officials, we recommend that pending satisfactory solution of this dispute, the above proposed commission be charged with protecting the welfare, interests, and rights of California athletes participating in California events.

California's athletic prowess is too important a human resource to be left unprotected in the skirmishes, boycotts, threats and sanctioning disputes which have arisen periodically over the past five years between the Amateur Athletic Union and the National Collegiate Athletic Association. Recognizing that a commission could play a role limited only to California disputes and athletes, we recommend that it be concerned with the individual athlete's interests and welfare to the extent possible under national rules. Because of the impact of California's athletes upon the national and international sports scene, their records and achievements —as well as their individual rights—are of considerable importance to the sports-minded public of California Even without formal powers to effect changes, the commission's expressed interest on the side of the individual athlete could well result in less abuses and more concern for the individual athlete.

3 Existing laws and regulations controlling the financial reporting and accountability of many private, nonprofit athletic groups are not being fully or effectively enforced. It is virtually impossible

to determine from seemingly mandatory provisions of the state's revenue and corporation codes how much money is being publicly raised by some amateur sports group and how it is being spent. In light of the fact that all nonprofit sports groups enjoy state tax and financial privileges, we believe the public is entitled to full knowledge about the fiscal acts of these groups. This committee recommends that the three state offices most concerned with these activities—the Registry of Charitable Trusts of the Department of Justice, the Corporation Records section of the Secretary of State, and the Legal Compliance office of the Franchise Tax Board—review their individual roles in overseeing private, nonprofit amateur sports groups It is not at all clear at this time who is properly incorporated or registered and who is not Nor have we been able to clearly determine which groups—large and small, local and national—must in some manner report or register their financial activities in order to conduct public fund raisings, charge fees to meets and events, and collect and distribute funds to and from other sports groups. We recommend that those existing uncertainties be resolved so that the full public confidence in all amateur sports groups may be restored.

4 The role of California schools in providing amateur sports programs to the state's youth is preeminent In addition, the state's schools and colleges possess athletic facilities unmatched in our nation. But there is more that can be done by our schools based on limited information gathered by the Department of Education's Bureau of Health Education, Physical Education and Recreation. In order to further study school programs, school athletic resources and deficiences thereof, we recommend that the funds necessary be appropriated to enable the bureau to be sufficiently staffed with research personnel

Given the need for additional school sports programs, especially during the summer months, we recommend that the bureau's study efforts—concentrating on athletics in school—complement the proposed commission's study of the larger questions regarding amateur sports opportunity.

We would also urge that the Department of Education examine how school programs and facilities could be utilized when not in demand for educational activities, to serve persons out of schools, and noneducational groups such as police athletic groups and school dropouts; groups usually without the personnel or the knowledge so essential to a sucessful athletic program Coordination, and broader service to the community are challenges we would like to see the schools explore for ways of broadening their role in providing sports programs for more people, during all seasons of the year

5. Finally, we recommend that the Legislature adopt a joint resolution for transmittal to the United States Congress spelling out this state's concern that a national settlement to current amateur sports disputes be speedily effected. Spelling out the nature of California's role in amateur competition, we urge that the

joint resolution state the negative effects on all levels of athletic competition the continuing disagreement has had by commanding already scarce athletic group resources and energies to a dispute which is of no benefit to a public desperately in need of better sports leadership California is only a part of a great Union, but our stake in the fostering and conduct of athletic development and competition is immense. Such proposed resolution could also recognize the many valuable findings and recomendations listed in the Arthur D. Little-Gavin Report sent to President Johnson some two years ago, *Amateur Sports in America: An Appraisal and a Proposal.*

We recommend that the Legislature support the establishment of a comprehensive national amateur sports program to meet changing state, national, and international athletic conditions Many of the social as well as physical health problems facing our modern urban society are to be well served by the implementation of a new state and national partnership in the field of amateur sports. Any such national proposal is to be of primary concern to the citizens of this state The Legislature can and should express our state's views and reasoning to Congress on the above matters by means of a joint resolution

II

STATE LICENSING OF MASSEURS

Periodically during recent years, news stories recounting police raids and arrests have frequently featured massage businesses as the locale of unlawful activities Eyecatching handbills and wallet cards carrying suggestive slogans and inviting all to "studios of massage" have received wide distribution in many California cities Reacting to this situation, many local governments have sought to curb the problems of illegitimate massage businesses by passing "opposite sex" laws, prohibiting persons of one sex to give massages to a person of the opposite sex

The results of the news, the arrests, the suggestive ads and the local laws have been to give competent and legitimate masseurs and masseuses a very poor public image, raised widespread public suspicions about the massage vocation, and has not brought about a solution satisfactory to either those in the business, local police officials, or the public at large.

One effort to solve these problems was the introduction of Assembly Bill 462 by Assemblyman John P Quimby during the 1965 Regular Session Referred to interim study, this committee held a two-day hearing in early 1966 and obtained the views of people in the massage field, persons in related vocations and professions, state vocational standards officials and interested private citizens In addition, the committee has received information on the regulation and licensing of massage by several other states, as well as copies of local ordinances adopted by California cities and counties

The findings and recommendations given below reflect this committee's desire for both a satisfactory solution to existing problems in the massage field as well as its reluctance to have the state license and regulate another vocation where perhaps only a marginal public interest—based on considerations for public health and welfare—is involved. If we are to create more state regulation of a public economic activity, we need be reasonably certain that state laws will effect improvements in the interest of all the state's citizens

FINDINGS

1 The availability to the California public of legitimate and qualified massage skills has been curtained by numerous restrictive local measures Adopted to control the incidence of immoral and illegal acts in business establishments labeling themselves as studios of massage, or massage parlors, highly restrictive licensing, zoning, business permits, and public health ordinances have sought to abolish unqualified elements with little lasting success

Business licenses costing up to $500 per year have been adopted as one method of discouraging the establishment of any type massage business Ordinances which prohibit a masseur or masseuse from exercising his or her individual skills on a person of the opposite sex have been the approach many cities and counties have taken Licensing requiring police review of the applicant's background—but not his qualifications—is another approach.

Zoning laws requiring the same police approval are another common method found to discourage all types of massage businesses

Some cities, especially in the bay area, have, through requests by police departments and municipal licensing bureaus, gotten local newspapers to refuse any advertisements of massage except in their classified columns and then only under such titles as "Situations Wanted" In many instances, city councils have reacted to the possibility of having a massage business in their town by passing emergency measures patterned after the laws of other cities and counties with wholly different problems

In sum, local panic utilizing a variety of measures exercised by local governments under the police powers has not only restricted public access to massage skills, but only served to further weaken public confidence in any type massage experience

2. While varied restrictive laws have been passed by some local bodies, other entities have chosen to leave massage businesses unregulated. Hence we find in several instances that illegitimate massage operations could leave one city and go to a nearby unincorporated area and carry on until a police crackdown. Cities within counties have varied laws, thus permitting the easy transfer—for illegal businesses at least—from one place to another, as no communitywide reputation was at stake We have found that the *absence* of local laws has proved to be nearly as great a problem to the public and to qualified masseurs as has the hasty restrictiveness of other local governments Thus, local inconsistencies and gaps allow bad elements to continue, while the severe regulations of other communities punish the honest as well as the nefarious massage business
3. Qualified and wholly legitimate persons long established in the massage business have, during the past 12 years, succeeded in forming a statewide group to better protect their public image and improve vocational training and skills The California Massage Technicians Association (CMTA), of over 1,000 members is the *only* representative body in California where about 6,000 people are employed as masseurs or masseuses Wherever possible, the CMTA, through its local chapters, has sought to get local governments to place more emphasis on massage qualifications and experience in local control efforts The Cities of San Jose, Long Beach, and San Bernardino have done so, thus shifting emphasis from police control and concern with massage to that of the skills and background of the persons applying

   However, these are the only local governments, to date, which have established vocational or educational qualifications Most entities believe that restrictions on the business are better than restrictions on the people conducting them This approach has not prevented the continued occurrence of illegal acts in the businesses which are willing to pay any price to be in business
4. The California Massage Technicians Association membership and all other persons now employed in massage have unanimously endorsed the proposal for state licensure of the vocation This committee has found that, without exception, businesses such as hotels, hot springs and private athletic groups, which themselves

employ a large number of masseurs who do not serve the general public, also support the idea of state licensing of persons in massage as a means of both protecting the public from charlatans in the field and improving the quality of the services provided by those in the massage business

5 Legislation introduced to effect state licensing of persons in the massage field has been opposed by only one group—licensed physical therapists (LPT)—themselves regulated by the Department of Professional and Vocational Standards Their opposition seems to be that, as massage is an *aspect* of their work, the licensing of masseurs alone would fragment the state's present role in the field Some LPT's also state that people in the massage field are more interested in gaining a foothold in the medical arts than in solving the problems of undesirable or unqualified masseurs This committee has been able to find no evidence of such a move on the part of the massage association or persons employed in massage

Objections having been raised to the word "therapy," with its medical connotations, appearing in AB 462, coupled with an opinion by the state's Attorney General, have led the proponents of state licensure to delete this word entirely from their state licensing proposal

6 Besides omitting any reference to therapy or the healing arts in its proposal for state regulation, masseurs have repeatedly attempted to disassociate themselves from medically related professions and skills This has been done by asking for either an independent supervisory board or committee within the Department of Professional and Vocational Standards, or the creation of a licensing committee under a nonmedical group, such as the existing state Board of Barber Examiners

During the committee's hearing on the question of how to regulate masseurs separately from the healing arts, much discussion arose about the health-type modalities, or instruments, they might be licensed to utilize We learned that masseurs themselves base their skills on and work chiefly with their hands and arms Any auxiliary instruments they might wish to use are either readily available in any department store, or are commonly used in reducing salons or exercise gyms by lay persons. Such technican modalities as X-rays and other electronic medical apparatus are beyond their competence as well as the desire for use of the masseurs

7 The committee has found that nine California schools are now licensed by the State Department of Education to award training certificates for completing massage education courses. Requiring 800–1,200 hours of classwork, with at least 200 hours of practical massage technique experience, the state's certification requirements are roughly equivalent to those desired by masseurs in a state licensing measure

The committee is concerned with two aspects of these educational requirements First, are they well related to the actual knowledge and skills necessary to a masseur, or are they merely designed as an attempt to erect formal educational barriers to

entry into the vocation Second, have equivalent standards been set which might be met through apprenticeship experience or on-the-job training The committee is concerned that alternate entrance requirements be established in any state regulation of masseurs

This matter was graphically raised during the committee's hearing on massage by one gentleman married to a European masseuse who, while admittedly experienced, might not meet the formal schooling requirements With opportunity denied them to easily enter a vocation they were qualified for, the many European girls who annually come to California and become masseuses might well be forced to join the unlawful elements which currently plague the massage field.

8 Judicial efforts are now being made to rule as unconstitutional existing "opposite sex" massage laws in San Diego County. An attempt to accomplish the same thing based upon the sex discrimination clauses of the 1964 Civil Rights Act is said to also be underway in Orange County These legal attacks on what competent massage people call "antimassage" laws may be well founded and successful This committee finds that even should they be so, half the problem may still exist For example, San Francisco has no "opposite sex" law because officials there confront as great a "same sex" as "opposite sex" problem.

The committee finds real merit in solving the whole "sex" issue in the use of the general language of state licensing measures requiring "good moral character" Indicating, as it does, that investigation of the applicant's police record will be a part of the licensing procedure, this feature has acted as a real barrier to the entry of illegitimate elements into licensed groups Testimony given to the committee concerning similar problems which faced licensed physical therapists before they were regulated featured the fact that this individual requirement had ridded them of many people who had given their vocation a poor public image.

9 We find no good reason to having in a state licensing proposal—which must first serve the public interest—a board or committee which contains only one public member. Given the need for persons knowledgeable in the field to be regulated, we find the example of the Bureau of Electronic Repair Dealer Registration, which has a majority of public members, to be a good one Certainly there is the need of representatives from the vocation involved, and perhaps persons from closely related fields However, representation to reflect wider public concern is a quality more needed on state business boards, and the proposed massage board should be no exception

In a similar vein, and again referring to proposed state licensure, no requirement as to particular group association is deemed warranted to qualify as a regulating board member This committee has found no good reason for state massage licensing to be entirely under the control of any one group or aspect of the massage vocation

10 The committee is impressed with the efforts which have been made by persons in the massage field to solve their problems without

state licensing Improvements made through organizational training requirements and the national evaluation of California massage educational opportunities and training procedures have certainly resulted in improved skill levels for masseurs and masseuses Private group efforts at advertising qualified members in trade or popular media have also probably been of assistance to the public in patronizing legitimate massage businesses

Nevertheless, we find that many problems of controlling unlawful massage businesses continue to exist

A combination of local controls and private efforts has left legitimate masseurs with a truce in most situations, or denial of opportunity to carry on their businesses in others This committee finds no simple solution to the problems of massage in state licensure, but suggests that some type of statewide regulation or registration is in order to accomplish the goal of improving public service by masseurs Some of our existing vocational and trade licensing acts are "title" acts which confer titles only on those wishing to qualify Others are "practice" acts which demand qualification before one is allowed to deal with the public We are unsure of what exact procedure, under a statewide act, would be in the best public interest We do find that whatever legislative proposal is made should be cognizant of the findings expressed above. That a number of other states, including Florida, North Dakota, Ohio, Nebraska, and Hawaii, have adopted a variety of approaches in regulating masseurs indicates that a statewide solution is perhaps the best one for us to seek.

RECOMMENDATIONS

1 We recommend that legislation to provide state regulation of persons in the massage vocation be introduced to the 1967 Regular Session, cognizant of the findings listed above The abuse of public confidence as well as the burden now carried entirely by honest and qualified people in massage businesses warrant further legislative consideration of a solution at the state level to the predicament masseurs find themselves in.

Whether an independent board, an examining committee under an existing board or simply state examination and registration cannot be determined from information now available to the committee.

2 We recommend that exploratory discussions initiated with the State Barbers Examining Board be continued As the two vocations are seemingly becoming more closely allied in the personal grooming and appearance field, this might provide a state body with which to associate This would, in addition, result in a considerable saving on regulatory overhead costs for administration, examination, supervision and investigation Notwithstanding the fact that persons in the massage field have stated they are willing to pay any fee required, state programs cost a lot of money, and the demands upon state funds have never been greater

(ASSEMBLYMAN KNOX is not in favor of these committee recommendations concerning the regulation or licensing of masseurs.)

III

REGISTRATION OF PROFESSIONAL ENGINEERS

Three related measures dealing with the registration and licensing of qualified professional engineers were studied by the committee during this interim Assembly Bills 2680, 2921 and 3343, introduced by Assemblyman Charles Warren, Jack Fenton and Charles Meyers respectively, were all discussed during a one-day hearing in San Diego.

One measure, AB 2680, contained in its language features which are applicable to the meaningful discussion of the two other bills Briefly stated, AB 2680 would extend the provisions of California's Civil and Professional Engineers' Act to those engineering disciplines and fields selected and approved by the state's Board of Registration for Civil and Professional Engineers This is in contrast to the present procedure whereby the Legislature is perennially confronted by various engineering groups to enact special legislation to become registered

In effect, the state board would be vested with the authority now exercised only through legislative action This proposed change in the means by which engineering specialties come under state review would be only for purposes of conferring titles—by examination and registration—in a particular engineering field, and to those persons who might wish them for professional or personal reasons. The engineers' board would not have the power to establish practice acts; mandatory licensing which now applies only to civil engineers, involved as they are in a largely public-oriented engineer practice.

AB 2921 sought mandatory licensing in the interest of public safety and protection for engineering disciplines not now mandatorily licensed; mechanical, electrical, chemical, petroleum and industrial engineering All these are designed merely as title acts in their respective fields. AB 3343 provided the procedure for the examination and registration of fire-protection engineers

If a measure similar to AB 2680 were adopted by the Legislature it would cover situations similar to those proposed by the fire-protection bill.

FINDINGS

1 The committee believes that the orderly procedures for registering new engineering disciplines found in AB 2680 have merit. We find this is in the public interest as well as relieving the Legislature of a detailed procedure better vested in the regulatory body already established by the Legislature, the State Board of Registration for Civil and Professional Engineers We find that this board is clearly competent to exercise this authority from the board's past experience as well as its present role in state and national engineering circles Board members serve on the National Council of State Boards of Engineering Examiners They are also members of the Engineers' Council for Professional Development, and serve on accreditation committees of the council in approving engineering curricula and schools Its members are active in all the nationally recognized engineering societies as well as the American Society for Engineering Education, the National Society of Professional Engineers, and the Consulting Engineers Council

2 We are convinced that further engineering registration categories, established by the board in accordance with the provisions of the state's Administrative Procedures Act, can be dealt with just as fairly, and possibly more competently than having this procedure continue as a purely legislative mandate The nature of the power the Legislature would vest in the engineers' board is by no means as sweeping as that already vested by it in the State Contractors Licensing Board The contractors' board now has the authority to establish mandatory licensing categories for all persons in construction-related fields Relying as it does now to examine and set the requirements for a variety of engineering disciplines, both mandatory and permissive, we find that those provisions of AB 2680 which would vest the determination of new registered categories with the engineers' board a proper solution to the question of who should be regulated and how

3. One feature of AB 2680 has been strongly opposed by many groups, particularly those related to engineering in the physical sciences and construction and design fields This is its provision to prohibit the use of the title "engineer" alone or with qualifying language except by registered civil or professional engineers. This committee agrees that these objections are well made and proper Persons in related disciplines, such as geologists who have a specialization in engineering do not wish to have the term "engineer" made verboten Certain heavy construction machine operators, known as "operating engineers," have the same sentiment. And, so long as railroads operate with trains featuring engines, people will naturally refer to their operators as "engineers."

   We do not find the arguments presented by many professional engineering groups to restrict this term's use to be of sufficient weight to have us do so No great harm occurs from these common usages Until substantial abuse is found, we are reluctant to try to change long accepted practices

4 The committee is mindful of the need for the engineers' board—if it is to be given the authority to establish new registered disciplines—to be conscious of carefully worded exemptions which currently exist in related design and construction licensing codes. We believe that these exemptions in the statutes pertaining to architects, building designers, and many types of contractors, have been realistically designed to enable these distinct but related professions to exist side by side Provisions similar to those found in existing code sections applicable to recognized professional engineering disciplines could well be the standard for any needed exemptions in future registration proposals. As this matter of administrative and legislative design on the nature of exemptions has been successful and acceptable to all in the past, we are confident of future efforts

5. Our study has found that board registration is endorsed by every significant group of professional engineers in the state Representatives of private industry have also given their support, as have educators and engineers in public and private practice Concern has been expressed with minor wording matters as to making consistent all sections of the State Engineers' Act with the proposed investiture of board registration These concerns have all been met and agreed upon by the proponents of wider board powers with those expressing them

6. We have discovered that there is considerable opposition to changing the permissive registration of professional engineers—other than civil— to mandatory licensure, as urged in AB 2921 We can find no overriding public benefit by such a move, as most, if not all these categories are covered by local ordinances which require that a registered engineer supervise many types of engineering. The majority of these engineers are not working on projects directly related to the public safety And, where this is so, they are warranted by either their employer or the supervision of a licensed civil engineer. In cases of public projects, as stated above, many provisions require a registered engineer, hence competence is demanded by one means or another We find, therefore, that there is not sufficient public bearing to require licensure as proposed by AB 2921

7. The committee finds that, given the vestiture of the engineers' board to establish new professional engineering registrations, the proposal for registering fire-protection engineers be left to their discretion We have found considerable opposition to this proposal, as stated in AB 3343, because of the lack of a clearly defined engineering discipline concerned only with fire protection. Several other well defined fields such as mechanical, electrical, civil, and structural engineering cover significant aspects of fire protection The committee has not been able to find any professional engineering educational curriculum which covers the field of fire protection alone. Only one state seems to recognize this title, and then only as a specialization of another branch of engineering.

RECOMMENDATIONS

1. This committee recommends that the State Board of Registration for Civil and Professional Engineers be vested with the authority to approve additional registration categories Cognizant of establishing the necessary exemptions relative to other allied fields, and making consistent the registration sections of the Civil and Professional Engineers Act (Sections 6700, 6704, 6732 and 6787 of Business and Professions Code), we believe that the public, the engineering profession and the Legislature would be better served by the engineers' board establishing new registration categories.

2 This committee, while itself not in favor of registering professional engineers in a distinct fire-protection category, would defer this matter to the engineers' board, consistent with Recommendation 1, above

3 No real need has been demonstrated in testimony presented us for the *required* licensure of currently registered engineers. While public safety and health are quite often involved in the design and supervisory work of many engineering specialties now registered, their activities are well covered at this time by product warranties, business or employment liability, supervision by licensed civil engineers or local regulations requiring professional registration where public projects and the public welfare are involved Therefore, we recommend that no extension of existing engineering licensing be enacted by the Legislature

IV

LICENSING OF PROFESSIONAL FORESTERS

Forests cover over 40 percent of the State of California, with 17 million acres in public and private commercial production. Of these, some 4.6 million acres are in small to medium size private holdings under little or no ongoing forestry management or competent timber harvesting supervision.

This feature of limited management of a quarter of the state's timber producing area would have little public bearing were it not known that private forest lands cover half the state's important watershed. They also produce forest fire hazards costing tens of millions of dollars to control, stream erosion and pollution with resulting damage to the state's inland fisheries, and consist of a crisis area in the control of forest plant diseases and problems The private management of these forested acres has a direct bearing on current recreation and scenic values as well as creating—in many instances—future economic havoc for California communities dependent upon a sustained yield forest management policy. Clearly, the public's interest and welfare are involved in *all* timber management, whether or public or private holdings, large and small.

This committee considered a professional foresters' licensing bill (AB 3380, 1965, by Assemblyman Eugene Chappie) during a one-day hearing held in Eureka Foresters, conservationists, educators, public officials with both the state and federal forestry divisions, and forest products company officials all spoke on the need for better qualified persons to be responsible for how California's forests were utilized. The consensus stated at our hearing was that for a variety of economic, scientific and social reasons, California professional foresters needed to play a more vital role in the management of our state's private forests. State licensing of qualified foresters was proposed as a means of achieving this goal.

FINDINGS

1. Forest lands in public ownership and those in some large corporate holdings are competently managed by professional foresters in the employ of these owners However, most small and medium size timber holdings, owned by thousands of persons, many of whom are not California residents, receive little professional management In many cases brought to the committee's attention, forest land owners not involved in ongoing timber harvesting or sustained yield forest management, employ business firms and individuals who advertise themselves as qualified foresters, when, in fact, they are not. As there are no state laws regulating what level of knowledge, experience or competence a timber operator or forester must have, many claim to be professional foresters, with the concomitant level of skill and expertise associated with college programs in modern forestry.

   Little public damage would result from this widespread practice if the effects of improper forest management were limited only to lands of private citizens. But such is not the case Damage to roads by overloaded trucks, increased forest fire hazards, soil erosion and

stream pollution affecting considerable watersheds, and the dangers of forest disease and blight are all results which can have a detrimental impact on surrounding lands

Inferior forest practices by "gyppo" timber harvesting outfits can also ruin the future productivity and value of the very forest land which has been logged Many unknowing timberland owners have been misled, if not defrauded by incompetent forest consultants who misrepresented the true value of lands they appraised

The concern for professional forestry then is both private and immediate in order to protect the landowner, as well as public and widespread, in order to control the many detrimental aftereffects of poor forest practices

2 The State of California, as well as the federal government, currently has a number of forest protection and cultivation programs In the fields of forest management and protection, state and federal officials are charged with protecting all of the state's forested areas from fire and plant disease Water quantity and quality control programs are of increasing concern and importance. Forest diseases are checked by extensive survey and control efforts Recreation, forage and wildlife are carefully managed to avoid conflicts between human and animal uses Timber stand improvement programs cover tens of thousands of acres, as do reforestation and replanting efforts The state's colleges and universities, as well as government forest research centers, are constantly seeking and discovering better methods of forest management

Special tax provisions are written into the state's Constitution to encourage timber production and better forest practices. We have two state schools of forestry offering professional training: one at Humboldt State College and one at the University of California at Berkeley California's Forest Practice Act, which places certain limited controls on private forest management, spells out the state's concern with private forest land use

State licensure of professional foresters may be said to complement all these existing public programs and policies advocated as a means of curtailing the activities of charlatans in the timber management business.

3 The committee finds that the complexities of modern professional forestry offer real benefits if available and applied to all private land holdings As greater demands are made by an increasing population upon this limited resource, improved forest practices will be imperative Forests which must supply timber products, water, fish and game, forage and recreation must be well managed to maximize all these disparate demands. However, this committee finds that the licensure of professional foresters, as advocated in AB 3380, can only solve a *part* of the problem created by current small private forest management

First, AB 3380 exempts from its requirements employees of private landowners While protecting the use of a professional title, that of forester, it does not *require* that professional foresters be responsible for the execution and administration of forest prac-

tice activities on all private lands. In effect, the profession is protected, but the forests are not.

Secondly, even were we to require that all forest use and management be under the supervision of a licensed forester, if he is not *required* to meet specific standards of forest land use, then he may only offer advice, but not exercise control If there is no set level of usage and practice, even a mandatorily employed person is left entirely at the mercy of the owner's own interest and goals in forest ownership

Third, and closely related to the above, this committee believes there is a need for strengthening California's Forest Practice Act. Setting only vague minimal standards, with ineffectual enforcement features which must be executed by an understaffed state agency, state licensure of foresters must be thought of as a complementary program to a needed revision of the Forest Practices Act On the particulars of this revision, we would defer to the Assembly Interim Committee on Natural Resources, Planning and Public Works, which will make detailed recommendations on this subject to the 1967 Legislature

4 With respect to details of the proposed legislation establishing licensing of professional foresters, the committee has three concerns First, educational requirements are drawn in such a manner that a four-year college course is a prerequisite to being examined by the proposed state registration board. The committee, however, has been informed that alternative means of qualifying for the exam are feasible and should be recognized A combination of higher education and extensive supervised experience is a means of acquiring forestry skills Other persons might have obtained only advanced forestry degrees coming from a background in the natural sciences All seven states which now license foresters i.e. Alabama, Florida, Georgia, Michigan, Oklahoma, South Carolina and West Virginia, allow such alternate entry to the exam level, and we find no reason to do otherwise

Second, we are concerned that an applicant must be 23 years old and have two or more years experience in order to be licensed Could not a person have the necessary skills before that age, and are two years of experience necessary in light of the training required to be examined? Perhaps two categories of foresters would be better, with one reserved for licensed foresters who had completed additional years of professional experience in addition to passing the original exam We are not convinced of the necessity of these features of AB 3380

5. This committee, given the interrelationship of proper forest management with the public interest, would urge that a clear statement of legislative intent be an introductory part of any proposed foresters' licensing measure It should touch on the importance of our forests and forest economy, the complexities of modern forest practices, the value of attention to the total forest ecology, and the need for public supervision of this resource's management We are convinced of the importance of these facts about the state's forests, thus we believe the measure should be based on a solid reference to them

RECOMMENDATIONS

1 Improved forest management in California will be the result of several complementary public policies and programs Revision of the state's Forest Practice Act is now being studied and recommendations will be made to the 1967 Legislature Tax and land use zoning measures are also undergoing study as a result of the passage of Proposition 3 on the November 1966 ballot.

We believe that the licensing of professional foresters, coupled with the strengthening and/or revision of other state laws affecting forest lands, would work to better protect this valuable state resource

We recommend such licensing as a means of equitably qualifying persons competent to hold themselves out as foresters. We would also urge attention to committee objections concerning age and education of applicants to be examined We recommend a clear statement of legislative purpose for such licensing Coupled with and effectively complementing other revisions of the state's regulation of private forests, we recommend the licensure of professional foresters as a step toward better protection of the public's stake in our timber resources, as well as a means of better protecting private landowners from the damage incompetent persons now may advocate Licensing can only be a part of the goal of wisely managed forests However, responsible and meaningful supervision would, we recommend, be valuable if complemented by changes in related laws

Ultimately, professional foresters must control the management of our forests, and not be controlled only by those who may happen to own them

(ASSEMBLYMAN GREENE would emphasize the point that it is meaningless to protect the title of forester until an effective Forest Practice Act has been adopted by the State of California)

(ASSEMBLYMAN KNOX is not in favor of this committee recommendation concerning the state licensure of foresters)

(ASSEMBLYMAN STEVENS does not see the need for the licensing of foresters.)

V

LICENSING OF OSTEOPATHIC PHYSICIANS AND SURGEONS

Osteopathic physicians and surgeons have been licensed in California, either by combined osteopathic (D.O)—allopathic (M D) or separate osteopathic boards of examiners, from 1895 to present

During a three year period preceding November 1962, the memberships of the California Medical Association and the California Osteopathic Association actively considered and debated the merger of California's two professional medical groups

The consideration and prospect of merger caused considerable dissension within the osteopathic association As a result of the move toward merger by the California Osteopathic Association (COA), the national parent body, the American Osteopathic Association, declared that these efforts by the California divisional society should cease or the charter to the state association would be withdrawn When the COA refused to discontinue merger discussions, the national association did withdraw its charter Within a few months the newly formed Osteopathic Physicians and Surgeons of California applied for and was granted a charter as the nationally recognized association representing the osteopathic profession in California

Many members of the osteopathic group heatedly opposed such a merger on the grounds that osteopaths, by education, and training, approach the diagnosis and treatment of the ills of the patient from a different perspective than the allopath (M D); that the osteopath selected this branch of the healing art as his profession as opposed to the allopathic branch, that the public should continue to have this healing art readily available in the future, and that the public should have the freedom to choose between the allopathic and osteopathic healing arts

Nevertheless, other members of the osteopathic group urged that given the overwhelming margin of members in the medical association (some 24,000 practicing allopathic doctors in California compared to about 3,000 osteopaths), the increasing public demand for specialization in medical practice, and the continued friction between the two different schools of medicine, a merger of the two groups was in the best interest of osteopaths Members of the powerful and influential California Medical Association urged that merger would result in a solution to the hostility and suspicion between the two schools in California.

These, and other reasons for merger of the professional association's, were the basis for negotiations and legislation which culminated in the passage of Proposition 22 on the November 1962 ballot Earlier in 1962, the private Los Angeles osteopathic college became an M D granting institution In October 1965, this school, now known as the California College of Medicine, became a part of the University of California Laws to become effective upon the passage of Proposition 22 provided that qualified osteopathic physicians and surgeons who chose to designate themselves as doctors of medicine would then be subject to the jurisdiction of the Board of Medical Examiners, and thereafter be prohibited from using the title D O , while osteopaths who chose not to

be licensed as M D s would continue under the jurisdiction of the Board of Osteopathic Examiners In addition, Proposition 22 repealed provisions for licensure of new osteopaths in California, granted to the Legislature the authority to amend the Osteopathic Act, and, when there were forty or less licensed osteopaths, the Act could be repealed by the Legislature.

Proposition 22 was approved by California voters by a margin of better than three to one In the months following, 2,564 of California's 3,000 fully qualified doctors of osteopathy, for many and varied personal and professional reasons, chose to renew their practice licenses as allopathic doctors Most became members of the California Medical Association and being M D s came under the jurisdiction of the State Board of Medical Examiners The Board of Osteopathic Examiners continues to grant renewal licenses to those osteopaths who chose not to become medical doctors

As a result of these 1962 actions, the practice of osteopathy as a distinct school of the healing arts began to disappear in the State of California There are now only 305 osteopathic physicians and surgeons licensed by the Board of Osteopathic Examiners, with 175 practicing in California while 130 reside and practice out-of-state No new osteopaths have been examined or licensed since 1962 As the median age of those D O s who remain is well over sixty years, and each year witnesses fewer practitioners being relicensed, concern for the future of osteopathy as a distinct, independent, and separate field of healing resulted in the introduction of two House Resolutions during the 1965 Session of the Legislature

H R 479 and H.R 613, introduced by Assemblyman Jack Casey and William Bagley respectively, called for an interim study to determine the results of the 1962 merger, and, among other things, examine the feasibility of restoration of licensure to new osteopaths, consider tax savings that might be achieved through such licensing, review the increased national recognition of the osteopathic profession since 1962, and consider the demands of the public wishing osteopathic health care This committee held a one day hearing on the matter in December 1966, and its findings and recommendation are presented below

FINDINGS

1 While over 80% of the osteopathic physicians and surgeons practicing in California in 1962 chose to merge their skills and profession with medical doctors, some 400 D O s who qualified to become M D s chose to remain identified with the osteopathic profession As this group will be less than 300 by 1967, and as no new osteopaths have been licensed since 1962, they and their professional association, the Osteopathic Physicians and Surgeons of California, have urged that the Legislature enact changes in the Osteopathic Act to permit the examination and licensing of *new* osteopaths in California

Testimony and voluminous correspondence have been received by the committee to the effect that the 175 D O s who now practice here in California cannot meet the public's demand for their services Many persons have written that they must wait for months to receive an appointment and travel long distances for osteopathic care. Today,

while there are some 2,200 former osteopaths still in active practice in California under the title doctor of medicine, it is virtually impossible to determine to what extent osteopathic methods are used by these former D O s Trained as they were in this field, and many veterans of extensive practices of osteopathy, the problem today is that those doctors trained and experienced in osteopathy, but now licensed as M D s, cannot use the title of doctor of osteopathy

2 Much of the reasoning which lay behind the merger of the osteopathic and medical profession in 1962 had to do with the very quality of identification of the two healing arts

Many osteopaths desired what they thought would be greater economic and professional stature if they were identified as M D s Because of the increasing complexity, expense, and specialization in all of medical science, a good many osteopaths feared for the very future of their profession in California as they were far outnumbered by medical doctors Being a separate school of the healing arts, osteopaths also had the problems of patient referral to medical specialists and limited postgraduate training opportunities in medical specialties, because of their different educational background So long as the two professions were distinctly identified, there were problems of cooperation between the two groups However, patient referral problems have now almost disappeared for both ex-D O s and D O s, and in 17 other states ethical barriers erected by the allopathic profession have been removed

In the four years since 1962 state and federal recognition of the osteopathic profession has greatly expanded with 49 states licensing D O s and D O s participating in all Federal health programs on an equal basis with M D s, including the Armed Forces, Medicare, and professional college assistance by the Federal Government

3 The current effort for restoration of licensure of osteopaths is one which in no way seeks to alter the merger aspects of 1962 or change the status of D O s who are now practicing as M D s Rather, those doctors of osteopathy who chose not to be licensed as M D s and who are now urging legislation which will provide for the examination and licensure of new osteopaths by the Board of Osteopathic Examiners have argued that osteopathy, being a unique and distinct branch of the healing arts, should be permitted to continue for all time in California, parallel with but independent of allopathy, so that both branches of the healing arts may be available to the public from which to choose Further, they state that there is an ever increasing demand for osteopathic services in California which the current number of decreasing D O s cannot meet California, as a result of the 1962 legislation, is the only state in the union which makes no provision of any kind for the licensure of new and future professionals who have chosen to be osteopaths

Proponents of new licensure have also urged that legislation is essential in order to effect equitable treatment of graduates from accredited schools of osteopathic medicine who are not permitted to be examined or licensed in California under current law In addition, they argue that the education and training given by D O schools are comparable to that of M D schools, as demonstrated by statistics published in the Journal of the American Medical Association of June 6, 1966 which record that of the M D and D O graduates who were examined by

composite examining boards for licensure, the failure rate of M D s was 2 3% while that of D O s was 0 0%

4 The Los Angeles College of Osteopathic Physicians and Surgeons became the M D granting California College of Medicine and in 1965 a part of the University of California Today, its curriculum includes a significant amount of osteopathically-oriented manipulative therapy instruction The College's Department of Physical Medicine and Rehabilitation is headed by Dr John Andrews, a former D O and instructor at the Los Angeles Osteopathic College Of his staff of sixteen full and part-time instructors, all but three were trained as osteopaths Students at the school receive second and third year instruction in manipulative therapy, skeletal mechanics, and physical medicine The actual teaching of osteopathic and manipulative therapy is being maintained in this medical school; thus exposing medical students to its role in healing in a fashion not possible a few years ago In addition Dr Andrews is in the process of establishing a muscular-skeletal post graduate research center there at the college This follows a year of research and lecturing at the Baylor Medical center in Texas where Dr Andrews became thoroughly grounded in medical research methodology

In recent years, Andrews and members of the staff as licensed M D s, have lectured and conducted seminars in a number of California schools and hospitals In 1965, personnel at the U C Medical Center in San Francisco invited Dr Andrews to conduct a graduate seminar there in physical medicine, at which some 200 M D s were gathered to further their knowledge of the role and value of physical medicine Many of these contacts between medicine and osteopathy are new since 1962, and it is doubtful that osteopathic concepts would have gained this limited access within medical training in California had not the 1962 merger occurred

5 The committee heard much meaningful testimony at its hearing on osteopathy's significant contributions to several aspects of medical science In obstetrics, pediatrics, dentistry, geriatrics, and orthopedics there is no question of the value of manipulative therapy and osteopathic physical medicine That qualified persons knowledgeable of these techniques would continue to practice in California is of concern to the public as well as the osteopathic profession The question remains as to the best means of assuring the continued supply of persons who are specialists in the skills of physical medicine and manipulative therapy

Since 1962, the amount of academic and professional attention given physical medicine by medical circles is greater than prior to that time However, the identity of osteopathy as such is gradually disappearing and its knowledge, experience and skills are being incorporated into allopathic teaching and practice in only a limited fashion

6 In at least two other states—Michigan and Pennsylvania—merger of the osteopathic and allopathic professional associations has been considered, and in both states refused The incorporation of osteopathy's contributions to overall health care into training and research in medicine is growing, especially in the form of specialized post graduate seminars A graduate center in New York, now chartered by the state, has been developed with osteopathic and lay monies to provide a center for both M D s and D.O s to exchange information and questions in

round table discussion, and for both professions to attend seminars designed for the participants to attain greater proficiency in osteopathic techniques and theory This appears to be an effective means of introducing osteopathic theory and techniques into the allopathic educational system, but it will take many years before there will be wide acceptance by the allopathically trained physicians.

7. In support of legislation to expressly provided for licensure of new D O graduates, proponents have urged that California would attract many osteopathic physicians and surgeons to practice here because of the state's population, climate and the demand for more doctors It is roughly estimated that such legislation might add 50 to 100 osteopathic physicians and surgeons per year to California's medical community In addition, there are today some 130 California licensed osteopaths who could practice in the state but have chosen not to do so Many have no plans to return to practice here because they will have no young doctors to carry on their practice when they wish to retire Were licensure restored, some of this group might choose to return to practice in California.

RECOMMENDATIONS

The interest of the general public, and particularly the sizeable portion of it who wish to choose osteopathic care—but are gradually losing this ability to choose—should be considered. The generally accepted competence of the osteopathic profession, its unique contributions to health care, the publicly expressed demand for that health care, and the fact that licensing would impose no tax cost on the citizens of this state would suggest that the Legislature seriously consider any legislation offered in the 1967 session concerning restoration of licensure to the osteopathic profession

(ASSEMBLYMAN WARREN, not being able to attend the committee hearing on this subject, wishes to reserve judgment on the above findings and recommendation)

VI

LICENSING AND REGULATION OF JAI ALAI

The ancient Basque game of jai alai (pronounced "hī lī") in recent years has become the most popular spectator wagering sport in South America, Spain, the Philippines and Mexico Licensed and regulated in Florida since 1943, it is the state's fastest growing spectator sport, having expanded in the past 15 years from two indoor frontons (stadiums) to six now, with one or more in each of Florida's population centers.

During the 33 years jai alai parimutuel wagering has been permitted, the Florida State Treasury has received in excess of $40 million, last year (1965) collecting nearly $3 million. When all state levies and taxes on the staging of jai alai are compiled, including admissions, parking, corporate, "breakage" on the parimutuel returns to the nearest 10-cent amount, income and real property taxes, the game's contribution to Florida's economy, especially in attracting tourist dollars, is significant.

Many Californians are familiar with jai alai (or pelota) from visits to Mexico. Frontons are operated in Mexico City and Tijuana, where perimutuel wagering is conducted, as well as other Mexican cities where exhibition-type jai alai is played With similarities to handball and court tennis, single players or doubles teams are matched in games having from six to eight entries. Against the jai alai court's three walls, or playing surfaces, the players hurl a hard, seasoned rubber and goatskin ball with basket-shaped racquets (cestas) strapped to their wrists As the ball is usually traveling at speeds in excess of 100 miles per hour, and the cesta's catching area is only three by five inches, considerable skill and dexterity is involved in competing in professional jai alai Most players start their professional careers in their late teens and find that they must retire before they are 30. Few people who have seen the game and had its rules and scoring explained to them, have stated afterwards that they were not entertained. Involving great speed and color, demanding skill and endurance, and heightened by its wagering format, jai alai is a spectator sport which would no doubt attract the attendance and wagering of millions of California's residents and tourists were it permitted in this state

A legislative proposal to license and regulate professional jai alai and wagering on the sport was made in Assembly Bill 2 of the 1966 Second Extraordinary Session, introduced by Assemblyman Don Allen. It is interesting to note that this is the only state revenue or tax measure ever to be authored by Assemblyman Allen in a legislative career of over 20 years. AB 2 was assigned to this committee for interim study, and a one-day hearing held in December 1966 gathered the following information·

FINDINGS

1. The proposal that California adopt legislation to license and regulate jai alai was made with the chief purpose of creating a new source of public revenues to finance state operations Here in California we are increasingly pressed for the public funds needed

to support the programs, facilities and services California's citizens expect and demand Estimates for the coming fiscal year have suggested that the state's budget will approach five billion dollars This sum alone would represent a revenue gap between state income and expenses of at least $250 million In addition, education officials have asked that the state's contribution to local schools be increased by $350 million. The state's property owners have themselves served notice that they must have some state relief from spiraling local tax levies In short, our state government is being called upon to supply a significant amount of new monies at the very time when its own revenue sources are insufficient to meet existing obligations.

2. Parimutuel wagering on the sport of jai alai has proved a continuing success in the State of Florida, where last year nearly $3 million was realized by the State Treasury from a limited season of 100 wagering days During the period 1952 through 1965, total jai alai wagering increased tenfold, from $5 million to over $52 million This was in a period of development for jai alai from one fronton in Miami to a total of six at the present time During the same period, horserace wagering increased from a total of $140 million in 1952 to nearly $180 million during 1965, with no increase in racetracks or significant addition of race dates.

   In several instances where studied in Florida, attendance and wagering at jai alai and other wagering formats such as horse and dog racing have been found to be complementary, with many persons who attend one being stimulated to attend the other. In addition, some persons who had no interest in one sport, but who were interested in sports wagering, attended jai alai matches as a preferred format

3. During the committee's one-day hearing on jai alai, much concern was expressed about the means of policing the conduct of jai alai players and assuring that the ownership and management of jai alai frontons remained free of criminal groups As a person long experienced in the Florida history of jai alai, Mr. Pat Musto of the Tampa Fronton mentioned several features of the sport and its regulations in Florida which have effectively prevented the occurrence of any scandal in Florida since jai alai wagering was first permitted in 1943

   First, all players are members of an international association which regulates their professional conduct and opportunities To the association, players and their employers contribute a significant share of their earnings, to be used for establishing pension funds, insurance coverage and other individual benefits Should a player ever be suspended or disciplined for conduct judged suspicious in their play, he faces an entire loss of his contributions to the association's funds and in addition is not permitted to be professionally employed at any fronton in the world

   Second, all players, proposed owners and personnel at the Florida frontons are carefully investigated before licensure to assure that all are wholly free agents with no known or suspected

connection with any criminal group or element Any such association, regardless of how tenuous, puts the status of a license in severe jeopardy, and, given the economic stake involved, no licentiate or player has ever been charged with misconduct or association with criminal syndicates or groups

Third, a fairly sophisticated attempt is made by trained security guards to control the entrance and wagering of persons of known or suspected criminal gambling connections. While admittedly difficult to ascertain how effective such a measure might be, the fact that an effort is constantly maintained to prohibit criminal elements from participating in jai alai wagering serves as a deterrent to their attempting such activity Again, in 23 years of jai alai wagering, the parties licensed and regulated by the state who own and manage jai alai there have seemingly found it in their interest to keep the sport free of suspicion, accusation or instances of corruption or cheating

4 The proponents of California jai alai have developed projections of possible revenues to the state from parimutuel wagering, admissions taxes and the "breakage" or amounts of less than 10 cents which are not paid out to winning ticket holders. These estimates are based on Florida growth and attendance statistics transposed upon California's much greater population base, the state's year-round tourist and visitor industry, and the state's per capita income, age. and recreational characteristics Were six frontons licensed in California—one each in Fresno, Los Angeles, Orange, Sacramento, San Diego and San Francisco Counties—after a two-year construction and promotional period, from $28 to $40 million dollars could flow to the State Treasury This is based upon a 300-day operation and existing parimutuel takeout rules which govern racing wagering in our state, whereby the state and the sponsoring track organization share a small percentage of the total parimutuel pool The committee has been informed by knowledgeable Florida officials that, given southern California's population, three frontons in that section of the state is a conservative number, if residents there attend matches in a manner similar to residents in the Miami area. In addition, exposure of Californians to Mexican jai alai, as well as the tremendous popularity of Nevada wagering by California residents, indicates that jai alai would be well attended were it to become a part of the state's sports and wagering scene.

5. Committee testimony concerning the large cost of building a jai alai fronton (estimated at between $5 to $10 million) occasioned doubt that groups or corporations would be interested in applying for licenses to establish the sport However, several witnesses to appear before the committee stated that in discussions among all organizations interested in jai alai, numerous persons had expressed a continued interest in the licensing proposal and were prepared, if and when professional jai alai were permitted, to submit bid proposals to the governing body for their consideration. There already exists in the Los Angeles area, a large social organi-

zation of jai alai aficionados, composed largely of prominent business and sports figures who would form a "turf club" for jai alai were the game established there In short, from inquiries and interest expressed by both financial and sports groups, fronton licenses would be in demand and the fans there to fill them.

6 Jai alai in Florida has proved a significant tourist attraction, attested to by the fact that more than one-third of the persons who attend its matches are vacationers in Florida or permanent residents of another state. The matches are licensed in Florida to coincide with the peak tourist seasons in the state's various regions Thus, while each of the state's six frontons has a season of only 105 playing dates, in some part of Florida there is a fronton open at all times of the year, with most operating during the winter months Here in California, with a population three times greater than Florida's, and a tourist industry geared to attract many more persons during all times of the year, plus our state's significantly higher per capita income, a 300-day match season has been proposed as being permitted by the proposed regulating body, the California Horse Racing Board. Open only during the evening, and not on Sundays, jai alai fronton stadiums would in most instances be owned and developed by associations, individuals, partnerships and private corporations which would be strictly supervised by a governing body having access to all financial, ownership and operational records.

7 Committee members who expressed concern with those features of jai alai wagering which prevented matches from being fixed by bribing the participants were informed of the effective policing which results from each player's membership in and contribution to the single international body regulating the sport Any instance of misconduct results in one's loss of all funds contributed and prohibition from playing professionally elsewhere

In addition, quinnela wagering, which originated with jai alai, permits one to select two players (or teams) either of which may win or be second, and if both have been selected in a wager, the ticket wins This feature, which is the predominant form of jai alai betting, puts no premium on winning—or losing—a match, and because there are always at least six players or teams involved, fixing a match becomes a nearly impossible prospect. This coupled with thousands of ringside spectators, two dozen observing players and highly trained judges and state officials seems to have effectively established public confidence in the conduct of Florida jai alai. No doubt, the same regulations and conditions could be established in California.

RECOMMENDATIONS

1. This committee makes no recommendation on proposed license and regulation of jai alai at this time.

We are impressed with the facts and results of Florida's experience in regulating jai alai and can state that the record there, as now known by this committee, is impressive. Because of the short

time we have had to study this measure, we would urge that further serious study and consideration of jai alai proceed during the coming session Information regarding regulation of jai alai by Florida's State Racing Commission, the attitudes and reaction of Florida local officials and the economic impact upon communities of jai alai frontons are all being sought at this time by this committee Certainly as California's state revenue picture and problems develop in the coming months, there will be increasing interest in all proposals to provide additional public funds

Jai alai may well be an important *new* source of tax dollars For this reason, we intend to study and discuss all of jai alai's advantages and disadvantages and make such known to the Legislature

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THE GREAT EXPERIMENT

A Study of the Structure of California
Higher Education

by the

SUBCOMMITTEE ON HIGHER EDUCATION

Assembly Interim Committee on Education

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John L E Collier
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JANUARY 1967

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Published by the
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TABLE OF CONTENTS

	Page
Letter of Transmittal	5
Report of the Subcommittee on Higher Education	7
I. *The Tuition-Free Concept of Public Higher Education:*	
Findings	9
Recommendations	11
Introduction	13
What is Tuition?	14
Nonresident Tuition	15
Student Costs	17
Earnings Foregone	19
Benefits v Burdens of Higher Education	20
Student Financial Aid	29
The Effects of Tuition in California	33
II. *State-Level Governance of Junior Colleges:*	
Findings	37
Recommendations	39
Introduction	41
The Present Junior College Administrative Structure	41
Support for the Creation of a Junior College Board	43
The Subcommittee Proposal	46
III. *The Functions of Teaching and Research in Higher Education:*	
Findings	49
Recommendations	51
"The Quality of Teaching is Strained"	53
Separate Views of Assemblyman Leroy F. Greene Relative to the Tuition Issue	61
Statement of Assemblyman John L. E. Collier	62
Appendices	63

LETTER OF TRANSMITTAL

January 1, 1967

HON. JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen:

Pursuant to House Resolution 710 of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith the final report of its Subcommittee on Higher Education.

This report was considered and adopted by the subcommittee listed below and appears in subcommittee report form.

I respectfully commend these recommendations to you for your consideration.

CHARLES B. GARRIGUS, *Chairman*
Assembly Interim Committee
on Education

Subcommittee on Higher Education

GARRIGUS, *Chairman*

ALQUIST	GREENE
COLLIER	HINCKLEY
FLOURNOY	MONAGAN
GONSALVES	RYAN

FINAL REPORT OF THE

SUBCOMMITTEE ON HIGHER EDUCATION

of the

ASSEMBLY INTERIM COMMITTEE
ON EDUCATION

Members of the Subcommittee

Charles B. Garrigus
Chairman

Alfred E. Alquist
John L. E. Collier ‡
Houston I Flournoy *
Joe A Gonsalves
Leroy F. Greene †
Stewart Hinckley ϕ
Robert T Monagan ‡
Leo J Ryan §

JANUARY 1967

‡ Assemblymen Collier and Monagan have declined to sign the report Assemblyman Collier's statement appears with the report
* Assemblyman Flournoy concurs in the report, but with the exceptions noted herein.
† Assemblyman Greene concurs in the report, but dissents to several points made herein His statement appears with the report
ϕ Assemblyman Hinckley concurs generally with the report, but feels that a modest tuition charge is warranted
§ Assemblyman Ryan concurs in all but Part II of the report, dealing with governance of junior colleges

2—L-1503

TUITION-FREE CONCEPT OF PUBLIC HIGHER EDUCATION

FINDINGS

1. The committee finds that, contrary to popular opinion in California, public higher education in this state is *not* free by any means at the present time, and there is even serious doubt as to whether it is tuition-free This is true because the University of California and the California State Colleges include in their incidental and materials and services fees, charges for items normally thought to be of an "instructional" nature. Since tuition is defined as a charge designed to cover the cost of instruction, to the extent that these so-called fees cover such costs, they constitute a partial, although unacknowledged tuition

2. In addition to direct, out-of-pocket costs, we find that there are substantial living and foregone earning costs involved in the attendance at a California public institution of higher education.

3 Because of the heavy financial burdens involved in attending California's "free" colleges and university, we find that the upper and middle income segments of the California population are represented in attendance at the state university and colleges out of all proportion to the representation from the lower income levels In effect, we find that California's "tuition free" policy—as presently constituted—subsidizes the education of students able to pay for it but does nothing for insuring a higher education opportunity for those students unable to pay In short, we find that the statements made in recent years by many public and university officials, that California's higher education system assures equal opportunity to all, regardless of their financial ability, not to be based on fact

4 The committee finds that resident student fees at California's public institutions have increased sharply in recent years, and we suspect that this is true in part because of fears on the part of higher education officials that if this were not done, the Legislature would itself impose a tuition charge

5. We find that nonresident students at these public institutions are charged a significant amount of tuition, which fairly represents the cost of instruction, but that overly large numbers of them then have this tuition waived We believe that a small number of out-of-state tuition waivers are reasonable, but not to the extent that such waivers become numerous and thereby result in a lowering of educational quality, and state tax dollars available, for California resident students

6 The committee finds that state scholarship funds are not nearly numerous or generous enough to make more than a small dent in the need for financial help to assist needy and able college students to continue their schooling We further find that the need for subsistence grants—in addition to present scholarship funds which may cover tuition, fees and books only—is pressing.

7. We find that far more intensive effort is needed on the part of state government and the public institutions themselves to induce stu-

dents from economically depressed environments who may have the capability to succeed in college (even though they may not have the necessary secondary school grades) to enroll in our public institutions The number of such students now enrolled in California higher education is shockingly low, and these statistics indicate a tremendous loss of talent to California and to the nation We believe that the federal government's "Project Upward Bound," implemented under a less well-known provision of the Economic Opportunity Act, marks a beginning in recapturing some of this lost talent

8 The committee finds that the concept of a moderate tuition charge for California higher education lacks the dire consequences predicted for it by many public officials and university and college leaders, and may even have beneficial effects of evening out the socioeconomic differences among students at the state's public colleges, *provided* that such a moderate tuition is combined with substantial increases in scholarship and subsistence funds available to needy students. In addition, we believe that the concept of a moderate tuition, with all or a portion to be waived depending upon student and/or family income, should be closely studied

However, because such a policy would have important implications for occupational talents—the supply of, and demand for, the skills produced through a higher education—in California and in the rest of the nation, we suggest that much more serious and objective study is needed before such a policy is adopted here.

9 The committee finds that a plan of deferred tuition, payable after graduation on a varying basis dependent upon income of the graduate, while attractive on its face, could create serious administrative problems for state government, and far more serious difficulties through a possible upset of the balance of occupations and professions which graduates might seek to enter.

10 Regardless of the merits of a moderate tuition charge, the committee finds that it would *not* produce the large new state revenues which some of its advocates predict it would, particularly if it is combined with increased scholarship funds and/or tuition waivers We believe that henceforth tuition should not be looked upon primarily as a revenue raiser, but rather as an equalizer in terms of educational opportunity.

RECOMMENDATIONS

The Committee Recommends That:

1 Because of the overriding and as yet unanswered questions of the effect of a moderate tuition charge on the mix of occupational skills produced by a higher education, together with unsolved problems of the effect upon supply and demand of certain essential professions, which have greatly varying income expectations (such as teachers, medical doctors, public health specialists, engineers, etc.) the question of the institution of a moderate tuition charge in California public higher education should be deferred until it can be studied in depth by the Joint Committee on Higher Education of the California Legislature. It is our understanding that the macroeconomic study of higher education in this state planned by this joint committee is directed at answering some of these questions, and that consequently this study should be allowed to proceed to its conclusion before the Legislature makes a final determination on the tuition question

2. Future increases in the incidental fee of the University of California and the materials and services fee of the California State Colleges should be reported to the Legislature through the education committees of the Assembly and the Senate prior to their adoption by the regents and trustees, together with a factual breakdown of the composition of such fee increases and a justification therefor. Legislation to this end should be enacted by the 1967 Legislature

3 Legislation should be enacted by the 1967 Legislature to fulfill one major unimplemented provision of the Master Plan for Higher Education which would provide that a program of subsistence grants be made available, in addition to the present state scholarships, to award winners on the basis of their financial need Such a program should be administered by the State Scholarship and Loan Commission and should be instituted initially on a pilot basis with no more than 500 such subsistence grants awarded each year, to be financed with an initial state appropriation of approximately $250,000

4. Action should be taken by the Legislature to provide support for the inducement of qualified students from lower socioeconomic levels to enroll in public higher education through the enactment of legislation similar to Assembly Bill 2830 (Soto) of the 1965 General Session which would create a "college opportunity grant scholarship program" specifically aimed at this group We note that this legislation was endorsed by the State Scholarship and Loan Commission in 1965, and is financially responsible in that it proposes a program initially limited to 250 such grants annually, at a state cost in 1967 of $80,000.

5. Proposals for a deferred tuition, payable after graduation on a variable payment plan dependent upon the graduate's earning capacity (similar to AB 600—Collier, 1965 General Session), should not be adopted because of the serious administrative difficulties and financial hardships which such proposals might cause, together with as yet unknown effects which such plans could have upon inducing students to enter higher paying occupations in favor of lower paying ones, and in recognition of the "negative dowry" effects which such plans could have

TUITION-FREE CONCEPT OF PUBLIC HIGHER EDUCATION IN CALIFORNIA

Introduction

The major efforts of this subcommittee during the 1965–1967 biennium were devoted to the first thorough legislative study of the effects which the adoption of a formalized tuition charge for public higher education might have upon that education system and the state as a whole To that end a series of public hearings was conducted by the subcommittee in various parts of the state, substantial staff studies were made, and respected higher education leaders, scholars and economists were called upon to assist in the deliberations

The committee has concluded, after the submission of considerable evidence on both sides, that the imposition of a formal tuition charge in California public higher education—while it certainly lacks many of the dire effects predicted for it by many people—would be unwise at this time In making this major recommendation, we do not foreclose the possibility that at some undetermined time in the near future—after further study—California might be warranted in instituting such a charge provided that it is moderate and selectively applied depending upon a student's financial status However, the broader implications of tuition—especially upon the mix of occupational skills produced by our institutions of higher learning—bear much closer scrutiny than this subcommittee was able to give In this sense, we note that the Joint Committee on Higher Education, established by the 1965 Legislature to study the development of the Master Plan for Higher Education, is apparently embarking on precisely the economics-based type of study which we have in mind We have, therefore, concluded that this joint committee should be allowed to complete its report to the Legislature at its 1969 session before any final action is taken relative to the establishment of a tuition charge for California public higher education

Nevertheless, we hope our study dispels many of the myths which are current regarding the dangers and the benefits inherent in the tuition concept We have also proposed several substantive programs aimed at insuring more equal entry for students from all economic and racial backgrounds into the mainstream of public higher education in this state We urge the 1967 Legislature to take early action on these recommendations

The Master Plan for Higher Education approved by the Regents of the University of California and the State Board of Education in 1960 contained the following statement:

> The two governing boards reaffirm the long-established principle that state colleges and the University of California shall be tuition-free to all residents of the state.

In the six years since this formal approval, the tuition-free policy for resident students has been questioned on several occasions For ex-

ample, bills to establish a deferred tuition program were introduced in the State Legislature in 1963, 1964, and 1965 Although these measures did not pass either house of the Legislature, their introduction indicates serious interest in the possibility of instituting a resident tuition to help cover the costs of California higher education Introduction of this legislation also raises many corollary policy questions concerning the results of California's free tuition policy, the sociological impact of imposing a resident tuition, and alternative courses of action available to the Legislature

The 1965 proposals were referred to the Assembly Committee on Education for interim study. By way of further introduction, it is important to note that while most of the arguments for and against instituting tuition are expressed in economic terms which appear susceptible to relatively objective analysis, the final resolution of these arguments will necessarily be subject to the philosophic orientation of the decision makers The reason for this is that juxtaposition of the relative economic and social gains of higher education to society and to the student discloses, on the one hand, the costs of higher education to society can be considered a financial investment that has produced a substantial addition to national income and general welfare, and, on the other hand, the costs of this same education to the student generally have been reimbursed in future lifetime earnings and/or social position.

What Is Tuition?

An important distinction must be made at the outset between student tuition and student fees at California's higher education institutions Tuition is generally defined as a charge collected from students to be applied to cover the direct costs of classroom instruction. Student fees are collected to cover expenses other than the cost of instruction Although there is presently no charge for tuition for residents of the state who are enrolled as undergraduates in the regular academic sessions of any of the state's public higher education institutions, students are required to pay several fees for services which are incidental or auxiliary to classroom instruction As might be anticipated, we have found substantial confusion in maintaining the distinction between tuition for instructional costs and fees to cover noninstructional costs This confusion is evident in expressions and writings of students, the parents who pay these fees, and in the opinions of some out-of-state writers on the tuition-free policy in California. Much of this confusion may be directly attributable to some historical fragments of tuition in California For example, from 1933 to 1953 the state colleges openly charged a small "tuition" fee, and statutory authorization for a limited tuition charge ($25) has been carried over (Education Code Section 23753) from the organic act establishing the first state college in 1862 The university charged tuition only during its initial months of operation in 1869, but the Education Code continues to carry a vestigial reference to a "rate of tuition" to be determined by the regents (Education Code Section 23051) Moreover, both the university and the state colleges now allocate a portion of their incidental fee income, collected from both resident and nonresident students, to laboratory and other instructional mate-

rials which might otherwise be considered as part of direct teaching expense and, therefore, tuition. In this sense, then, there is now a partial tuition in these institutions. Despite the confusion over the distinction between tuition and student fees to cover noninstructional costs, it is still noteworthy to remember that present fees charged the California resident undergraduate for regular session public higher education are intended to cover only costs for the addition or continuation of noninstructional services to the student.

Tuition is charged a number of categories of students attending California's higher education institutions Some graduate students (e g., medical students) pay a form of tuition in that they are assessed additional fees to cover portions of the costs of special materials necessary in their study The extension and summer session programs at both the university and state colleges collect a per-unit student charge intended to cover the full costs of these programs (except for a small state contribution to university extension) Junior colleges maintaining classes for adults may charge tuition for these classes as provided by Education Code Section 5757. Confusion sometimes arises concerning the "out-of-district" tuition junior colleges assess to cover the cost of education of nonresident student. However, such payments are not assessed against these students but are assessed against the tax-collecting authority of the area in which the student resides The actual amount and the payment procedure is negotiated between the junior college district or county in which the student resides and the junior college district he wishes to attend. This method of pulling together appropriate revenues and costs has not been used to eliminate or reduce the nonresident tuition charged the out-of-state student, but it appears to be at least theoreticaly possible. In 1965, Section 23758.2 of the Education Code was enacted to permit the state colleges to enter into interstate college agreements for the exchange of students so the students do not have to pay nonresident tuition at either state's institution.

Nonresident Tuition

By far the largest category of students paying a tuition charge for California public higher education is the out-of-state "nonresident" student Education Code Sections 23054, 23756, and 25505 in essence define a resident student as one who has been a bona fide resident of the state for at least one year immediately preceding the opening day of the semester during which he proposes to attend a state college, junior college, or the university Those students who are not "resident students" under this definition must pay a tuition charge to cover "average teaching costs " The Master Plan for Higher Education defined teaching costs:

> " to include the cost of the salaries of the instructors involved in teaching for the proportion of their time which is concerned with instruction, plus the clerical salaries, supplies, equipment, and organized activities related to teaching "

Generally, the nonresident tuition at all three segments of public higher education is set with reference to the instructional costs per student With regard to the university and state colleges, the master plan defined these instruction costs as not less than the state's contribution to the average teaching expense per student

Since the repeal in 1961 of the $500-per-year statutory limit on nonresident tuition at the university (Education Code Section 23053) the regents have increased this tuition several times to the present $800 per year A minimum nonresident tuition of $360 per year for state colleges is prescribed by Section 23754 of the Education Code. The Board of Trustees of the State Colleges is empowered to increase its nonresident tuition and has done so State colleges presently charge out-of-state students $600 per year and foreign students the legal maximum of $255 per year. In 1963, Section 25505 5 (now 25505 8) of the Education Code was enacted and directed the State Board of Education to set, year to year, a nonresident tuition on a uniform "cost of instruction" basis for all the state's junior colleges The 1965–66 junior college nonresident tuition has been set at $309 per year for 30 units of classes (i e., $10 00 per unit).

The preceding facts concerning nonresident tuition should be read with some supplemental qualifications First, there are many opportunities for nonresident students to avoid paying the tuition charge. All three branches of higher education are empowered to grant waivers, several statutory exemptions from the charge are available, and the possibility of obtaining financial help through student aid programs is rapidly expanding.

In fact, as the nonresident tuition has been increased, there has been a general corollary increase of opportunities either to void or receive assistance in meeting this charge Legislation in 1965 did somewhat reduce these opportunities by a percentage limitation on the number of nonresident tuition waivers available (Budget Act of 1965). Secondly, as evidenced by Table 1, nonresident tuition increases during the past decade have not halted a continual increase in the percentage of nonresident enrollment to total enrollment This is not to say that

Table 1

NONRESIDENT TUITION-ENROLLMENT TRENDS AT THE UNIVERSITY OF CALIFORNIA

Year (fall semester)	Nonresident tuition fee	Nonresident enrollment	Total enrollment	Col. (3) as percent of (4)
(1)	(2)	(3)	(4)	(5)
1954	300	3,949	35,273	11 2
1955	300	4,482	38,594	11.6
1956	300	4,944	40,313	12 3
1957	300	5,488	42,039	13 1
1958	400	6,068	43,478	14 0
1959	500	6,289	44,878	14 0
1960	500	7,267	49,169	14 8
1961	500	8,278	54,267	15 3
1962	500	9,360	58,616	16 0
1963	600	10,727	64 504	16 6
1964	600	12,010	71,267	16 85
1965	800	N A	79,449	N A.

N A Not available at this time
Source The University of California, Office of the University Dean of Educational Relations, Berkeley

these tuition increases have not had an impact upon the socioeconomic composition of nonresident enrollment In fact, it is generally conceded that any increase in costs of education which is not accompanied by some form of student aid, waiver of tuition, etc, will adversely affect those students from low income families. The figures for 1965 will be of more than passing interest since both the largest rise in nonresident tuition is in effect this year and tuition waivers have been limited for the first time

The fact that nonresident tuition is calculated with reference to "instructional costs" and that the nonresident student also pays the "noninstructional" fees assessed all students does not mean the nonresident student is no expense to the state The reason for what cursorily appears to be no discrepancy lies in the fact that all functions carried on by higher education institutions are not included within the definitional purview of "instructional" and "noninstructional " Thus, expenses for such items as capital outlay, research and administration are not generally covered by any student charge revenues The largest number (12,010), as well as the largest percentage of nonresident enrollment to total enrollment (16 85 percent) exists at the university Yet the estimated revenue from nonresident tuition will cover less than 25 percent of total university expenditures related to instruction of nonresident students during 1965–66 [1] The 1965 legislation reducing the waiver allotment for each campus will only slightly affect this percentage since the estimated average cost per student for instruction-related university expenditures is $1,867 and the nonresident tuition charge is $800 for 1965–66

On the other hand, the number of nonresidents and the percentage of nonresident enrollment to total enrollment at state colleges and junior colleges is substantially lower than for the university. And the estimated average cost per student to instruction-related expenditures at these institutions is also much lower than that of the university, so the nonresident student pays tuition which covers a much higher percentage of the state college and junior college expenditures related to instruction of their nonresident students

Fourthly, nonresident tuition, as well as resident tuition policies, must be considered in comparison to similar fees charged by other states' institutions and private institutions The interstate and intrastate flow of students is obviously affected by tuition and fee charges at many educational institutions within the United States.

Student Costs

California's tuition-free policy does not mean that education is provided at no cost to the student We have found that for both resident and nonresident students, there are a number of types of fees designed to cover at least a portion of the cost of providing specific services to the student The levels of most of these fees are shown in Table 2.

The incidental fee at the university, or the materials and services fee as it is called at the state colleges, is intended to cover the direct costs of student health services, counseling and testing, housing services job placement services, diplomas and certificates, and laboratory and other instructional materials For the university, the incidental

[1] Analysis of the Budget Bill, Report of the Legislative Analyst to the Joint Legislative Budget Committee, 1965 Regular Session, p 352

Table 2

BASIC STUDENT FEES FOR THE YEAR 1965–66

	University of California	California State Colleges	Junior colleges
Incidental fee or materials and services fee	$200	$76	
Parking	16–72	26	$10
Room and Board	800–958	450–830	400–720
Application Fee	5–10	5	0–2
Student Union Fee	5–25	2	
Student Activities Fee	11–30	10–25	20
Transcript, petition and Penalty Fees	1–10	1–5	0–2

Source 1965 Report of the Legislative Analyst—Analysis of Budget Bill, page 296, and 1965–66 catalogs of the colleges

fee is also expected to meet deficits in intercollegiate activities subsidize certain student cultural programs, and provide for the amortization of proposed capital outlay for new student facilities, including student health, recreational, and intercollegiate athletic facilities The university's incidental fee has risen from $120 to $220 over the four-year period from 1961–62 to 1964–65, in large part because of the university's decision to finance a greater portion of the cost of student centers, cultural activities and recreational facilities from this source

As was mentioned earlier, there has been much confusion over both the incidental fee and the materials and services fee Whether a meaningful distinction between "tuition" and "fee" can be maintained appears to be moot in the minds of many—both tuition and fees represent an expense to the parent and student which must be borne in order to utilize the state's higher educational facilities. The estimated allocation of the university's incidental fee revenues for 1965–66 is approximately 20 percent for capital outlay and debt services, and 80 percent for student services, cultural activities and recreation. At the state colleges, revenues from the materials and services fee are budgeted at approximately 40 percent for instructional operating expense (expendable classroom supplies and materials and laboratory expenses) and 60 percent for student services. If a tuition were charged resident students, it appears highly desirable to alter the present status of the incidental fee and materials and services fee or at least to clarify the definitional delineation between fee and tuition—if such a distinction is to be retained at all.

The junior colleges do not charge a fee similar to the incidental or the materials and services fee. They are authorized to charge up to $10 per year for student health and for the use of parking facilities Few, if any, junior colleges have student health services at this time Both the university and state colleges levy a direct charge for the use of their parking facilities At the university this parking charge varies greatly among campuses according to the availability of parking facilities.

The figures in Table 2 for room and board are for the residence halls, when available, at the various public campuses These figures do not necessarily reflect the average paid for room and board, but only indicate the approximate cost to the student for the use of the

school-provided facilities. Only 13 of 75 junior colleges have any room and board facilities

Other student fees include application fees charged against the processing costs for initial admission applications, student union, or activity fees, primarily for the construction and operation of student centers and support of intercollegiate athletics, and transcript, petition, and various penalty fees charged to cover the administration costs created by the late registrant, requests for several school transcripts, dropping or adding classes, etc. Very few of the junior colleges levy any fees of this type.

Obviously the preceding discussion of student tuition and fees does not include all elements of student expense Student tuition and fees encompass only that portion of student expense which is directly levied on the student by the state's educational institutions However, any consideration of the tuition policy in California must not ignore the total direct economic burden borne by the student and/or his parents The on-campus resident student at the university can expect to spend almost $1,800 per year for his fees, living expenses, books and supplies, and limited social life The same student at either a junior college or state college will spend between $1,400 and $1,600 to cover similar expenses The student who commutes to a campus of any of the three segments of public higher education will spend between $400 and $600 less than his on-campus counterpart These figures compare with the statewide average for private higher education institution student expenses of about $2,700 per year The average student in California will be able to save from summer earnings between $300 and $500 to apply against his expenses for the next school year It should be noted that all of these expense and earning figures are considered in determining the availability and amount of any loan or scholarship funds offered each student applying for such assistance

Earnings Foregone

From a purely economic point of view, some would argue that living expenses such as room and board, clothes, laundry, etc, should be excluded from the costs of education to students and their parents on the rationale that young people have to be fed, clothed and sheltered whether they are in school or not To the extent the preceding estimates for expenses per student include subsistence, this view may be correct, but it certainly is incorrect to assume that going to school requires no greater outlay for living expenses than subsistence, if the student is to receive the full measure of formal education offered to him at the higher educational institution However, there is one expense seldom formally recognized in computing costs of education to students but considered by many economists as a proper cost of higher education—the contribution to national income and the students' personal incomes which young people would have garnered if they had been working instead of studying. This is a real cost, not only to the students but to the economy which is deprived of a production, roughly measured by the students' foregone earnings, when part of the potential labor force is in school

This concept of earnings foregone as a cost of education is extremely important to a thorough analysis of higher education finance As one

example, if earnings foregone were excluded, studies of lifetime earning differentials associated with levels of education indicate a very high rate of return for what college students have been paying for their education when this rate is compared to the return on alternative investments The inclusion of earnings foregone in the estimates of all costs of education (including both public and private schools) reduces education's estimated rate of return by almost 60 percent.

Considerable economic literature has been published to aid in developing careful techniques for selecting appropriate data for the calculation of earnings foregone. Theodore Schultz, a pioneer in the field of measuring economic benefits and costs of education, offers one set of estimates of earnings foregone per student.[2] Schultz estimates in 1956, for example, that a college student's foregone earnings amounted to $1,943 for the months he spent in school. From the standpoint of the individual student and his family, this cost is a real expense of higher education in addition to the direct costs of fees, tuition, living expenses, etc Considered from the point of view of society as a whole, earnings foregone represent a loss in national income which must be accounted for as an investment in the future

The Benefits vs. the Burdens of Higher Education

Few would doubt that education is beneficial to the individual and to the state as a whole However, estimates as to both the degree to which higher education produces these benefits and the specific benefits received by the individual in contrast to the state remain controversial Herein lies a good portion of the discussion over tuition vs tuition-free · since education benefits both the individual and the state as a whole, should both bear the burden of the cost of education and, if so, in what proportion to each other should each bear this cost? Answers must obviously come from the decision maker, but it is helpful to classify the benefits received by the state and the individual student

Higher education may benefit the state in any number of ways, but for clarity, four general classifications are suggested First, the political institutions in the United States are founded upon the belief that the electorate will be intelligent enough to make informed decisions on matters it faces California is especially committed to this educated electorate. Widespread use of the initiative and referendum necessitates an intelligent electorate The complex problems created by this state's phenomenal growth demand an informed, educated citizenry As our problems become more complex, a college educated electorate becomes a greater asset for California's progress

Secondly, in recent years higher education has become a major vehicle to upward social mobility Providing accessible higher education opportunities for all individuals to reach their full potential necessarily benefits employment in the state as well as social well-being

Thirdly, higher education provides a laboratory for research to achieve more informed solutions to the state's problems as well as providing the state with its potential future leaders

Fourthly, the state's economy progressively improves as more of its citizens receive college education Heretofore, the analysis of economic growth has involved the study of land, labor and physical capital—i e ,

[2] Nelson B Henry, ed , part 2, Social Forces Influencing American Education, 1961

the conventional factors of production However, growth in these factors does not explain either why the national income has been increasing at a much higher rate than the combined amount of land, man-hours and stock of reproducible capital used in producing income, or why there continues to be substantial increases in real earnings of workers At least one major source of such economic growth is the effect of schooling upon the productivity of human effort Edward F Denison in "The Sources of Economic Growth in the United States and the Alternatives Before Us" (New York. Committee for Economic Development, 1962), estimates that 21 percent of the economic growth of the United States between 1929 and 1957 is attributable to the increase in schooling of the labor force According to Theodore Schultz, this increase in amount of schooling per member of the labor force accounted for an increase in national income between 1929 and 1956 of at least $25 7 bilion

The importance of higher education to the state's economic growth is also evident from labor force distribution statistics. Without reviewing in detail the literature on this subject, it will suffice to point out the type of growth, as well as the pace of growth, of the nation and state will depend upon the composition of the personnel supply available in the future The trends are toward employment requiring higher education backgrounds Thus, for the state to benefit from such employment trends, the state must offer more and more opportunity for higher education We have found that few of the advocates of imposing a tuition charge at California schools and colleges have taken this factor into consideration. Such a study is beyond the scope and ability of this committee, but we strongly believe that thorough study must be given to the effects of tuition on the type of skills and professions represented in the California economy before tuition is established Clearly, if tuition resulted, for instance, in a drastic reduction in the number of students entering premedicine or predental work (where tuition based upon cost of instruction would be comparatively high) in favor of a sharp increase in the numbers of students entering business administration (where tuition would be lower), its imposition might not be advisable This matter should be thoroughly investigated by the Joint Committee on Higher Education before a tuition is imposed.

Finally, the state benefits from higher education in a number of immeasurable ways which are perhaps best described as "consumption benefits" by Burton A. Weisbrod, "Education and the Investment in Human Capital" (*Journal of Political Economy, Supplement*, October 1962) Such benefits as "present well-being," "cultural participation," "intellectual reinforcement of moral values," etc , are included in this general classification of consumption benefits. Weisbrod points out that the state benefits from consumption benefits because in practice, much of the future consumption benefits of schooling is "captured" by others in that a person's schooling presumably improves the well-being of his neighbors, his employer and co-workers and is generally diffused in society Of course, the most direct monetary diffusion of the benefits of higher education to the society is facilitated through the government, since the usually higher income of the more educated portion of the society may come under the levy of one of the taxing powers

Table 4

STATE GENERAL FUND TAX REVENUES

(in millions)

Taxes, fees, etc	Estimated revenues, 1965–66	Distribution, in percent
Sales and use	$1,022 1	42
Tobacco	174 0	7
Alcoholic beverage	78 0	3
Personal income	392 2	16
Bank and corporation	423 0	17
Inheritance and gift	113 1	5
Insurance	103 3	4
Horseracing	39 6	2
Other sources	92 2	4
Totals, General Fund	$2,437 4	100

Source State of California Support and Local Assistance Budget for the Fiscal Year July 1, 1965, to June 30, 1966, p A-9

Table 5

EFFECTIVE TAX RATE (STATE GENERAL FUND) BASED ON FAMILY PERSONAL INCOME AFTER FEDERAL INCOME TAXES

Income bracket	Effective tax rate per $100 (combined taxes)
Less than $2,000	$4.41
$2,000– 2,999	3 52
3,000– 3,999	3 74
4,000– 4,999	3 22
5,000– 5,999	3 32
6,000– 6,999	3 64
7,000– 9,999	3 36
10,000–14,999	3 23
15,000 and over	6 84

Source Assembly Interim Committee on Revenue and Taxation, Taxation of Property in California (staff report to the committee), December 1964

Tables 5 and 6, derived from the staff report to the Assembly Committee on Revenue and Taxation, "Taxation of Property in California," December 1964, indicate that those taxes which finance public higher education in California are especially regressive in their combined impact It thus appears the lower income classes are bearing the greatest burden in financing the public costs of higher education The "Master Plan for Higher Education in California 1960–1975" recommended that the state, through its General Fund, undertake 45 percent of the junior college expenditures by 1975 Such an undertaking may significantly reduce the burden on those in lower income brackets if the regressive local property tax now supporting junior colleges were reduced. However, reduction or elimination of the property tax would not remove all the burden from the lower income classes, since most

Table 6

EFFECTIVE TAX RATE (PROPERTY TAX) BASED ON FAMILY PERSONAL INCOME AFTER FEDERAL INCOME TAXES

Income bracket	Effective tax rate per $100
Less than $2,000	$9 21
$2,000– 2,999	10 44
3,000– 3,999	9 05
4,000– 4,999	7 99
5,000– 5,999	7 42
6,000– 6,999	7.03
7,000– 9,999	6 19
10,000–14,999	5 01
15,000 and over	5 63

Source Assembly Interim Committee on Revenue and Taxation, Taxation of Property in California (staff report to the committee), December 1964

of the taxes supporting the General Fund are also regressive. In addition, the regressive nature of General Fund taxes indicates that any increase in lifetime earnings attributable to higher education probably is not recaptured by state taxes as a reimbursement to the public for its investment in higher education This, of course, is not to say such increased earnings are not recaptured by the progressive federal income tax, to the extent federal revenues are returned to support state higher education

As a frame of reference for evaluating the combined state and local tax burden carried in California, the Coordinating Council for Higher Education made a comparative study of the efforts and burdens of a number of other states [3] The comparison with nine populous high income states indicated that California in 1961-62 exceeded six of them in its overall tax burden. Since most of these states have much of their higher education carried by private institutions, a second group of 10 states was selected, all of which are similar to California in their preponderance of higher education enrollments accommodated in public institutions All of this second group exceeded California in their overall tax burden, but three failed to match California's effort in public higher education expenditures

The preceding discussion of the state and local tax burdens incurred for higher education is not exhaustive in two respects First, it presents a very simplified outline of what the state and local districts now face in financing higher education and. therefore, it does not touch upon a number of important financing items, such as the use of bonding to finance capital outlay. Secondly, it does not include the very important burden placed upon the state by the fact that a large portion of the potential labor force is in school—i e , "productivity foregone" because young people are in college In the preceding section on student tuition, fees, and expenses, the concept of earnings foregone was mentioned as a "cost" to the student It is important at least to recognize that this same "Earnings foregone" represents a burden

[3] *An Evaluation of the Tuition-Free Principle in California Public Higher Education*, May 1965, p 19.

on the state's economy, as well as the student's income, since the state foregoes an increment of production whenever members of its population are not in the labor force

Of course, the state does not shoulder all of the burdens of higher education The student and his family are confronted with a number of economic adjustments and sacrifices whenever college education is sought The actual expenditures incurred by the student at a public higher education institution have been discussed previously in this report. The important concept of earnings foregone has been mentioned several times previously in our report What is of primary importance in considering the burden of higher education on the student and/or his family is who actually meurs the student's higher education expenses, and what is the economic position of those who pay for these expenses. The answers to these questions are crucial and considerable attention must be given them if a reasonable decision on tuition policies in California higher education is to be made Fortunately, a major study has been made by Edward Sanders and Hans Palmer for the California State Scholarship Commission [4]

The Sanders and Palmer study was based on a survey of some 6,200 California undergraduate resident students attending the various segments, both private and public, of California higher education Parents completed 77 percent of the questionnaires on behalf of their dependent children and self-supporting students responded directly to the remaining 23 percent From these response figures, it is evident the burden of the student's expenses falls upon his or her family, though Sanders and Palmer do indicate there are a great number of self-supporting students. Thus, it is important to note the income levels of families with children in college in evaluating the incidence of financial burden placed upon these families

Table 7 indicates that almost 55 percent of the parents of college students had incomes between $8,000 and $20,000 annually.
The median value of their incomes was between $11,000 and $12,000 a year, placing these families very definitely in the more affluent portion of California's population As indicated by Table 7, about 22 percent of the parents of children in private universities had incomes of $25,000 or more, and over 50 percent had incomes of $14,000 or more, making this the wealthiest group of college parents. The next most affluent groups were the parents of students in the private colleges and private denominational colleges. While the families of the students at the university appear to have a similar income distribution to that of the parents of students in nondenominational private colleges, the lowest income group ($0 to $1,999) at the university included five times as many parents as did the private colleges In percentage, the university's low income group exceeded all other higher education segments. Parents of junior college students are shown as the least affluent group since about 23 percent of these parents had incomes of below $6,000 a year and there were fewer junior college parents in the upper brackets.

The income distribution for the self-supporting segment of student enrollment in California is shown in Table 8

[4] *The Financial Barrier to College Attendance in California*, 1964

Table 7

PARENTAL INCOME DISTRIBUTION

Income class	Junior college	State college	University of California	Private University	Private college	Private college—Denominational	4-year Special
	percent	percent	percent	percent	percent	percent	percent
$0-$1,999	1 6	7	2 9	5	5	7	1 4
2,000- 3,999	6 2	3 3	2 0	1 3	2 9	4 1	3 5
4,000- 5,999	15 4	10 0	7 4	4 9	5 8	8 7	7 2
6,000- 7,999	19 0	16 6	11 0	6 5	11 7	13 9	13 1
8,000- 9,999	16 4	16 8	12 9	10 1	12 4	16 4	10 8
10,000-11,999	13 9	19 5	13 1	10 4	13 3	14 5	10 0
12,000-13,999	7 0	10 5	11 2	11 7	13 8	12 8	8 1
14,000-19,999	10 7	12 7	20 0	16 7	18 0	10 3	13 5
20,000-24,999	2 5	3 2	6 5	12 5	7 3	5 9	9 0
25,000 and over	4 0	4 4	11 6	22 7	11 9	10 7	19 9
No response	3 1	2 4	1 3	2.8	2 2	2 1	3 6

Source California State Scholarship Commission

Table 8

STUDENT INCOME DISTRIBUTION

Income class	Junior college	State college	University of California	Private University	Private college	Private college—Denominational	4-year Special
	percent	percent	percent	percent	percent	percent	percent
$0-$1,999	3 4	8 0	11 9	2 3	4 2	9 0	7 3
2,000- 3,999	8 8	14 2	19 0	7 0	12 5	21 2	12 6
4,000- 5,999	17 6	19 6	24 4	9 3	25 0	12 1	18 9
6,000- 7,999	25 1	18 9	17 9	16 3	8 3	12 1	22 1
8,000- 9,999	15 9	12 0	9 5	9 3	25 0	12 1	11 6
10,000-11,999	10 3	11 3	4 8	4 7	4 2	15 2	8 4
12,000-13,999	6 2	6 2	4 8	4 7	0	3 0	4 2
14,000-19,999	4 1	4 0	3 0	18 6	4.2	3 0	5 3
20,000-24,999	2 1	2 9	1 7	0	4 2	0	1 1
25,000 and over	1 7	1 1	6	14 0	4 2	3 0	3 2
No response	4 7	1 8	2 4	4 7	8 3	9 0	5 3

Source California State Scholarship Commission

The affluence of parents of college students is shown by a comparison between the percentages in Table 7 and those in Table 9, which shows the 1962 estimated income distribution of all families with children.

Table 9

CHILDREN AND INCOME 1962

Number of Children under 18

Income	1 Child	2 Children	3 Children	4* Children
0–$1,000	1 9	1.3	1 4	1 7
$1,000– 1,999	4 0	2 7	2 9	3.3
2,000– 2,999	4 6	3 2	3 3	4 3
3,000– 3,999	6 2	4 7	4 7	6 8
4,000– 4,999	8 2	6 9	7 1	9.3
5,000– 5,999	10 3	9 8	10.3	11 9
6,000– 6,999	11 5	12 6	13 1	13 2
7,000– 7,999	11 1	12 7	13 1	11 8
8,000– 8,999	9 5	11 0	10 9	9 5
9,000– 9,999	7 3	8 4	8 4	7 3
10,000–10,999	6.1	6 5	6 3	5 3
11,000–11,999	4 5	4 7	4 6	3 7
12,000–12,999	3 0	3 0	3 2	2 5
13,000–13,999	2 3	2 4	2 2	1 7
14,000–14,999	1 7	1 7	1 5	1 3
15,000–19,999 20,000–24,999 25,000 and over	7 8	8 4	7 0	6 4

* Four and more children

Source Edward Sanders and Hans Palmer, "The Financial Barrier to College Attendance in California," Preliminary Final Draft, California State Scholarship Commission, November 4, 1964

In comparing Tables 9, 8 and 7, it will be noted that self-supporting students tended to reflect the pattern within the general population more closely than did the parents of non-self-supporting students. This is probably true because self-supporting students generally are drawn out of the general income distribution since so many of the junior college members of this group will be older people with established households

Probably the most important overall conclusion that can be derived from the straight tabulations of the preceding income distributions is that it costs a great deal more money to attend college than is commonly thought. This is particularly true of certain aspects of the state system The pattern in the university and the state colleges indicates that families will have to be making a considerably larger sacrifice and have to be at a higher income position than was hitherto thought necessary for their children to attend these institutions This has been shown to be true at all levels and segments of higher education according to the Sanders and Palmer report, since their survey showed a high correlation between the income level of the parents and the amount of cash support provided the student

Parental support patterns for the university were similar to those at the private colleges and denominational colleges—cash contributions over $2,000 a year came from a considerable number of those families with incomes over $12,000 At the private universities, the parental contribution of those with incomes over $14,,000 a year was somewhat higher. However, in all segments of higher education, the proportion of families contributing more than $2,000 a year drops off very steeply even among the very high income groups

In the state colleges, families with incomes of over $14,000 a year also made contributions to their student children of over $2,000 per year. Among the junior colleges, the incidence of high contributions is not as great as it is among private schools, the university or state colleges However, apparently many junior college families at the upper end of the income spectrum find it necessary to contribute something in excess of $1,000 per year to their student members

Perhaps the most significant parental support patterns are those of families in the low income brackets Among the few families found in the $4,000- to $6,000-a-year bracket for the private universities, the majority are contributing more than $1,200 a year to their children's education. This is a striking amount to be extracted from incomes of this level A great effort by low income families is also found at the state colleges and junior colleges Some 13 6 percent of state college families and 15.8 percent of junior college families with incomes between $2,000 and $4,000 a year claimed contributions between $400 and $800 per year to their student children

Thus, despite what may appear to be relatively low fees at public institutions, substantial cash contributions apparently have been required even from low income families of students at those institutions. In addition, by comparing cash contributions to incomes, it seems clear that the parents of junior and state college students are making, on the whole, the greatest effort relative to their income

For the economic growth of the state to continue, and for the well-being of the society to increase, the committee believes it will be necessary that the economic barriers to these low income families be lifted No matter what decisions are reached concerning student tuition, any solution must be sought in context of the wide income distributions and consequential financial burdens now existent among California families hopeful of a college education for their children. Steps have been taken to alleviate these burdens by instituting the various loan programs mentioned in the next section of this report However, findings of the California State Scholarship Commission's report indicate a relatively small proportion of students (less than 10 percent during July 1, 1963, to February 1, 1964) were assisted by these loan programs

For these reasons, and particularly with reference to the shockingly low percentages of students attending the University of California and the state colleges from low-income backgrounds, we have recommended that the 1967 Legislature give immediate consideration to a proposal which would provide "educational opportunity grants" to children from low-income families in an effort to induce these persons to enter public higher education Such a proposal, similar to AB 2830 of the 1965 session, would provide grants to such persons irrespective of their college grades, provided they show academic promise A draft of this legislation is included as Appendix A to this report

Student Financial Aid

Whenever tuition is discussed, an obvious concern is raised on behalf of the low income family child who has the academic, but not the financial ability to attend college Most often the counterargument to this real concern is that some financial aid can be made available to this student, thus enabling him or her to attend an educational institution,

regardless of any tuition that institution imposes. Though California's public higher education institutions are formally committed to a tuition-free policy, there are still the financial burdens of college as discussed in the preceding section of this report. To overcome or alleviate these burdens, there are a number of alternative aid programs available at California colleges. None of these programs are exclusive, and many students find it necessary to combine several of them. Most of the means of student financing are not exhaustive, and most students supplement whatever aid they receive by some limited employment.

More students than ever before are members of the labor force part time during the school months and full time in summer About 75 percent of student enrollment in California institutions holds some sort of job during the year to augment their parents' contribution or student aid for their education. These working student patterns are most predominant among undergraduate students In the case of graduate students, part time or full-time employment is not the primary source of income, although it does play an important role The "working student" has been given an additional boost in recent years through the federal "work-study" program. With the president's signature on the Higher Education Act of 1965, institutions of higher education are to receive 90 percent of their costs in providing students part time employment, primarily to those from low income families. California's estimated share for 1965–66 should be about $8 million.

In addition to some type of employment, the student has many loan sources to see him through the non-income-producing college years. Loans to students, influenced in large part by the federal NDEA student loan program, have been increasing in supply at all segments of California higher education Generally, the availability of loan funds to the student is based on need and, with respect to NDEA loans, on the student's major. In some cases, academic standing is also a consideration for granting especially desirable loans with very lengthy repayment periods Repayment terms vary among types of loans, as does the total amount available Cosigners are usually required on all loan notes

By far the largest type of loan, and generally with the most favorable repayment terms, is the NDEA loan. The NDEA funds provide well over 70 percent of all student loan money available to California students. The 1965 Higher Education Act expanded the major qualification categories, thus enabling more students to have access to these funds By and large, NDEA funds are still somewhat restricted to those who plan to teach and those studying in physical science fields. Most of the state's colleges have their own student loan programs, many of which are now being oriented toward students not covered by NDEA moneys.

While undoubtedly the NDEA program has been an important stimulus to the development of student loans, certain changes in administration of loans by the individual institutions have contributed Publicity given to the advisability of a college education, even on borrowed money, and the practice of college financial aid officers of spreading available aid through combinations of scholarships, jobs, and loans have obviously expanded the use of student loans. Also, state actions

through creating higher education assistance corporations and guaranteeing commercial loans have increased the availability of loans

A new boost was given student loan programs by the federal government's passage of the Higher Education Act of 1965 and the Legislature's enactment of AB 56 in 1966 Among other things, this act includes a "low interest insured loan" program authorizing advances totaling $17.5 million through fiscal 1968 to assist in establishing or strengthening the reserve funds of state and private nonprofit student loan insurance programs Advances will be made to the state program and, for any year the state program is not comprehensive, to private nonprofit programs to the extent necessary to enable students in every eligible institution to be covered by an insured loan program In addition, a federal insurance program is authorized on a standby basis if adequate state and private plans are not reasonably accessible to students in every eligible institution of higher education It should be noted that prior to AB 56 California did not maintain a "comprehensive" public loan program

The new federal-state program provides special assistance for low income families by subsidizing a portion of the interest on their children's loans. For students from families having adjusted family income of less than $15,000 the federal government will subsidize all of the interest while in school and 3 percent thereafter; for students from families having higher incomes there will be no interest subsidy, but the insurance would cover loans to such students. These interest subsidies will be available for federally insured loans and for loans insured under state and private nonprofit programs which meet specified standards, as well as loans made by state programs For the first two years of the program, the interest subsidy will be available for state and private plans which insure loans charging no higher than 6 percent annual interest on the unpaid balance and requiring repayment to begin no earlier than 60 days after the student ceases his course of study

In light of such federal intent and action, there may be some question as to the desirability and need for the state to establish or to expand student loan programs within the state

Large loan programs are advocated by many for a number of reasons, not the least of which is that such loans will remove some of the unfortunate effects of higher tuition on low income families In addition, loan programs are said to provide help for deserving students not academically high enough to merit scholarships, enable large numbers to enter professions where both training costs and financial rewards are high, and aid students who plan to become teachers

However, loans may not be a feasible recourse for many students for a variety of considerations Family cosigners may be unobtainable when required, many times because they are unwilling to have their child or themselves go into debt Though perhaps "old-fashioned," many families do not believe in obtaining anything by credit, or consider such loans as a mark of inferiority In other cases the student's family may not actually provide his educational expenses, yet their income is so high as to prevent the student from obtaining a loan

There are many occupations in which the income the student will earn after graduation is too small to repay a substantial loan incurred

during undergraduate days A large indebtedness might also prevent a capable college graduate from undertaking graduate work or professional training In the case of female students, a "negative dowry" is a possible reason for *not* obtaining a loan From the point of view of the lending institution, loans present many costs and problems of administration, not the least of which is the collectability of principal after the student has left or graduated from college Thus, while loans have proven a vital device for obtaining education for many, they do not provide a substitute for scholarships

Both the federal government and the state have scholarship programs, with emphasis in the state's programs on aid for the undergraduate In the past, the federal government has not been a source of undergraduate scholarships, but passage of the 1965 Higher Education Act made federal scholarships available to those needy high school graduates with high academic standing

Briefly, the federal scholarship provisions of the Higher Education Act authorizes $70 million for educational opportunity grants during fiscal year 1966 (the first grants would be used during the academic year 1966–67) Institutions of higher education must determine that recipients of the grants show academic promise, are in exceptional financial need, and would not, but for an educational opportunity grant, be financially able to pursue a higher education These scholarships will range from $200 to $800 with an additional $200 available to students in the upper half of their class during the preceding year Funds will be allocated among the states on the basis of college enrollment Institutions could transfer up to 25 percent of their allotted funds to their NDEA loan funds The act also authorizes the Commissioner of Education to enter into contracts, not to exceed $100,000 per year, with state and local educational agencies and other public or nonprofit organizations for the purpose of identifying qualified youths of exceptional financial need and encouraging them to continue their education, publicizing existing forms of financial aid, and encouraging secondary school and college dropouts to reenter educational programs

The entrance of federal money into scholarship funds will greatly help this facet of student aid Perhaps the biggest problem with scholarships generally has been that scholarship funds have not kept pace with the phenomenal growth in enrollments and the increase of average cost of tuition and fees The state's Scholarship Commission was able to provide scholarships for 1 percent of the 1963 graduating high school seniors, but only 0 75 percent of the 1964 seniors because of the great increase in high school enrollments

In addition, a few facts must be understood whenever scholarships are considered as a method of relieving financial barriers to higher education Approximately two-thirds of the recipients of state scholarships enroll in California independent colleges and universities Thus, the scholarships provide an opportunity for the intelligent low income student to attend one of the state's private schools and provide income to that school; but, by and large, they do not provide aid of any sort to those who attend a public institution of higher education. Yet, it is generally felt that many students need scholarships in the low tuition public segment of higher education, especially since the recent

rises in student charges in this segment create serious financial hardships for students whose margin of income over expenditures is slight or nonexistent On the other hand, while low tuition is not a substitute for the scholarship to the low income student, scholarships are not generally thought a feasible alternative to low tuition Even greatly expanded scholarship programs are not likely to provide aid to much more than 25 percent of the student body. Therefore, the student who is from an average income family and who is average academically probably is better helped through low student charges

Finally, it should be noted that scholarship funds are generally going to families in income groups substantially above average income families of the United States Whatever the reason, lower economic classes are not favored in proportion to numbers, abilities or economic status Perhaps recent added emphasis on need by both state and federal programs will partially reverse the past evidence, but there is no evidence to suggest that scholarships will aid the academically average low income student Though, historically, scholarships were to aid the very needy, in recent times the scholarship has evolved to aid only the very intelligent—too often this does not include the low income children who perhaps need the formal educational opportunity the most

Our study has, we believe, fairly conclusively shown that while scholarships to cover such college costs as tuition, fees and books have been made available by state and federal governments in increasingly large amounts, the California Legislature has as yet refused to implement one suggestion relative to student aid initially made by the master plan survey team in 1960 This proposal was that the state provide subsistence grants to certain financially needy scholarship winners Such a program, for the first year, could be financed with an appropriation of approximately $250,000

We are acutely aware of the often-quoted, tongue-in-cheek comment of the California student that it is more costly for him to attend the University of California than Harvard University Strangely enough, there is enough truth in this to cause us concern The comment is based, of course, upon the fact that the eastern private institution offers complete subsistence and tuition scholarships to the truly needy and qualified student, while the California institutions do not We believe that our recommendation contains added weight in view of the rapidly climbing institutional and noninstitutional costs of public college attendance in this state This proposal should, we believe, take precedence over any proposal at the 1967 session to increase scholarship funds *per se* Any such proposal, while desirable, is likely to benefit more those who have reasonable financial ability while ignoring the low income students, who are grossly underrepresented in our colleges and universities at the present time.

The Effects of Tuition in California

Economists generally agree that initial $100 increments in tuition would have little impact on enrollment in colleges The demand for higher education is said to be "inelastic" since a rise in "price" does not generally equivalently reduce the enrollment Continued increases in personal income and student aid would further dilute the impact Some support for this "inelasticity" of higher education is found by the figures in Table 1, which shows increasing percentages in nonresi-

dent enrollment even though the university increased its nonresident tuition. In addition, national surveys indicate the consumer places a great value on education and is consequently willing to absorb increased costs of such education However, past growth of public institutions relative to private institutions does indicate that *substantial* differences in fees *do* become a crucial factor Also, the tables in Appendix B clearly indicate that the percentage of California families financially unable to meet the expenses of higher education will increase as tuition is increased It would seem the inelasticity concept of education enrollments is limited, at least with respect to the low income family's child unable to obtain some form of student aid

Even though total enrollments may not substantially be affected by invoking tuition, there is likely to be a change in the social composition of the student body Assuming no enlarged scholarship fund, there will undoubtedly be a "leakage" away from higher education of superior students from the low financial stratum Higher student charges may well deter those with reasonable finances who are somewhat deficient in motivation Further, there may well be a shift by students from curricula leading to modest future incomes to studies having a much higher future earnings potential Of course, any of these potential socioeconomic shifts may be reversed or diluted by any number of counteracting financial aid programs

The Coordinating Council for Higher Education has estimated the probable tuition fee income calculated for an initial $100 increment in student charges The estimates are here presented in Table 10

It can be safely assumed if no tuition or a much lower tuition were imposed upon the junior colleges, a much lower tuition income would be derived overall This is true because lower junior college costs would multiply the current migration of students to junior colleges for their first two years

Table 10

1964 ENROLLMENT ADJUSTED FOR $100 TUITION

	University	State colleges	Junior colleges
Full-time enrollment	71,500	92,600	155,300
Less nonresident enrollment	13,000	5,500	(unknown)
Resident enrollment	58,500	87,100	155,300
Less 2 percent "leakage"	1,170	1,750	3,100
Adjusted full-time enrollment	57,330	85,360	152,200
× $100 tuition fee	$5 7 million	$8 5 million	$15 2 million
Part-time enrollment	5,300	56,200	285,600
Less 2 percent "leakage"	100	1,120	5,700
Adjusted part-time enrollment	5,200	55,080	279,900
× $50 tuition fee	$0 3 million	$2 8 million	$14 0 million
Total revenue	$6 0 million	$11 3 million	$29 2 million

Source Coordinating Council on Higher Education, "An Evaluation of the Tuition Free Principle in California Public Higher Education," May 1965, p 31

It can also be stated that additional tuition charges would increase total tuition revenues at a diminishing rate As the tuition charge increases it is generally agreed that the "leakage" of students from higher education would increase at an accelerated rate

The imposition of a tuition charge at public higher education institutions would indoubtedly have some impact on enrollments at the private colleges and universities What amount of impact is very speculative in light of the relatively high median income of Californians, but it can be safely said that some increase in private school enrollments will occur as public school tuition is raised substantially.

It appears clear to the committee from these figures that the imposition of a tuition in moderate amounts cannot reasonably be considered as much of a revenue raiser. These figures show that each $100 of tuition charged would produce no more than $30 million of revenue; thus a $500 tuition (the highest "moderate" tuition we have seen proposed) would produce only $150 million for the State General Fund Considering the substantial amounts that such a tuition would require be poured back into state expenditures for support of increased student aid programs, it is obvious that no reasonable man will balance the state budget from such a source

This does not, however, rule tuition out as desirable social or educational policy With the student population at our state colleges and universities so heavily tipped in favor of students from families with money, we believe that tuition might well be looked upon as an equalizer of educational opportunity We seriously question, for example, the continuance of a state policy which subsidizes the education of children from well-to-do families when poor students are denied admittance to higher education on financial grounds A tuition *might* (and we emphasize this term, since we have not made a final determination on the issue) provide for much more equal entry into the system, if it was combined with substantial waivers and scholarship and subsistence funds

Finally, we must devote some attention to the proposal which has been made in previous sessions of the Legislature for the imposition of a "deferred tuition-student loan plan " Such a program, as embodied in AB 600 of the 1965 session, would clearly raise large amounts of funds by the imposition of what amounts to a *user tax* imposed upon the consumers of higher education in California Clearly too, such a plan is tuition and a loan program, rolled into a package

Such a program has serious flaws, we believe, in terms of its effect upon California society in general and public higher education in particular While attractive on its face, the plan would convert, in fact if not in intent, our public colleges and universities into producers of job skills, rather than disseminators of knowledge Because the measure calls for a student payback of his tuition which will vary depending upon the cost of his particular education, and the income which he derives from his employment when he graduates, it could well discourage students from entering college to pursue areas of knowledge which they want to pursue, in favor of their enrollment in a program depending upon its effect on their eventual payback to the state

For example, because a medical degree is costly to obtain, and its recipient is likely to enter a high-paying profession which would require from him a maximum payback to the state, might he not instead enroll

in a curriculum leading to employment in a low-paying profession—such as social work—so as to avoid a high payback? What about the effect of such a plan on the marriage plans of college graduates—would a male college graduate be as likely to marry a female college graduate with a $10,000 debt to the state? Such a plan could, in this sense, constitute a negative dowry.

~~In short,~~ while the advocates of such a plan are well intentioned, we believe they have not thoroughly investigated the long-range, non-revenue-producing aspects of their plan We consequently recommend that such a proposal be shelved and that instead, study be devoted to a consideration of the equalizing effects of a moderate tuition charge

STATE LEVEL GOVERNANCE OF JUNIOR COLLEGES

FINDINGS

1 The committee finds that the present administrative structure for California's 75 junior colleges within the Department of Education is weak and unable to provide the leadership needed if this vital segment of the state's higher education system is to assume the role designated by the Master Plan for Higher Education.

2. It is evident to us that in an attempt to cope with the mounting state level problems of the public junior colleges, the Department of Education has done administratively what the Legislature has refused to appropriate funds to allow the department to do; that is, three separate bureaus have been established to deal with junior college affairs However, it is apparent that these bureaus cannot begin to solve the many problems of junior college governance which have emerged since their creation.

3. We find that the State Board of Education, charged by our statutes with the duty of setting state level policy for the junior colleges, has neither the time nor apparently the inclination to do the job. As a last-ditch attempt to keep from losing governance over the junior colleges, the state board has established a junior college advisory committee. This effort is, in our opinion, woefully inadequate in the face of the leadership needs of the junior colleges.

4. We find that in 1960 the Legislature declared the junior colleges to be an integral part, not of the public school system, but of higher education. Yet in nearly every respect California state government still treats the two-year institutions as if they were bona fide elements of "lower" education We believe that leadership to make the changes necessary to convert the junior colleges to the higher education role—in finance, administration, personnel and curriculum matters—will not be forthcoming until the colleges have an effective voice in Sacramento to speak for them This means that the colleges themselves will have to make the basic decision as to whether they *want* to be a part of higher education, a decision which they have not yet made collectively. A decision in favor of participation as coequals in California's higher education structure will demand divorcing the junior colleges from the locus of state-level administration for the public schools, namely the state board and Department of Education.

5. The committee finds that a separate board of governors at the state level for the junior colleges need not result in a substantive loss of local autonomy by the two-year institutions Parenthetically, however, we have observed that some junior college officials have grown to enjoy the relative isolation from the State Board of Education which their institutions experience, an isolation which exists not because the law does not require state level supervision in various areas, but rather because the State Board of Education does not have sufficient time to do the job for the junior colleges required of it by the law.

6. We find that a separate state board for the junior colleges can be created which will perform the duties presently mandated upon the State Board of Education with respect to junior colleges without auto-

matically assuming more control over the local institutions, but providing at the same time needed leadership and a united voice for the colleges in the councils of higher education in California.

7. The committee has noted that in recent months nearly all statewide junior college organizations in California, together with the Coordinating Council for Higher Education, have voted overwhelmingly in favor of the creation of a separate junior college board at the state level A study by the Center for Research and Development in Higher Education of the University of California, Berkeley, commissioned by the Coordinating Council, has proposed the creation of such a board The study includes the impressive results of a poll taken of junior college presidents and administrators, showing that a large proportion of them now favor a statewide junior college board. At its hearing on this issue in 1965 the large majority of the committee's witnesses also approved this concept Thus, the committee believes that the climate for such a proposal is favorable and there is substantial likelihood that the 1967 Legislature will favorably consider a well-drafted bill to accomplish this result

RECOMMENDATIONS

The Committee Recommends That:

The 1967 Legislature favorably consider a bill to establish a separate Board of Governors for the California Junior Colleges, with such a body to assume the duties and responsibilities of junior college policy setting and administration presently vested in the State Board of Education, such duties and responsibilities to include the following

A. Centralized research and statewide planning recommendations
B Statewide coordination and development of a junior college system encompassing the entire State of California.
C. District organization
D. State finance of junior college operational and capital costs
E Data collection.
F. Coordination of federal funds for junior colleges, together with primary responsibility for the development of statewide plans for the use of federal funds, when required
G. Representation for the junior colleges on the Coordinating Council for Higher Education, before the Legislature and the executive branch.
H Certification of junior college instructional personnel, so long as certification requirements are retained for junior college employees and faculty

It is our view that local autonomy, exercised by locally elected junior college boards of trustees, should continue to be operative within this framework, provided that the new state body shall possess leadership capability in speaking for the junior colleges on policy matters

The board of governors should be given a budget adequate to enable it to hire a Chancellor for the Junior Colleges at a rank and salary equivalent to that of the Director of the Coordinating Council, together with such staff personnel as the chancellor deems necessary The chancellor should be appointed for a four-year term to serve at the pleasure of the board of governors, and should have the power of non-civil-service appointments of at least his top three staff assistants The remainder of the chancellor's staff should be appointed from civil service lists.

The committee further recommends that the board of governors be composed of 10 members, selected by the Governor for 10-year staggered terms (one selection each year) and confirmed by a two-thirds vote of the State Senate Such a board should become operative on June 30, 1968, to provide for an orderly and planned transition of powers We recommend that the board be selected from among outstanding lay citizens of California who have a strong interest in the further development and improvement of the public junior colleges, and at least five of whom shall be required to have served in the past as members of local junior college governing boards in this state.[1] The board should serve without salary but should receive necessary travel and expense reimbursements.

[1] Assemblyman Flournoy believes this requirement for five members of the new board to be former junior college board members to be "overly restrictive"

Finally, we recommend that the legislation which we propose provide that junior college representation on the Coordinating Council for Higher Education consist of three persons, as follows:

a. One member of the board of governors, chosen annually by the board.

b. The Chancellor of the California Junior Colleges.

c. One California junior college president, chosen annually by a statewide junior college organization.

STATE LEVEL GOVERNANCE OF JUNIOR COLLEGES

One of the recurring problems in higher education, which has confronted the Legislature for the last several years, has been that of providing effective, coequal, state level leadership for the state's 75 junior colleges. The Master Plan for Higher Education, as embodied in the Donahoe Act of 1960, contained important new functions and responsibilities for these two-year institutions, and formally enumerated these schools among the state's higher education system However, with this change in role, no similarly far-reaching changes were made by the Legislature in the methods of administering and providing leadership to these colleges Consequently, California today is faced with an anomalous situation of having a major segment (and some might say *the* major segment) of its higher education system administered as the grade schools are administered, and by the same people

In an effort to develop constructive solutions to what might be termed a "leadership gap," this subcommittee has listened to many experts in the field of the junior colleges, both at its public hearings in January 1966 and in private discussions Close attention has been paid by the subcommittee to the study, recently released by the Coordinating Council for Higher Education, by the Center for Research and Development in Higher Education of the University of California, Berkeley, of the feasibility and desirability of establishing a separate state board for the junior colleges We have been especially interested in watching the reaction of junior college board members, presidents and administrators to this report, and to the issue generally We are pleased to report that all of these groups now seem to be in favor of taking the major step in the direction of leadership which this subcommittee has independently determined is now required: the creation of a state level board to administer junior college affairs.

The Present Junior College Administrative Structure

The subcommittee has expended some effort in determining the effectiveness of the present state level system of junior college governance in its desire to determine whether a state level board for junior college was really desirable We have been appalled at what we have found Under present law, the State Board and Department of Education are responsible for junior college governance, however, there is little to indicate that the massive problems of the state's junior colleges take up more than a fraction of the board's time at its monthly meetings In his opening statement at our hearing on this subject the chairman pointed out:

> Several months ago the committee consultant remarked to me—I hope he was kidding but I'm not sure—that he placed a recent agenda for the State Board of Education, which presently supposedly provides state level guidance to the junior colleges, upon an ordinary weighing scale He found that this agenda weighed some 11 pounds! Sad to say, however, only six pages of this immense document—dealing with the agenda of the State Board of Education—only six pages dealt with the junior colleges

The example is illustrative of the lack of attention which junior college problems receive under the current structure In a recent attempt to give the appearance of providing more leadership for these two-year institutions, the state board established a junior college advisory panel However, all the evidence we have seen indicates that this is simply too little, too late.

Much of the leadership needs of the junior colleges arise from their new responsibilites for undergraduate academic education, required under the master plan As can be seen in the table below the full-time enrollment in California junior colleges has increased drastically since the base year of 1945, and even since the adoption of the master plan in 1960 junior college enrollments have risen by more than 53,000 full-time students. Comparing these junior college increases with those experienced by the other segments of higher education, it becomes clear that the junior colleges have seen the most severe enrollment increase Clearly, such important institutions cannot be allowed to fall into a leadership vacuum and still be expected to fulfill these vital responsibilities

Previous Legislatures have grappled with the problem of providing effective state level junior college leadership Due to a continuing controversy over the creation of a state board for this purpose, the 1965 Legislature failed to approve funds requested by the Department of Education to create a new "Division of Junior Colleges" within that agency However, we note that upon failure of this legislation the department proceeded to set up—on an administrative basis—three separate junior college bureaus, staffed by taking personnel from departmental bureaus which deal primarily with the grade schools

The subcommittee has seen no evidence that this move was successful in providing important new services or guidance to the junior col-

FULL-TIME ENROLLMENTS IN CALIFORNIA HIGHER EDUCATION *

Year	Junior colleges	State colleges	University of California	Private	Total
1945	17,406	6,851	18,400	19,661	62,318
1950	56,622	25,369	39,492	41,036	162,521
1955	70,165	33,910	37,035	40,003	181,113
1960	99,783	56,480	46,801	53,785	257,725
1961	112,636	64,099	51,340	57,220	286,223
1962	121,283	71,502	55,775	61,234	310,888
1963	128,221	80,188	61,073	61,618	332,339
1964	152,401	92,454	67,070	64,000	375,425
PROJECTIONS					
1970	216,200	134,475	105,150	81,800	537,625
1975	267,100	166,325	125,300	91,100	649,825

* The data prior to 1960 are from *A Study of the Needs for Additional Centers of Public Higher Education in California*, those from 1960-1964 are from reports of total and full-time enrollments as prepared by the Department of Finance Projections are from CCHE *California's Needs for Additional Centers of Public Higher Education*, No 1014 (Sacramento, December 1964), p 17

leges We suspect that it may have been motivated largely by a desire to make some show of activity toward providing for junior college needs, whether or not they were actually provided for In any event, the three new bureaus have served the colleges no better than the previous single bureau served Stark testimony to this fact was apparent when one witness, one of the few to oppose the creation of a state level junior college board, appeared before this body and began to cite per student cost figures for the state's junior colleges When he was asked whether he obtained his figures from the Department of Education he replied that the department had not had the figures available, and that it was necessary for him to go to the Coordinating Council for the information.

Considering the vital importance of the junior colleges to California's higher education scheme, it was instructive to the subcommittee to consider the numbers of individuals employed by the Department of Education to provide leadership to this segment of higher education which presently educates more undergraduates than the University of California and the state colleges combined This subcommittee is acutely aware that numbers of state employees is not a complete measure of the magnitude of the job done by a state agency, but we cite the information in the list below because we believe it is useful to illustrate our point.

PERSONS RESPONSIBLE FOR JUNIOR COLLEGE ADMINISTRATION IN DEPARTMENT OF EDUCATION

Bureau of Junior College General Education

Dr. John N Given, Acting Chief
Dr. Carl G Winter
Mr Kenneth A Wood

Bureau of Junior College Administration and Finance

Dr Gerald D Cresci, Acting Chief
Dr Edward H Lehman
Mr James J Gorman
Miss Doris A Welch

Bureau of Junior College Vocational Technical Education

Mr. Leland P. Baldwin, Acting Chief
Mr. Robert A Harvey
Mrs Celeste Mercer
Mrs Velma Johnston
Mr John P Piper
Mr J. Winston Silva

Thus, it appears that 13 persons out of a state agency employing more than 2,000 state workers are involved in junior college leadership and guidance We can hardly agree that such an organizational structure constitutes a bold, new approach to junior college problems by an agency of state government

Support for the Creation of a Junior College Board

In our study of this issue numerous and varied organizations, and experts have indicated to the subcommittee their support for the crea-

tion of a junior college board within state government The office of the Legislative Analyst strongly supported such a development when its representative said

> "For the most part the state has played a passive role in the development of the junior colleges, leaving the initiative to local districts This is particularly true of the State Board of Education and the State Department of Education In recent years the board has been able to give very little attention to junior college matters because of the press of its responsibilities with respect to elementary and secondary levels Lacking direction from the board, the department has been unable on its own to provide real leadership . . .
>
> "Thus there is no effective official body at the state level which has a daily working relationship with the junior colleges and which can effectively guide the development of strong instructional standards, coordinated educational planning and efficient and effective conduct of the junior college programs with the state and local tax funds which it makes available And there is no official body to effectively represent the junior college before the Legislature and in their relations with other state agencies "

Having thus outlined clearly the weaknesses of the present system, the analyst proceeded to outline the three major proposals which have been advanced to assist the junior colleges. (1) the creation of a new "Division of Junior Colleges" within the Department of Education, (2) such a new division, coupled with a special advisory committee on junior college affairs, composed of members of various junior college organizations; and (3) the creation of a state level junior college board The analyst commented

> "In our opinion, the first two (suggestions) are intended largely to preserve the status quo, for as long as the present State Board of Education remains as the governing body . there will be no real opportunity for leadership at the state level .
>
> "In our opinion the opponents of proposals to create a separate board fail to see that the junior colleges have become more than just local institutions intended to serve only the immediate community in which they are located
>
> "The inability of the State Board of Education to deal as effectively with junior college matters as with elementary and secondary school affairs has been evident for some time *If there is to be greater state leadership on a continuing basis, then a change is inevitable* (Emphasis ours) .
>
> "We therefore recommend the establishment of a state board for junior colleges . ."

Support for this proposal was also received from one of the major faculty organizations representing the junior colleges The representative of this organization supported the creation of a state board on the basis of the inability of the State Board of Education to devote much time to junior college affairs This witness pointed out that

> " the State Department of Education has only a small staff devoting itself to junior college education It appears that only routine junior college business consumes all of the available time

of this inadequate staff which has resulted in no time for creative thinking and planning to enable junior colleges throughout the state to do better what they are doing well today."

The witness also noted the situation which members of this subcommittee have often—too often—been confronted with when junior college legislation is pending. The lack of a clear, unified voice representing these institutions has, in our view, been a major roadblock to the enactment of much needed junior college legislation The conflicting claims and counterclaims, the disputed figures and effects of certain bills, emanating from many of the individual 75 junior colleges, combine to lead many legislators to seriously doubt whether *any* legislation affecting junior colleges should be approved Obviously, a state level junior college board, speaking with one voice for, and representative of, these varied institutions could make a clearer and more effective impact on and presentation before the Legislature.

Finally, the study done for the Coordinating Council by Dr. Leland L Medsker and Dr George W Clark of the Center for Research and Development in Higher Education, which was completed after this subcommittee's public hearings on this subject, bear close scrutiny. The study, which was received by the Coordinating Council for Higher Education in the fall of 1966, concluded.

> "In the final analysis, then there appear to be indications that a separate board would be advisable from the standpoint of what it could do for junior colleges Perhaps its most important mission would be to take the lead in planning for these institutions in a state where the magnitude of operations is as great as it is in California "

More important to this subcommittee than the conclusions reached in this study, however, are the figures obtained by the researchers who polled various segments of California which are concerned with the junior colleges, in an effort to determine the acceptability of a state junior college board Generally, these show a wide acceptance from all groups for the idea of such a board, provided that it retains no more powers than those which presently reside in the State Board of Education.

We have reproduced in Appendix C to this report several of the tables from the Medsker report in which the responses of the junior college community were tabulated Suffice it to say at this point that

—Nearly half (45 9 percent) of the 1,285 junior college staff members in California believe that a separate state board for junior colleges should be established Only 10 percent indicated that the status quo should remain

—51 of the 70 junior college chief administrative officers in the state favored a separate junior college board

—17 percent of the junior college governing board members, in 1965 prior to the reorganization of the Department of Education into three junior college bureaus, believed that a separate board at the state level should be established, and an additional 22 percent favored such a board if it were merely advisory to the State Board of Education Since that time the junior college section of the California School Boards Association has formally proposed the creation of a separate board

—Most importantly, the large majority of legislators of both political parties interviewed by the researchers favored a state junior college board

In reaction to the Medsker report, the Coordinating Council, which commissioned it in September 1966, adopted a resolution endorsing the concept of a separate board for junior colleges, although not suggesting a specific makeup for the body.

On the basis of these expressions of support for this important new proposal, and the support shown for it by the research cited, this subcommittee has concluded that it is feasible and desirable for a state board for junior colleges to be established ~~by legislation~~ in 1967, and we strongly urge the Legislature to take such action

The Subcommittee Proposal

Our proposal may be simply summarized as representing what we feel to be the best aspects of the legislation proposed in the Medsker study, together with suggestions offered by the California School Boards Association and other individuals and organizations Initially, we believe that the ~~authorizing statute~~ should attempt to spell out, generally, the duties of a state board for junior colleges This cannot be accomplished in detail until a comprehensive legal description of the present duties and responsibilities of the State Board of Education which pertain to junior colleges is obtained. The subcommittee, in response to a request from the Coordinating Council, has requested such a legal digest from the Legislative Counsel Bureau

A. Centralized statewide research concerning junior college problems and programs
B Responsibility for statewide junior college planning, including formation and enlargement of junior college districts and organization.
C. Responsibility for anlayzing the effectiveness of state operational and capital financing of local junior college operations, and for recommending changes therein
D Collection of statistical data relating to junior colleges.
E Planning for, and use of, federal funds for junior colleges, with particular emphasis toward the application of such funds in coordination with state and local moneys, so that funds are selectively applied to the areas of greatest need
F Certification of junior colleges and junior college instructional personnel
G Representation of junior colleges and junior college interests on the Coordinating Council, before the Governor and before the Legislature.

Such a generalized listing of major responsibilities, together with language granting to such a board all those duties pertaining to junior colleges presently exercised by the State Board of Education, should provide for a strong state agency but still protect the proper interests of local junior college boards to develop their schools in a way which will meet the needs of the particular communities which they serve In this sense, there is no legitimate issue of "local control" involved in our recommendation We merely recommend the transfer and centraliza-

tion of existing duties to another, stronger and better staffed state agency, more in sympathy with junior college needs

We suggest that such a board be entitled "The Board of Governors for the California Junior Colleges," thus rejecting the suggestion that we substitute the term "community" for "junior" We have concluded that these institutions are clearly still colleges which are in a real sense "junior" to the University of California and the state colleges, in that they offer a two-year program in contrast to a four-year, degree-granting program. At the same time, the junior colleges can no longer be looked upon as merely "community" colleges, since many of them are now regional and serve much larger areas Truly, the junior colleges are of statewide—not communitywide—concern, and fulfill a vital state role They should remain "junior" colleges

With regard to the composition of such a board, we propose the creation of a 10-member body, with all members to be appointed by the Governor for 10-year terms and confirmed by a two-thirds vote of the Senate Under this plan, one board term would expire every year With the long, staggered terms which we propose, it would be virtually impossible for any one Governor to appoint all the members of the board

We recommend that such a board become operative no later than June 30, 1968, in order to provide for an orderly transition of powers and duties from the State Board of Education, but we suggest that the members might well be selected in advance of this date so that they may become acquainted with their duties. Board of Governors members should serve without pay, but the legislation should provide that they receive necessary and actual per diem and travel allowances, in a manner similar to the present State Board of Education In order to insure that persons knowledgeable in junior college affairs will be well represented on the new board, our recommendation includes a provision that at least one-half (5) of the board members be required to have served in the past on local junior college governing boards in California, although none of them should be members at the time they assume a seat on the new state board. Such a proposal is consistent with a similar proposal which the full Assembly Committee on Education has made with respect to the composition of the State Board of Education, and should further insure that the board of governors will not encroach upon local autonomy of junior college district boards.

Our recommendations include provisions relative to the powers of the board of governors to appoint an administrative officer—a Chancellor for the Junior Colleges—to serve at the pleasure of the board for a four-year term The chancellor should have the authority to hire—exempt from civil service requirements—his top three assistants, while the remainder of the board's staff should be composed of civil service appointments To make sure that an individual of the highest quality is selected by the board of governors as chancellor, it is essential that the pay of that official be set so as to attract the best of the few junior college experts that can be found in the nation Hence, the salary of this official should be at least equivalent to that of the Director of the Coordinating Council for Higher Education, which would still place his compensation considerably below the salaries of the administrative officers of the junior college's two copartners in higher education the university and the state colleges.

Lastly, our legislation calls for the junior colleges to be represented on the Coordinating Council for Higher Education by three persons, as follows:

A. One member of the board of governors, chosen annually by that board.
B The chancellor
C One California junior college president, chosen annually by a statewide association of junior college officials and board members and ratified by the board governors.

Such representation should give strong voice to the new board and its chief officer, while preserving the seat presently held on the Coordinating Council by the chief state junior college association In addition, the voice of the junior colleges will be more uniformly heard in the state since the same spokesmen for these institutions on their state board will also serve on the Coordinating Council.

In our view, the case has been clearly made for the establishment of a State Board for Junior Colleges, which will fulfill the goal of elevation of these vital schools as coequals in the partnership of higher education with the state-operated institutions which was foreseen in the master plan Enactment of a proposal such as we suggest, the broad concepts of which have already been almost universally accepted by the junior college community, can become one of the leading achievements of the 1967 Legislature

THE FUNCTIONS OF TEACHING AND RESEARCH IN HIGHER EDUCATION

FINDINGS

The Committee Finds That:

1. Increasing proportions of professional time are devoted to research as contrasted with classroom instruction in institutions of higher education.

2. The academic marketplace in California and the nation makes research activities more lucrative than teaching

3. Professors in the sciences and social sciences are able to obtain additional income for summer projects in research.

4. Most faculty members wish to devote even more time to research and less time to teaching and administration than is presently the case.

5. There is little if any distinction made between first rate research and second rate research.

6. The term "research" varies greatly in meaning and interpretation. "Instructional research," largely connected with scientific laboratory work, seems to be an important teaching aid when it involves students directly. This is in sharp contrast to research in professional academic achievement which does not involve the student, but which often results in impractical, pedantic treatises, which, though published, usually perish.

7. There is little if any distinction made between first and second rate teaching.

8 Undergraduate class sizes in our colleges and universities have increased in order to maintain or lower faculty teaching loads within restricted budgets

9 Personal contact between undergraduate and teacher has seriously deteriorated

10. Prestige in teaching is frequently measured by the grade level of the courses taught.

11 The proportion of the age group enrolled in graduate instruction is approximately equal to the proportion of the age group enrolled as undergraduates a generation ago

12 The growth in undergraduate enrollment has been considerably greater than the growth in resources allocated to this function.

RECOMMENDATIONS

The Committee Recommends That.

1. The Legislature should enact a concurrent resolution asking the regents and the trustees to create financial incentives to reward superior teaching Such incentives should be awarded on a permanent (although revocable) basis, and they should not be less than $1,000 per year apiece.

2. The regents, by concurrent resolution should be requested, and the trustees by statute should be directed, to require a full 12-hour teaching load for one year in every seven for any professor [1]

3. The university and the state colleges should be asked to create permanent committees for the assessment of research in terms of quality and utility Such committees should be directed to report to the Coordinating Council for Higher Education at appropriate intervals

4 The university should adopt rules for granting a doctor of arts degree (all Ph D. requirements except the dissertation) and establish employment rules guaranteeing equal status of the D A with the Ph D [2]

5 Employment and retention policies should be changed to permit the permanent employment of above superior teachers, regardless of their publications or degrees

6. The Coordinating Council should be directed to develop a cooperative program for the exchange of teachers on an annual or biennial basis among the state colleges, the junior colleges, and the university campuses Such exchanges should not necessarily be limited to public institutions, and for this purpose all credential laws for junior colleges should be waived.

7. For outstanding teachers in the state there should be established, by statute and special appropriation, a number of special and permanent stipends. These awards should be known as "Governor's Professorships" and should move with the individual so long as he remains a teacher in the state The awards should be made on institutional recommendation of the regents, trustees and junior college boards.

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[1] Assemblyman Flournoy states "I believe a 12-hour teaching load is excessive, and greater than normal practice at major universities"

[2] Relative to this recommendation, Assemblyman Flournoy dissents and comments "I strongly disagree In many institutions the dissertation is the only distinction between the M A and the Ph D I see no reason why the proposed D A and the Ph D should be accorded equal status, since one would require, in my judgment, *at least* one year less graduate effort than the other "

THE FUNCTIONS OF TEACHING AND RESEARCH IN HIGHER EDUCATION

THE QUALITY OF TEACHING IS STRAINED

On August 18 of 1966, the Assembly Education Subcommittee on Higher Education met in San Francisco to consider the issue of instructional quality in our public institutions of higher education More precisely, the issue involved the increasing tendency of research activities to detract from the traditional emphasis on classroom instruction at the state colleges and university campuses

The committee has concluded that the problems resulting from a basic change in American values (toward higher education) are not subject to simplified explanation or cure Specifically, we would reject an oversimplification—reminiscent of certain conspiracy theories—that the reduction of attention paid to undergraduates is some kind of malevolent plot by authorities We would agree that within limits, college and university authorities have attempted to provide programs aimed at improving the classroom instructional program

In the past generation or so, it has become the fashion that a high school graduate will attend college That many will never be graduated is attested to by recent statistics showing only about a quarter of the age group achieving this goal Even this figure, however, is far, far greater than that which was obtained during the last relatively peaceful period in our history, the middle twenties.

The issue of teaching and research is further complicated by the fact that unlike elementary and secondary education, those involved in higher education—both students and faculty—operate in an environment which has little relation to the niceties of state boundary lines Our institutions of higher learning operate in a truly national environment which California, itself, can influence to some extent, but not control.

In somewhat the same manner as corporate and government officers move from state to state as an integral part of a career, the university professor is likewise career-oriented The interstate character of faculty positions is in no way different than these other leading sectors of the economy, and no reminiscence of bygone eras will resurrect the institution-oriented professor of the past

Above and beyond personnel matters, there is a complex of fundamental political questions which affect the quality of instruction in higher education. On the one hand, there is constant demand for significant expansion of educational opportunity in higher education. But at the same time, there is an equal demand for limiting governmental expenditures

These two widely pervasive forces are totally antithetical, yet both major political parties have reflected these "grass roots" desires to one extent or another

We note with considerable trepidation the emergence of post doctoral study as an incipient institution by itself And we would question whether the necessity for additional study is imperative, or whether this novelty is, in fact, a necessary method for drawing distinctions

among the holders of doctorates Indeed, whether postdoctoral study is not a supergraduate school necessitated by the decline and fall of the master's degree and perhaps a slow erosion of the doctorate should be closely examined by higher educators and legislators

In testimony given at our hearing, it was repeatedly said by officials of the University of California that research activity is part and parcel of the teaching process We note, however, that almost all witnesses we heard were representatives of the natural sciences or mathematics, and that the committee was not presented with the views of humanists or social scientists

As a direct parallel, we note that most research funds are devoted to the natural sciences, with some being reserved for social science Virtually nothing is available for research in the humanities.

It is true that substantial amounts of money are necessary to purchase the equipment needed in scientific research, but it does not follow extra stipends are equally necessary

It is documented in the 1962 research of Harold Orlans [1] that paid summer positions are widely available to natural and social scientists for research activities, and it is likewise stated that virtually nothing is available to the humanities The committee would point out that the effect of this system is to drive teachers into their own research, simply in order to qualify for future summer grants. Thus, while the summer project does not directly detract from teaching, it surely does so indirectly.

John Fischer, writing in *Harper's* (February 1965), put it this way:

> ". . . our whole system is now rigged against good teaching No faculty member (with rare exceptions) is rewarded if he teaches well, or punished if he doesn't On the contrary, all the incentives are arranged to divert him away from teaching, no matter how strong a vocation he may have for it, and to penalize him if he wastes too much time on mere students "

Still, we in California cannot reverse a national practice, even if we wanted to Our career-minded professors would simply leave the state

Conversely, there are no substantial programs for rewarding work in the classroom Occasionally, we hear of citations for teaching excellence, but few of these carry continuing monetary rewards The quality of teaching is called an immeasurable intangible, and the problem is dismissed as insoluble.

In this context, the committee would point out that little evaluation of research is attempted either The staff has made available to the committee a study by the Oregon School Study Council in 1960.[2] Although the particular subject is an analysis of past research on class size, this is not material to the present subject What is material, and somewhat amazing is that the Oregon study found nearly three-fourths of the past research in this area to be scientifically invalid—which is to say that the expenditure of time and money in this area has resulted in little more than an addition to bibliographies Hence, we would question whether research activity should be taken at face value for promotion purposes when no system for evaluating the research exists. It

[1] Orlans, Harold, The Effects of Federal Programs on Higher Education, Brookings Institution, Washington, D C, 1962, 361 pages

would seem to us, as laymen, that one "Origin of Species," or "Principia Mathematica" is worth 10,000 articles of lesser light in scholarly journals.

However, the committee believes that there are sound substantial reasons why faculty members express their preference for more research time We believe it is a primary method by which some faculty members can avoid the paradox of public demands for more educational opportunity without equivalent expansion of educational expenditures.

Since the middle 1920's the enrollment in California public institutions of higher learning has grown very rapidly. Whereas, the University of California enrolled approximatly 15,000 students 40 years ago, the University has now approached the 90,000 mark. This is twice the rate of growth in the general population at least The state college system has similarly grown from a group of teachers' colleges enrolling 5,000 to 8,000 into a total system of over 170,000 students At the junior college level, the fantastic growth from 8,000 to 320,000 has been possible only because of lower per-student costs, both in operating costs and in out-of-pocket costs to the students personally.

Part of the increased cost of education has been met by higher state and local expenditures of tax revenues Nevertheless, a substantial part of the added costs has been subsidized by relatively lower rewards for teachers in the colleges and universities On a national scale, total expenditures (including research) increased from about one-half of 1 percent of national income in 1929–30 to 1½ percent in 1963–64. This is a fair measure since it takes account of depreciated dollar values over the span of time.

It is easily seen that a mere tripling of expenditures cannot maintain the past standards of faculty remuneration, and in this situation, it seems reasonable to conclude that individual faculty members have turned to publication and research stipends in order to regain their former relative standard of living.

To quote from Harold Orlans:

> "It is our thesis that federal research programs, acting in concert with other educational forces, have reduced the time that senior university faculty devote to undergraduates and informal faculty contacts with students, and, in general, have attenuated the personal aspects of undergraduate education at the great universities."

In a more polemical article, a past leader of the Free Speech Movement has written in *Harper's* [3] that:

> "Given these economic facts of life, each faculty member must choose to be primarily a teacher or primarily a researcher; there is not enough time to do both jobs adequately "

One can judge the trends in financing higher education by reference to increases for general and organized research functions. The 1966 Statistical Abstract shows an increase in the gross national product from 1930 to 1966 of some $469 billion, approximately sixfold at constant prices.

Higher education expenditures increased thirteenfold, but within this broad category, organized research increased 78 times while other

[3] October 1966

expenditures increased only elevenfold The bulk of the growth in organized research is due to federal subvention, although there is increasing pressure for additional support from the state budget

The distinction between research and teaching, however, is only one method of creating prestige within a system Orlans reports that the grade level of teaching is equally valued by those within the profession In ascending order, the upper division teacher outranks lower division Graduate professors have status over undergraduate professors, and we suppose that the prospect of having professors for postdoctoral students will add to the ladder.

This is unfortunately, the same attitude that high school teachers take, vis-à-vis elementary teachers As a counter, the Legislature in recent years has passed several laws which, incidentally, create additional status for the elementary teachers That is, the Legislature, through measures designed to reduce class size in the primary grades and provide specialist reading teachers in these grades, has, in effect, ignored opposite trends within the school system and provided both additional prestige and support for the elementary teacher

However, the governance of the state colleges and university campuses is through the State Boards of Regents and Trustees, and it is in the nature of higher education that the Legislature should not interfere directly in such matters There is no compulsory attendance law for college

Although it does not seem appropriate now for the Legislature to enter into administrative problems in higher education, it cannot be ignored that the ultimate appeal of the people is to the Legislature, within the limits of the Constitution

In 1960, through the Donahoe Act, more popularly known as the Master Plan for Higher Education, the Legislature established a guideline for entrance to the university and state colleges Together, these institutions have the responsibility for educating the highest one-third of the high school graduating class.

We are presently graduating 200,000 high school seniors annually. In the most recent decade, as shown by Sanders and Palmer, initial enrollment in all higher education has grown from 42 percent of the age group to 54 percent Their report also shows a current graduation rate (bachelor's degrees) of approximately 15 percent of the group

In this situation, some of the current problems relating to high class sizes, less personal contact between student and teacher, and others, may be accidental functions of a campus crowded with students who have no real ambition to complete the work for a degree In the meantime, they add to the impersonality of the campus as long as they stay.

Again, it may be the fault of the individual campus authorities that some unqualified students are admitted, even though they possess the prima facie certification of a high school diploma with high grades

(For a discussion of the high school diploma, see the final report of the Subcommittee on School Curriculum and Pupil Achievement)

We note that throughout our hearing, representatives of the University of California invariably referred to their colleagues as "Dr ——" This may be a small point, but it seems to reflect the changing attitude within academic circles. It would appear that the traditional title of

"Professor ____," which implies a teaching function, is fast disappearing.

Turning to the past actions of administrators in higher education, the committee was unable to discern any substantial programs aimed at creating prestige for the teaching function The use of teaching assistants in lower division courses has been justified on a cost accounting basis, apparently without much consideration being given to the indirect effect the practice has on full-time faculty assigned to lower division courses

We note with amazement the extent to which the use of teaching assistants can go, as seen by Orlans (page 71):

> "Many graduate students are simply (and unwillingly) forced to serve As the chairman of one of the nation's great chemistry departments put it 'We've come to the point where we're just brutal about it—we tell the students you've *got* to teach' The obligation is usually for one term, but sometimes one year "

Another significant action of administration is the preparation of annual budgets for submission to the Legislature It has been the policy of the Legislature in past years not to question the purposes for which funds are requested However, the university and the state colleges should be aware that the Legislature is not indifferent to these expenditures and their purposes, merely because we choose to respect the independence of the institutions

As an illustration, we find that the Legislature budgeted some $9 7 million for the university in the 1922–23 biennium On an annual basis, and revised for 1957–59 price levels, this amounts to an annual appropriation of about $8 million for an enrollment of 14,000 students

In comparison, the Legislative Analyst reported state support for teaching at the University during 1964–65 at a $45 3 million level—adjusted to about $41 million on the same price index. This amount served some 80,000 students

Although there is no vast difference in these comparisons on the surface, there appears to be evidence that expenditures on the teaching function have remained stable, while during the same interval, nonfederal expenditures on research alone have risen substantially

Hence there is every reason for the conclusion that new moneys will be asked for research activities, and the wise professor will prepare himself accordingly

The committee received a communication from Dr. Frank Kidner of the University of California, subsequent to our hearing in San Francisco Dr Kidner supplied us with various statistics shown in Appendix D

We would point out that in the past four years, the university enrollment has increased some 36 3 percent, while the teaching staff increased 32 7 percent and the research staff increased 38 0 percent

The differences here may not seem threatening, but we would point out that over a period of years, small percentages grow into large numbers In the public school system, for instance, a slow erosion of the administrator-teacher ratio has accumulated during the past generation to the point where we now have one certificated person outside the classroom for every seven in it.

All of our observations heretofore seem to lead to but one general conclusion. The total system of higher education has taken on a strikingly different character than it had a generation ago.

A college education is no longer the private preserve of a social stratum or an intellectual elite The base is much broader and has been supported in the name of greater equality of educational opportunity Consequently, the small minority of highly gifted students cannot expect the intimate personal associations once common

Furthermore, the 1965 report of Sanders and Palmer [4] for the State Scholarship Commission advocates even broader participation in higher education through increased scholarships and subsistence payments

> "It is unmistakable that we have reached a point in the economic and social development of California where the interest of the public requires that secondary and higher education become increasingly available to all sectors of society "

However, we do not think this necessarily implies an abject surrender to the "factory system." We believe that the faculty, trustees, regents, and administrators in higher education can, and should, take dramatic steps to preserve as much of the student-teacher relationship and the respect for classroom teaching as is possible

Faculty members should realize that as educational opportunity is broadened, their own former elite status is diluted The flight from teaching to research is no answer. Rather, the committee is impressed by Professor Tussman's [5] approach to individualizing instruction at University of California, Berkeley

We think the administrators in higher education should give more than lip service to reform in higher education We think their concern, if it is genuine, should be reflected in proposed budgets which clearly underwrite an emphasis in this direction—even if this means a proportionate reduction in requests for additional research monies.

We have suggested several proposals which we believe would add to the instructional climate without denying the legitimate role of research activity

First, we urge the regents and the trustees to create financial incentives for outstanding teaching These should not be limited to one year awards, but should provide the sort of permanent increase such that research activity is relatively less rewarding.

Secondly, we would ask for an entire reexamination of promotion policies We cannot believe that specific and constant research activity is absolutely a prerequisite of effective teaching We think Plato would agree, although perhaps not Aristotle

We think that effectiveness in undergraduate, and even graduate instruction, is reason enough for permanent status, and that departmental personnel policies should make this crystal clear. We do not believe that a list of minor publications is evidence of much more than tenacity.

In this regard, we would urge the faculty and administration to undertake a general review of research activity in an effort to assess quality and to eliminate unnecessary support for academic trivia.

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[4] Sanders, J Edward, and Palmer, Hans C, The Financial Barrier to Higher Education in California, Pomona College, Claremont, 1965, 295 pages

[5] Tussman, Joseph, Select Committee on Education, "Education at Berkeley," University of California, Berkeley, 1966, 228 pages.

We believe the time has arrived for California institutions to ease the rigidity of Ph.D. programs Since the doctoral dissertation is essentially a practical exercise in research, regardless of topical importance, we think it places an undue emphasis on the mechanics of writing for many prospective teachers. Hence, we believe another degree—perhaps called doctor of arts—would accomplish the end of providing college teachers soundly educated in their field.

We propose two new programs to emphasize the point that the Legislature strongly supports first rate teaching in all segments of higher education Past testimony of university officials has been to the effect that junior college students who were eligible for entrance to the university as freshmen, but chose to enroll in junior college instead, still do as well or better during their upper division work at the university.

Further, to emphasize that our statewide system of higher education is a true system and not an ad hoc collection of sometimes cooperative, sometimes competitive units, we suggest that the Coordinating Council for Higher Education be directed to draw up a plan for an exchange teacher program among all three segments

The institution of visiting professorships is well established in higher education, and we see no reason why it cannot or should not be applied to an intrastate system.

We believe such a program would improve the image of junior colleges as they commence to assume the role assigned to them by the master plan We think that both the state colleges and the university could profit from some of the fine teachers now working in junior colleges

We think that whether the individual exchange person is basically a classroom teacher or an experienced researcher, he would benefit himself from a year or two of intimate contact with an institution of different emphasis

Additionally, we believe that the Legislature, itself, should indicate its respect for the college teaching function, particularly as it is less rewarding financially than sponsored research. We have proposed that within their respective institutions, the regents, the Trustees, and local boards of trustees establish additional incentives

We would propose that the state also initiate a program of Governor's Professors, similar to the English tradition of regius professors in their universities. We think that California can afford a modest investment of perhaps $50,000 in order to attest to the importance we give to classroom instruction.

For all the nostalgia of a day when college professors were essentially classroom instructors, we cannot turn back the clock Basic and applied research are essential features in a modern economy, and we cannot ignore the fact.

Thus, it becomes a matter of creating greater public and professional respect for teaching, rather then denigration of valid research We do think there has been an excessive drive for publication, anything, anywhere, any time, and we urge faculty associations to reassess this modern phenomenon.

In the meantime, it behooves us to take practical and visible steps to assure undergraduates that their interests are equally important in the total system of higher education.

SEPARATE VIEWS OF ASSEMBLYMAN LEROY F. GREENE RELATIVE TO THE TUITION ISSUE

I have signed the report because I agree that the tuition-free concept of public higher education in California has many facets that require close study by the Joint Committee on Higher Education. I dissent from other findings, recommendations and statements in the tuition section of the report The issue of imposing a tuition charge is indeed a major one, as the report states This is an issue which should be closely looked at by the joint committee. Since it will be so examined this subcommittee should not cloud the subject with philosophical pronouncements.

I wish to make it clear that I cannot support the imposition of tuition at state university and college campuses until the joint legislative study now in progress is concluded

I dissent from recommendation No 2 of the subcommittee report which proposes that prior to any future increases in incidental and material and services fees at the state's institutions of higher education that such proposals be submitted to both legislative education committees Since the proposal would not have any practical effect on the eventual increase in such fees, I see no need for its enactment With respect to the University of California, I also have grave doubts as to the constitutionality of such a legislative requirement

The text of the report contains many statements relative to the benefits and burdens of higher education to the students and the state, so-called "foregone earnings" of college students, and the supposed effects of a tuition charge upon, to use the subcommittee's phraseology "the mix of occupational skills " This latter point is particularly troubling to me since I strongly suspect that the "mix of occupational skills" in the United States or even in California for that matter will be largely unaffected no matter what we do relative to tuition. There are thousands of public institutions of higher education in this country. None of them appear to act in concert on matters of student fees or tuition I doubt very much whether the imposition of tuition by any single state system alone will affect the types of job skills produced.

STATEMENT OF
ASSEMBLYMAN JOHN L. E. COLLIER

I strongly disagree with the committee's conclusions concerning tuition. And, too, I have reservations about other conclusions reached in the report.

APPENDICES

APPENDIX A

CALIFORNIA LEGISLATURE—1965 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 2830

Introduced by Assemblyman Soto

April 21, 1965

REFERRED TO COMMITTEE ON EDUCATION

An act to add Chapter 4 5 (commencing with Section 31261) to Division 22 of the Education Code, relating to scholarships, and making an appropriation therefor

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

SECTION 1. Chapter 4 5 (commencing with Section 31261) is added to Division 22 of the Education Code, to read

CHAPTER 4 5 COLLEGE OPPORTUNITY GRANT SCHOLARSHIP PROGRAM

31261. The Legislature finds and declares that because of financial and home and community environmental conditions numerous high school graduates with the potential for success in college are unable to pursue a higher education or take advantage of present scholarship programs It further recognizes that to effectively combat the forces which prevent these students from pursuing a higher education different programs

LEGISLATIVE COUNSEL'S DIGEST

AB 2830, as introduced, Soto (Ed) State scholarship grants

Adds Ch 4 5 (commencing with Sec 31261), Div 22, Ed C

Creates a State Competitive Scholarship Program to be known as "College Opportunity Grant Scholarship Program," a pilot demonstration program primarily to provide scholarships to selected needy students who are not able to avail themselves of present state competitive scholarships by the use of conventional selection methods and whose potential for success has been attested to by competent and recognized authorities

Provides for 250 scholarships for each of the fiscal years, 1966–67, 1967–68, 1968–69, and 1969–70

Appropriates $60,000 for purposes of administration

and methods must be tried. There is hereby created a state competitive scholarship program to be known as the "College Opportunity Grant Scholarship Program." It is the purpose of this program to provide financial assistance for undergraduate study to selected students who are not able to avail themselves of present state competitive scholarships by the use of conventional selection methods, pursuant to Chapter 3 (commencing with Section 31201) of this division, but whose potential for success has been attested to by competent and recognized authorities.

31262. The College Opportunity Grant Scholarship Program shall be a pilot demonstration program to assist students who are disadvantaged, by utilizing experimental methods and subjective judgments as well as conventional selection methods.

31263. The College Opportunity Grant Scholarship Program shall be administered by the State Scholarship Commission.

31264. There shall be available 250 scholarships in each of the fiscal years 1966–67, 1967–68, 1968–69, and 1969–70, and the recipients of such scholarships shall be eligible for renewal of their awards until they have completed an A.B degree in conformance with the terms prescribed by the State Scholarship Commission, which terms shall not be in conflict with this chapter.

31265. To be eligible for a scholarship under this chapter, a student shall meet all of the following:

(a) Be a student who comes within the requisites specified in Section 31261

(b) Be in need of financial assistance to attend college under present scholarship requirements as well as in need of assistance for room, board and books

(c) Have demonstrated good citizenship and character.

(d) Have graduated from high school within one year of the date of his application.

(e) Be a resident of the State of California.

(f) Be a citizen of the United States or have been admitted to permanent residence.

(g) Enroll in a California college accredited by the Western Association of Schools and Colleges as a full-time undergraduate student.

31266. Scholarships awarded under this chapter shall be in amounts not in excess of the cost of tuition, room and board, and books at the college the student will attend If the student receives a federal scholarship under any act of Congress the amount of the scholarship awarded under this chapter shall be decreased by the amount of the federal scholarship awarded The California State Scholarship Commission shall contract with a college or colleges in California which are accredited by the Western Association of Schools and Colleges for an intensive eight-week college preparatory course prior to the initial enrollment of each student who receives a scholarship Each student shall as a condition to utilizing his scholarship attend and successfully complete such college pre-

paratory course in conformance with the terms prescribed by the State Scholarship Commission which terms shall not be in conflict with this chapter.

31267. The State Scholarship Commission shall submit to the Legislature at its 1969 Regular Session, and at each regular session thereafter until the program under this chapter is completed, an evaluation of the operation of the College Opportunity Grant Scholarship Program The commission shall not award any additional scholarships for any fiscal years other than those specified in Section 31264 unless there is specific authorization by the Legislature to continue the awarding of college opportunity grant scholarships pursuant to this chapter

31268 The commission is hereby authorized to accept and receive any federal funds made available under any act of Congress for purposes of this chapter, and to participate in any federal program under such act of Congress in order to secure such funds. The commission shall assist any person eligible for a scholarship under this chapter to secure or obtain any federal scholarship which a person might be eligible to receive for purposes of this chapter

SEC 2 There is hereby appropriated from the General Fund in the State Treasury to the State Scholarship Commission the sum of sixty thousand dollars ($60,000) for the administration of Chapter 4 5 (commencing with Section 31261) of Division 22 of the Education Code.

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APPENDIX B

TABLE 1

THOSE WHO FALL BELOW REQUIRED FAMILY INCOME UNDER ALTERNATIVE TUITION LEVELS *

A. Parent Supported Students †

University of California

Tuition level	Resident students			Commuter students		
	Family contribution	Required family income‡	Percent unable to pay college costs	Family contribution	Required family income‡	Percent unable to pay college costs
$100	$1,400	$10,000	29	$900	$8,000	36
200	1,500	10,500	32	1,000	8,500	40
300	1,600	11,000	35	1,100	9,000	44
400	1,700	11,250	37	1,200	9,250	46
500	1,800	11,500	38	1,300	9,750	50
600	1,900	12,000	41	1,400	10,000	52

California State Colleges

Tuition level	Resident students			Commuter students		
$100	$1,250	$9,500	37	$800	$7,500	32
200	1,350	10,000	40	900	8,000	37
300	1,450	10,500	44	1,000	8,500	41
400	1,550	10,750	46	1,100	9,000	46
500	1,650	11,000	49	1,200	9,250	48
600	1,750	11,500	52	1,300	9,750	52

* Assuming $1,700 residence cost and $1,200 commuter cost at University of California, and $1,550 residence cost and $1,100 commuter cost at California State Colleges
All estimates are for undergraduates
† Assuming family contributions toward college cost according to college scholarship service standards for a two-child family and a $400 contribution from the student from summer and term-time earnings
‡ Net income before taxes Families below this level have some financial need

B. Self-Supporting Students

University of California

Tuition level	Resident students		Commuter students	
	Required contribution and income	Percent unable to pay college costs	Required contribution and income	Percent unable to pay college costs
$100	$1,800	10 0	$1,300	2.3
200	1,900	10 5	1,400	2 4
300	2,000	11 0	1,500	3 0
400	2,100	12 0	1,600	3 2
500	2,200	13 0	1,700	3 4
600	2,300	14 0	1,800	3 6

California State Colleges

Tuition level	Resident students		Commuter students	
$100	$1,650	7 5	$1,200	5
200	1,750	8 0	1,300	5
300	1,850	8 5	1,400	5
400	1,950	9 0	1,500	5
500	2,000	9 0	1,600	5
600	2,100	9 5	1,700	1 0

Source "Study of Student Aid in California," Staff of the State Scholarship Commission

APPENDIX C

TABLE I

LOCATION, GROUPING OF SERVICES AT STATE LEVEL—JUNIOR COLLEGE STAFF VIEWS

(Staff N=1285 from 12 Junior Colleges)

Which of the following arrangements do you favor for California junior colleges?	Number	Percent
1 Continue under the State Board of Education with a reorganization of the Department of Education which would bring together all department services for junior colleges within one administrative agency	132	10 2
2 Continue under the State Board of Education with a special advisory council for junior colleges and a reorganization of the Department of Education which would bring together all department services for junior colleges within one administrative agency	330	25 8
3 Establish a new separate State Board for Junior Colleges with an appropriate professional and clerical staff	589	45 9
4 Other _____	38	2 9
5 No opinion and blank	196	15 2
Totals	1,285	100 0

Source Medsker, Leland, L, and Clark, Geo W, *State-Level Governance of California Junior Colleges*, Coordinating Council for Higher Education, August 1966

TABLE II

STRUCTURE, COMPOSITION OF STATE AGENCY—CHIEF ADMINISTRATORS' VIEWS

(N=70)

	Number	Percent
STRUCTURE		
Separate agency	51	72 9
Advisory agency	14	20 0
Staff unit (subagency)	5	7 1
	70	100 0
COMPOSITION of a separate board		
a. All lay, no local board members	3	4 2
All lay, some local board members	36	51.6
Combination of lay and professional	26	37.1
All lay, all local board (write in)	5	7.1
	70	100 0
b Representation on a separate board from other segments and State Department of Education		
Yes	18	25.7
No	42	60 0
No opinion	6	8.6
Blank	4	5.7
	70	100 0

TABLE III

ATTITUDES OF TRUSTEES TOWARD STATEWIDE COORDINATION *

Attitudes reported	Percentages favoring
Continue under the State Board of Education and Department of Education as at present	18.15
Continue under the State Board of Education with a reorganization of the Department of Education which would bring together all department services for junior colleges within one administrative agency	35 44
Continue under the State Board of Education with a special advisory board for junior colleges and the present organization of the Department of Education	3 79
Continue under the State Board of Education with a special advisory board for junior colleges and a reorganization of the Department of Education which would bring together all department services for junior colleges within one administrative agency	22.36
Establish a new separate State Board for Junior Colleges with an appropriate professional and clerical staff to serve individual districts	17.31
Other	2.95

* C K Sapper, "Selected Social, Economic and Attitudinal Characteristics of Trustees of California's Public Junior Colleges", unpublished doctoral dissertation, U C, Berkeley, June 1966, pp 95-96 Chart based on slightly over 70 percent response from sample N of 354

TABLE IV

SERVICES NEEDED FROM A STATE LEVEL AGENCY—JUNIOR COLLEGE STAFF VIEWS

(N=1285)

To what extent do you consider it desirable that a statewide agency render services such as the following to local junior colleges?		Desirable	Undesirable	No opinion or blank
a. Reporting to the field on junior college problems, practices, and findings from research	*No.*	1,203	31	51
	Pct.	93.6	2.4	3.9
b. Conducting research on junior college problems	*No.*	1,182	48	55
	Pct.	91.9	3.7	4.2
c. Assisting the junior colleges and the appropriate associations in formulating and passing legislation pertaining to junior colleges	*No.*	1,171	56	58
	Pct.	91.0	4.3	4.4
d. Assisting in applying for grants from government agencies and foundations	*No.*	1,120	85	80
	Pct.	87.1	6.6	6.1
e. Consulting on matters pertaining to facilities and plant construction	*No.*	1,018	179	88
	Pct	79.2	13.9	6.7
f. Consulting on curricular and instructional matters	*No.*	902	292	91
	Pct.	70.1	22.7	7.0
g. Advising on local fiscal matters	*No.*	774	322	189
	Pct.	60.1	25.0	14.6

TABLE V

SERVICES NEEDED FROM A STATE LEVEL AGENCY—CHIEF ADMINISTRATORS' VIEWS

(N=70)

What, if any, services should any state level agency provide?		Yes	No	No opinion or blank
1. Initiate and conduct research on and long range planning for:				
a. Educational media (e g , TV)	*No.*	60	7	3
	Pct.	85.7	10.0	4.2
b. Facility design	*No*	47	20	3
	Pct.	67 1	28.5	4.2
c. Curricular innovation	*No.*	56	13	1
	Pct.	80.0	18 5	1.4
d. Faculty recruitment	*No.*	42	23	5
	Pct.	60 0	32.8	7.1
e. Student characteristics	*No.*	53	12	5
	Pct.	75.7	17.1	7.1
f. Administrative structure	*No.*	41	26	3
	Pct.	58.5	37.1	4.2
g. Plant utilization	*No.*	58	8	4
	Pct.	82.8	11.4	5.6
2. Coordinating machinery:				
a. Provide a major channel for articulation	*No.*	70	0	0
	Pct.	100.0	0	0
b. Approve academic calendar	*No.*	14	50	6
	Pct.	20.0	71.4	8.4
c. Become the general reporting agency for junior colleges	*No.*	67	2	1
	Pct.	95.7	2.8	1.4
d. Become an information center on problems and practices	*No.*	67	2	1
	Pct.	95.7	2.8	1.4
e. Become the general spokesman for the California Junior Colleges	*No.*	58	9	3
	Pct.	82.8	12.8	4.2

TABLE VI

VIEWS ON NEEDED SERVICES COMPARED WITH ATTITUDES TOWARD SEPARATE BOARD—CHIEF ADMINISTRATORS

Group 1—favors separate state board

Group 2—favors State Board of Education

		Group 1 (N = 51)			Group 2 (N = 19)		
		Yes	No	O/B†	Yes	No	O/B†
SERVICES							
1 Initiate and conduct research on and long range planning for							
a Educational media (e g , TV)	*No*	45	5	1	15	2	2
	Pct	88 2	9 8	1 9	78 9	10 5	10 5
b Faculty design	*No*	38	12	1	9	8	2
	Pct.	74 5	23 5	1 9	47 3	42 1	10.5
c. Curricular innovation	*No.*	43	7	1	13	6	0
	Pct.	84 3	13 7	1 9	68 4	31 5	0
d. Faculty recruitment	*No*	32	16	3	10	7	2
	Pct	62 7	31 3	5 8	52 6	36 8	10.5
e Student characteristics	*No*	40	7	4	13	5	1
	Pct	78 4	13 7	7 8	68 4	26 3	5 2
f. Administrative structure*	*No*	34	14	3	7	12	0
	Pct.	66 6	27 4	5 8	36 8	63 1	0
g. Plant utilization	*No*	42	5	4	16	3	0
	Pct.	82 3	9 8	7 8	84 2	15 7	0
2. Coordinating machinery							
a Provide a major channel for articulation	*No*	51	0	0	19	0	0
	Pct	100 0	0	0	100 0	0	0
b Approve academic calendar	*No*	12	35	4	2	15	2
	Pct	23 5	68 6	7 8	10 5	78 9	10 5
c. Become the general reporting agency for junior colleges	*No*	50	1	0	17	1	1
	Pct	98 0	1 9	0	89 4	5.2	5.2
d Become an information center on problems and practices	*No*	48	2	1	19	0	0
	Pct	94 1	3 9	1 9	100 0	0	0
e. Become the general spokesman for the California Junior Colleges*	*No*	47	1	3	11	8	0
	Pct	92 1	1 9	5 8	57 8	42 1	0

* Note significant differences
† No opinion, or blank.

TABLE VII

POWERS THAT SHOULD BE VESTED IN A STATE LEVEL AGENCY—JUNIOR COLLEGE STAFF VIEWS

(N=1285)

		Desirable	Undesirable	No opinion or blank
To what extent, if at all, is it desirable that some statewide agency have the responsibility for:				
a. Effecting liaison between junior colleges and other segments of education	*No.*	1,124	108	53
	Pct.	87.4	8.4	4.0
b. Determining minimum qualifications for faculty and administrators	*No.*	936	298	51
	Pct.	72.8	23.1	3.9
c. Setting standards for graduation	*No.*	767	448	70
	Pct.	59.5	34.8	5.4
d. Serving as an official spokesman for junior colleges as a whole	*No.*	665	495	125
	Pct.	51.6	38.5	9.7
e. Setting standards for student personnel services	*No.*	525	613	147
	Pct.	40.8	47.7	11.3
f. Setting probation and retention standards for junior college students	*No.*	490	691	104
	Pct.	38.0	53.7	8.0
g. Approving curricula in local colleges	*No*	268	969	48
	Pct.	20.8	75.4	3.7
h. Approving the academic calendar	*No.*	266	900	119
	Pct.	20.6	70.0	9.1
i. Approving courses of study in local colleges	*No.*	224	999	62
	Pct.	17.4	77.7	4.8
j. Approving appointments of chief administrators in local colleges	*No.*	178	1,026	81
	Pct	13 8	79.8	6.2
k. Approving textbooks and teaching materials	*No.*	65	1,182	38
	Pct.	5.0	91.9	2.8

APPENDIX D

UNIVERSITY OF CALIFORNIA

Year	Teaching staff			Research staff	Enrollment
	Total	Junior	Senior		
1965–66	7,428	3,331	4,097	4,148	78,043
1964–65	6,669	3,146	3,523	3,800	70,003
1963–64	6,056	2,816	3,240	3,468	63,288
1962–63	5,597	2,543	3,054	3,005	57,261

Source University of California

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1965–1967

Volume 10 Number 22

OPERATION CLARIFICATION:

A Study of School Budgeting, District Organization and Earthquake Safety

A Report of the

SUBCOMMITTEE ON SCHOOL EFFICIENCY AND ECONOMY

Assembly Interim Committee on Education

MEMBERS OF THE SUBCOMMITTEE

ALFRED E ALQUIST, *Chairman*

EDWARD E ELLIOTT
MERVYN M DYMALLY
CHARLES B GARRIGUS
STEWART HINCKLEY
GEORGE W MILIAS
VICTOR V. VEYSEY

JANUARY 1967

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OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE ON EDUCATION

January 1, 1967

HON. JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen:

Pursuant to House Resolution 710, of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith the final report of its Subcommittee on School Efficiency and Economy.

This report was considered and adopted by the subcommittee listed below and appears in subcommittee report form

I respectfully commend these recommendations to you for your consideration.

CHARLES B. GARRIGUS, *Chairman*
Assembly Interim Committee
on Education

ALFRED E ALQUIST, *Chairman*
Subcommittee on School
Efficiency and Economy

Subcommittee on School Efficiency and Economy

Alquist, *Chairman*
Elliott
Dymally
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Veysey

TABLE OF CONTENTS

	Page
Letter of Transmittal	3
Contents	5
Report of Subcommittee on School Efficiency and Economy	7
I. The Field Act and School Construction Standards	9
Findings	9
Recommendations relative to School Board Member Liability Under the Field Act	12
Recommendations Relative to School Construction in General	12
The Field Act and the Attorney General's Opinion	15
The Subcommittee Proposal	19
Local School Construction Procedures and Interpretations of the Field Act	20
II. School Budgeting and Accounting	27
Findings and Recommendations	27
Final Report of the Advisory Committee on School Budgeting and Accounting	29
Summary of Recommendations	31
Program Budgeting	31
The School Budget Calendar	31
School Budget Procedures	31
School District Warrants	32
Tax Delinquencies, Budget and Business Practices	33
Maximum School District Tax Rates and Permissive Override Taxes	33
Permissive Education Code	33
Introduction	34
Program Budget for Schools	35
What is Program Budgeting?	35
What Are the Advantages of Program Budgeting?	36
What Should Be Done Now?	36
The School Budget Calendar	38
Table 1	39
Conclusions and Recommendations	40
Basis for Recommendations	41
School Budget Procedures	42
Official Budget Form	43
It is Recommended That	43
School Budget Calendar	43
Table II	43
Preliminary Budget	44
It is Recommended That	44
Tentative Budget	44
It is Recommended That	44
Publication Budget	44
It is Recommended That	44
Notice of Public Hearing	44
It is Recommended That	44
Public Hearing	44
It is Recommended That	45
Adoption of Final Budget	45
It is Recommended That	45
Transmittal and Approval of District Budgets	45
It is Recommended That	45
Consolidation of Form Nos J-26 and J-41	45
It is Recommended That	45
Financial Transactions of School Districts	46
It is Recommended That	46
School District Warrants	46

TABLE OF CONTENTS—Continued

	Page
Tax Delinquencies, Budget and Business Practices	47
Education Code 17503	47
Recommendation	48
Tax Delinquencies	48
Recommendation	49
Budget Practices, Salary Consideration and Fringe Benefits	49
Business Practices	50
Recommendation	50
Statutory Maximum Tax Rates for School Purposes	50
Permissive Education Code	51
III School District Reorganization	53
Findings	53
Recommendations	56
School District Reorganization	58
The Effects of California's Unification Law	60
The Subcommittee Program	63
IV. School Building Aid Program	67
Findings	67
Recommendations	69
The State School Building Aid Program	70
Separate Views of Assemblymen Stewart Hinckley and Victor V. Veysey	77
V Appendices	79
Appendix A	81
Appendix B	85
Appendix C	89
Appendix C—Table I	97
Appendix C—Table II	101
Appendix C—Table III	103

OPERATION CLARIFICATION:

A Study of School Budgeting, District Organization and Earthquake Safety

A Report of the

SUBCOMMITTEE ON SCHOOL EFFICIENCY AND ECONOMY

FINAL REPORT OF THE

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of the

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GEORGE W MILIAS
VICTOR V. VEYSEY *

January 1967

* Assemblymen Hinckley and Veysey dissent from those portions of the report dealing with school district reorganization and the Field Act. Their minority report appears with this report

THE FIELD ACT AND SCHOOL CONSTRUCTION STANDARDS

FINDINGS

The Committee Finds That:

1. Although the Field Act, designed by the 1933 Legislature to cause the construction of earthquake-resistant school buildings following the disastrous southern California earthquake of 1932, has been on the statute books for 33 years, it appears that many school districts have chosen to ignore their responsibilities in this area

2. We further find that as a result of lack of action by local school districts to update and improve their older buildings, as required by the Field Act, the Legislature passed in 1939 the Garrison Act, which placed several methods of enforcement into the law In some districts, we find that the Garrison Act has succeeded in providing the impetus toward the provision of safer school buidings However, in many districts we find the Garrison Act to be inadequate as an enforcement mechanism.

3. As a statute directed at the provisions of uniformly safe school buildings throughout California, the Field Act has become the model for other states in this field We find that this law requires no substantive modification.

4 It would be inappropriate for the State of California to assume any more of the burden of updating pre-1933 school buildings than it presently carries through the State School Building Aid program, which is directed at providing capital funds to impoverished school districts. While some school districts have requested that the Legislature provide additional needed capital funds to finance updating of buildings as required by the Attorney General's opinion of May 1966, we note and commend those districts *not* receiving State School Building Aid which, during the past 33 years, have seen their responsibility to make their school facilities safe, and have done so These are among the largest districts in the state, some with the oldest buildings We have concluded that because these districts have fulfilled their responsibilities by obeying the law—while other districts have not—it would be inappropriate at this time to provide state money to help those few who have neglected their duty.

5. Notwithstanding the Attorney General's opinion cited above, which codified the Legislature's intent in 1933 that school buildings be made safe from structural failure, if all school districts in the state possessing unsafe buildings immediately undertook to repair or replace their facilities, an impossible and costly strain would be placed on both the taxpayers and the building and construction industry of this state Since our studies indicate that more than $1 billion in reconstruction or replacement work must be done if the law is to be complied with, if all districts sought to have their work done at once—assuming that there was sufficient public money to do the job—demand for construction services would exceed supply greatly, thus bidding up the cost of school construction We thus conclude that this needed construction work must be spread out over a reasonable period of time

6. It is necessary that the taxpayers in districts where Field Act work remains to be done on older buildings be informed, and approve, of the manner in which their tax funds are being expended Thus, we believe that the electors of each district should be presented with the question of whether or not to authorize a district plan to renovate and, if necessary, replace old school buildings.

7. The state should play a stronger role in policing the activities of school districts in living up to renovation and repair plans approved by the local voters Additionally, we conclude that the State Department of Education must have available, for the information of the general public and the Legislature, information which it presently lacks concerning the number and location of unsafe school buildings, and the plans of local school districts to update them

8. With respect to our investigations into local school construction practices generally, and local enforcement of Field Act safety standards, we conclude that it is extremely costly for the state to maintain, at its present level, the Office of Architecture and Construction within the Department of General Services, to perform the plan-checking type of work it presently performs We find that school architects constitute perhaps the only professional group whose every piece of work is checked in detail by a state agency.

We further find that in many cases personnel of the Office of Architecture and Construction, in supposedly checking school plans for technical accuracy, insert their own professional judgment on matters of design and structural adequacy and make changes in plans on that basis We do not believe that the Legislature established the plan-checking service for that purpose

However, we believe that some occasional spot checking for outright errors in school plans continues to be an important function of this office.

9 Excessive and detailed plan checking by the Office of Architecture and Construction, much of which is duplicated by the larger unified school districts, slows down the school construction process by as much as three months in some cases.

10. Expert testimony received at our hearings on this subject confirms the fact that no area of California can be considered to be earthquake safe, that in fact all areas of California have a greater susceptibility to earthquakes than areas of the nation generally, and that the claims of some school board members in California that the Field Act constitutes a "massive waste of the taxpayers' money" are not based on fact Such statements appear not to recognize the ultimate necessity of insuring that California's nearly five million school children attend school in structurally safe facilities

11. Although state law relative to the safe construction of school buildings is quite detailed and rigorous, there is presently no check by any state agency on the safety of the school site Thus, it is quite possible for a structurally sound school building to be built in conformance with the Field Act and still be involved in structural failure, not due to the building primarily but due to the poor location of the building site.

12 While the Field Act applies to all public school buildings in California, the same construction standards do not apply for other Califor-

nia public buildings constructed by the state. This is particularly incongruous when it is considered that both the junior colleges and the state colleges are a part of the California higher education system, but the former are subject to the Field Act while the latter are not.

13. It is apparent that Title 21 of the Administrative Code, which constitutes the rules and regulations which implement the Field Act, requires extremely strict compliance with its provisions, together with prior approval of change orders before they can be implemented on a building project, but that these rigid requirements are not always—and sometimes only rarely—met. This creates serious problems for locally employed school inspectors, who must either insist on to-the-letter implementation of Title 21 and face dismissal by the architect, or purposely overlook minor, and perhaps technical, violations

14. The present system which places the local school inspector in the position of having to be approved by three parties—the school district, the Office of Architecture and Construction and the job architect—renders this official in a position where he can hardly be expected to exercise impartial, unfettered judgment The committee finds that all too often the school inspector is indebted to the architect for his job, and hence is unlikely to criticize any facet of the school job when such criticism might displease the architect

15. At the present time school inspectors are required to hold no particular license, but must merely be "approved" by the Office of Architecture and Construction The committee has been informed of instances where rural school boards have hired a teacher, or even the superintendent of the district—who may have no experience in the building trades—as building inspector The committee believes that as ideal as the Field Act itself is, the entire system is useless if the act's regulations relative to building safety are not implemented and enforced in the field by competent building inspectors

RECOMMENDATIONS

Relative to the liability of school board members for unsafe school buildings under their jurisdiction, as enunciated by the Attorney General's opinion of May 1966, the committee recommends, as follows:

1. That legislation be adopted setting forth the intent of the Legislature that each school district proceed in an orderly fashion to prepare a plan for the eventual renovation, repair and reconstruction of all pre-1933 school buildings under its jurisdiction by 1983, at which time the newest of such buildings will be at least 50 years old.

2. That legislation be adopted requiring all school district governing boards in the state to have completed structural inspections of all pre-1933 uninspected school buildings no later than January 1, 1970, together with estimates relative to the cost of repair, renovation or replacement. Each school district should be required to report this data to the State Department of Education by this date.

3. Legislation should be adopted requiring that after a school board receives a structural report of examination of its unsafe facilities, that the board prepare a comprehensive plan relative to the improvement of all such older buildings over a reasonable period of time, and that it submit said plan to the voters of the district together with a bond issue to finance the commencement of the plan. We recognize that a procedure calling for a bond sufficient to finance the entire reconstruction job would be unrealistic in terms of the magnitude of the job in some districts with many pre-Field Act buildings

We further recommend that the legislation specify that if the voters reject the proposed plan for improvement of the district's older facilities, that the vote on the bond issue—whether it passes or not—be disregarded, and that the same or a new plan be again placed before the voters for their approval within five years. This should keep the issue before the people at reasonable intervals, and yet protect the right of the local electors to object to an expenditure and construction plan for their schools which they deem undesirable.

4. Finally, the legislation which we recommend in this field should include a requirement that the Department of Education report periodically to the Legislature relative to the progress being made by local school districts toward safer construction of school buildings.

RECOMMENDATIONS

Relative to enforcement of the Field Act on the local level, and the function of the Office of Architecture and Construction in approving architectural school plans, the committee recommends, as follows:

1. Legislation should be enacted by the 1967 Legislature which reduces the activity required to be conducted by the plan-checking division of the Schoolhouse Section of the Office of Architecture and Construction, so that sufficient personnel remain in this division to spot check school plans, but deleting the requirement that every school plan be minutely checked for structural adequacy The amount of State General Fund support for this office should be appropriately reduced. In place of detailed plan checking by the state, we recommend that every architect or structural engineer preparing a school plan be required to certify on the plan that, to his best professional knowledge and belief, the plan provides for a structurally safe school building.

We believe that, being professionals, architects will welcome the relief which our proposal offers from being second-guessed on matters of professional judgment by state employees We do not believe that our proposal will have any adverse effect upon the safety of school buildings in California.

2. We recommend that legislation be enacted requiring the Office of Architecture and Construction to develop detailed rules and regulations pertaining to the adequacy for school construction on school sites, in terms of the safety of buildings on such sites. Such site criteria should be made as binding as present rules and regulations governing structural adequacy of buildings themselves.

3. The 1967 Legislature should authorize a joint study by the Office of Architecture and Construction and the Joint Legislative Budget Committee relative to the advisability of constructing *all* state educational facilities in conformance with Field Act regulations. Such a study should examine the policy and cost considerations implicit in such a change in the direction of uniformity of building regulations, and a report thereon should be made to the 1968 session of the Legislature.

4 We strongly recommend the enactment of legislation providing for licensing by the state of school building inspectors, based upon certain minimum experience and educational criteria to be developed by the Office of Architecture and Construction, with the entire system to be administered through a proposed "Board of School Construction Inspectors" situated within the Department of Professional and Vocational Standards. School districts should be prohibited from hiring school inspectors not so licensed, unless they are able to prove to the Office of Architecture and Construction that they are unable to secure a licensed inspector in their area for a particular job.

Concurrent with this recommendation, we propose that the job-approval power of school architects over a school inspector be deleted, so that the school district and the state become the only parties involved in determining whether or not a certain inspector should be hired. In such a situation, we believe that better, less-biased school inspections will be performed since the architect will no longer hold the power of economic life or death over an inspector, the state will insure minimum qualifications of inspectors through its licensing system, and the school district will retain ultimate hiring power consistent with local control and autonomy.

5. We propose the adoption of legislation making it possible for school districts to contract with cities and counties for building inspection services, in those instances where the city or county building code is equal to or more stringent that the Field Act in terms of structural safety. In such cases, city and/or county building inspectors working on school construction jobs would not require the state licensing which we recommend for school building inspectors in Recommendation No. 4 above.

6. We suggest that the Office of Architecture and Construction closely reexamine its procedures relative to implementation of Field Act building standards at the local level. It has become apparent to this committee that either the rules and regulations relative to reporting and approval of change orders are overly rigid, so that in actual practice they are often overlooked by architects, contractors, inspectors, and

OAC personnel themselves, or there is gross and intentional violation of important procedures by all parties involved in school construction projects. The standard, "by-the-book" technical specifications for school buildings evidently used in most school jobs—some of which constitute "window dressing" and are never followed—constitute a trap for the overly zealous school inspector who tries to enforce them. In short, either the regulations should be updated to reflect the practice, or the practice should be modified to fit the regulations.

THE FIELD ACT AND SCHOOL CONSTRUCTION STANDARDS

The Field Act and the Attorney General's Opinion

A significant portion of the study of this subcommittee during the period 1965–1967 was devoted to a consideration of problems which arose when, in the spring of 1966, the State Attorney General issued a legal opinion construing certain provisions of California's school construction statute designed to insure the construction of earthquake-resistant schools, the Field Act Basically, the opinion held that school board members were under a legal obligation to conduct structural inspections of all pre-1933 school buildings which had not previously been inspected and improved to meet safety standards, and that if they did not do so and a school child or employee was injured in such a building due to structural failure, the school board members individually might be held liable The landmark opinion, a copy of which is included as Appendix A to this report, was requested by a local school board member who was concerned over the lack of desire on the part of a majority of the board of which she was a member to order a structural inspection of one heavily used old school structure, constructed in the 1920's.

This subcommittee soon became acutely aware of the problem, as requests from school boards and school districts began to flood the capital, requesting relief from the newly construed provision of the law. Our concern was to provide such relief where possible, provided that nothing be done which in any way might reduce the safety level in the schools attended by nearly five million California youngsters The very volume of requests which we received, both individually and during public hearings held on this subject, indicated to us that a considerable number of school boards had neglected this area of their responsibility ever since passage of the Field Act in 1933.

Before discussing the nature of the conclusions we have reached concerning this subject, it may be instructive to review the statutes involved and the legislative history behind their enactment The Field Act consists of certain sections of the Education Code, enacted by the 1933 Legislature following disastrous southern California earthquakes of the previous year in which numerous public school buildings were destroyed Basically, the act provides that the Office of Architecture and Construction (OAC) within the State Department of General Services shall have the power to make a detailed review of all architectural and engineering plans made for school design, to insure that these plans meet detailed safety standards—adopted because they will provide for structures which will withstand horizontal and lateral forces of a certain degree—which the act also empowers the OAC to adopt The Field Act also establishes methods for local school building inspection, a matter about which we shall have considerable comment later in this report

While the Field Act in statutory form is relatively short and direct, the rules and regulations issuing from it and known as Title 21 of the State Administrative Code are extremely long and detailed and cover

many facets of construction Disobedience to these rules and regulations or provisions of the statute itself are made a felony according to the law

Evidently due to a lack of compliance with the Field Act on the part of school districts, the Legislature in 1939 added another segment to this statute known as the Garrison Act (Ed Code Sec 15501 and following) which was designed to provide an enforcement mechanism. That statute provides that upon certain conditions being fulfilled a pre-1933 school building shall be inspected for structural adequacy, and if inadequacy or noncompliance with Field Act standards is found, the school board must take action to remove the deficiency. A board may do so by either ordering immediate repair, renovation or replacement of the unsafe structure—provided it has funds available to do so—or if no funds are available it must order a tax increase/bond election Should bonds be authorized to finance the updating of the facility, the tax increase will be disregarded However, should the bonds fail but the tax election succeed, current taxes will be increased as authorized by the voters to finance the work. Should neither proposition succeed at the polls, the Garrison Act provides that the school board members no longer have personal liability in case of accident due to structural inadequacy in the building.

It was this segment of the act which Attorney General Lynch's opinion addressed itself to in the legal ruling. In effect, as the committee consultant explained to the subcommittee at its hearing:

> "A school district board has a legal obligation to procure a structural inspection of all pre-1933 school buildings still in use in the district These would be buildings *not* constructed under the Field Act, and consequently the plans for which were never approved officially by the State
>
> "The Attorney General says there is no legal duty to inspect post-1933 buildings, since presumably these have already been inspected for safety by the State."
>
> "The opinion says . :
>
> 'Although the required techniques, methods and inspection of construction *may not apply* to pre-1933 buildings, the standards of requisite stability should apply nevertheless Since buildings constructed after 1933 would be considered unsafe if they failed to attain such requisite stability .; it follows that buildings constructed before 1933 which do not attain such stability would also be considered unsafe under the standards of the Field Act.'
>
> "School board members may be held personally liable if an accident is caused in and because of a building which is of pre-1933 origin and has never been structurally inspected
>
> "Here the opinion applies the doctrine of 'constructive notice.' It says that since it is a matter of common knowledge that an uninspected building is not considered 'safe' by statute, in effect, the school board has notice of any structural defect which might, at a future time, cause an accident Hence, board members are just as liable for an accident in such a building caused by such a defect as they would be if they had had actual knowledge of the defect "

It is appropriate for the subcommittee to note that many big city school districts have in the 33 years since the passage of the Field Act adopted long-range plans to update and improve their pre-1933 school buildings, and have conducted structural inspections of each such building. These districts are to be commended for having seen their duty under the law to provide for school safety and acted appropriately. These are among the largest school districts in the state. As an example, the subcommittee was briefed on the activities of the Los Angeles City Unified School District in this regard, where a very large number of buildings were of pre-Field Act vintage and over the years have been made safe. With the passage in June 1966 of that district's $189 million bond issue, nearly every older facility in that huge district will have been conformed to Field Act standards.

Regrettably, however, there are a significant number of districts which have failed in this responsibility. Many of the communications received by this subcommittee emanate from board members in such districts, evidently suddenly worried (and justifiably so) by the Attorney General's opinion.

Many of these letters have expressed a desire that because the Field Act is a state-mandated requirement the state itself should step forward to shoulder part or all of the burden of updating these old buildings. The subcommittee rejects both the premise and the solution expressed here. First, we doubt whether the insistence of the Legislature through the Field Act for school safety, in a state with generally accepted greater risks due to earthquakes than any other state on the continent, constitutes solely an onerous "mandate" by the State of California. We are convinced that if such a statute did not exist, many citizens in local school districts would demand that their local school boards enact perhaps much more restrictive building safety requirements. The desire for safety of young children in school is a general desire, and certainly does not fit into the typical state "mandate" category.

Secondly, however, even if the premise of a state "mandate" were true, we believe it would be manifestly unjust in 1967 for the Legislature to undertake to finance conformance with the standards of a law which has been on the books for 33 years, particularly when many well-intentioned school boards have already performed their legal duty completely without state help. Such a course would lead to the Legislature helping those who have evaded (or avoided) the law, but providing no help to those who have met it. We also note that the State School Building Aid Program, which provides state capital outlay loans for impoverished school districts, is presently capable of providing money to help districts meet Field Act requirements Thus, truly poor school districts presently may receive state support to meet the law. We have thus rejected suggestions for a new state program of financial assistance for this purpose

Some have suggested to this subcommittee that Field Act standards are entirely too rigid and might well be reduced, so as to lessen the quantity of work necessary for all state schools to meet Field Act standards. We have found no evidentiary background to support this proposal; on the contrary, all professionals with whom we discussed the matter in our hearings concluded that the Field Act is an excellent

law, and is indeed the model for many other states in this field Weakening of the law would, in our view, constitute a compromise with school safety. This subcommittee and this Legislature cannot allow such a compromise to occur We therefore have rejected this proposal In reference to one witness' suggestions for a second set of Field Act regulations, to apply only to pre-1933 buildings and of substantially less stringence, one subcommittee member commented.

> "I don't follow (this witness) . buildings are safe; buildings are unsafe What does a second set of regulations have to do with the relative safety or substantial hazard to a building? How can there be two sets of regulations about this? Shall we determine that a child in one building shall be in a building that is less safe than a child in another building because of the date on which the building was built? This (the legal opinion) is not a challenge to the Field Act; this is a challenge to the school boards for not investigating their buildings "

The subcommittee is in substantial agreement with this view.

However, the committee has also been impressed with the sheer magnitude of the job facing local school districts with pre-1933 buildings as they prepare to meet the law, as enunciated in the Attorney General's opinion According to testimony from representatives of the Department of Education, corroborated in large part by the Office of the Legislative Analyst, if all pre-Field Act school buildings in the state still in use were to be brought up to standard immediately (which in most cases would involve replacement of the buildings in question) the cost would exceed $1,000,000,000 The figures cited by the Department of Education in reaching this total are·

Elementary level:	11,703 classrooms in use constructed prior to 1933. 351,090 students in such classrooms, when state classroom loading standards are used
	times the per-student building cost used in the State School Building Aid Program—$558,935,280
High school level.	254,220 students attending pre-1933 schools.
	times secondary construction cost factor of $2,172 per student—$552,165,840
Total cost:	$558,935,280—elementary level 552,165,840—secondary level
	$1,111,101,120

Various factors cited by the Legislative Analyst may well serve to lower this total slightly, but the fact remains that the figure in slight excess of $1 billion is staggering in terms of taxpayer ability Even assuming that sufficient money could be raised from tax and bond sources, which is an unlikely assumption at best, the sudden influx of the construction demands which this sum of money represents on the construction industry at one time would be likely to bid up the cost of school construction substantially, since the demand for such services would, for a time, exceed the available supply considerably We have thus concluded that this needed work must be phased out over a period

of years, with the most needed work being done first and as determined by the local school district

Finally, the subcommittee was surprised at the lack of knowledge expressed by representatives of the State Department of Education and the Office of Architecture and Construction relative to what school districts are doing to live up to the legislative requirement. Unfortunately, the state lacks an up-to-date inventory of the pre-1933 buildings still in use, district by district, and a listing of district plans to meet the Field Act. We have concluded that the state needs to follow these local developments much more closely, so that the department and the Legislature may be kept informed of developments in this important area.

The Subcommittee Proposal

To provide a reasonable method for school districts to meet the safety provisions of the Field Act without overextending themselves, and at the same time avoid personal liability for their board members in the event of structural failure, the subcommittee proposes the adoption of legislation at the 1967 session which will continue the legislative intent that safe schools be provided for all our children Our legislation, a copy of which appears as Appendix B of this report, consists solely of amendments to the Garrison Act, the enforcement mechanism, and not to the Field Act itself Its provisions follow.

1 Prior to January 1, 1970, all school districts shall be required to conduct structural inspections of their pre-1933 school buildings which have not previously been so inspected This should provide an ample period of time for school boards to hold such inspections and will withhold board member liability until that date.

2 Legislative intent shall be set forth indicating the Legislature's desire that each school district proceed in an orderly fashion to prepare a plan for the eventual repair, renovation or replacement of all substandard schools still in use by 1983, at which time the newest of the pre-Field Act buildings will be 50 years old In addition, by that date many of these older buildings will be replaced simply due to their age

3 Following the structural inspection required in Recommendation No. 1, above, we propose that each school district governing board, within six months of receipt of the inspection report, be required to develop a long-range plan for the updating of all pre-1933 schools in the district, and that this plan—together with a bond or tax measure to finance *initial* implementation of the long-range plan—be submitted to the voters in the district Approval of the plan and the financing measure should then initiate a program of facilities improvement in the district consistent with state safety requirements However, even if the plan and/or the bond or tax measure should be defeated, board members' liability would have been removed

In the event that such is the case, we suggest that the same plan or a new plan, together with a financing measure, be again put to a vote in the district within five years This should serve to emphasize the importance of providing safe schools by keeping the issue before the voters at a reasonable interval.

Since present law requires that the bond or tax issue which is voted on must be sufficient to finance the *entire* reconstruction program, the advantages of our plan can be clearly seen. We propose merely that

the financing measure provide funds for initial work on the approved plan, thus spreading the financing out over a reasonable period of time

4. Within six months of the 1970 inspection deadline or following the district's inspection, whichever is earlier, we recommend that each school district be required to report the results of said inspection, the outline of its proposed long-range plan and the results of local elections on the plan and its financial companion, to the State Department of Education, so that a state agency may keep track of local progress toward implementation of Field Act standards A report to the Legislature summarizing this data should be made by the department commencing with 1968, and each two years thereafter

Local School Construction Procedures and Interpretations of the Field Act

A portion of the subcommittee's studies of the Field Act and the construction standards mandated by state regulations was devoted to local implementation of the law, whether its regulations were too restrictive, the selection and qualifications of school building inspectors and the cost of implementation of the safety standards of the law. Generally, our study was prompted by increasing comments from local school districts in recent years that Field Act safety standards add an unbearable and costly burden to school construction generally in California. Consequently, a portion of our investigation of these matters was devoted to a determination of whether California requires its schools to be "overbuilt" in terms of structural adequacy.

The committee heard from Dr. Bruce Bolt, Director of the University of California's seismographic stations, that no area of California is immune from earthquakes and that consequently the Field Act's uniform requirements throughout California is probably wise policy. Dr. Bolt presented graphic illustrations of the relative low damage to Bakersfield schools in the Tehachapi quake of 1952 in contrast with the virtual demolition of pre-1933 school buildings located in that vicinity.

Karl Steinbrugge, director of the Pacific Fire Rating Bureau which studies the effects of earthquakes upon structures in order to determine their insurability against such risks, reported to the subcommittee that following the Tehachapi tremor:

> "We came to the conclusion that our present school building codes, including Title 21, are, in general satisfactory . . . (in that quake) a number of schools had been built under the Field Act There was damage, between 1 and 2 percent . . .
>
> "I must say that the earthquake design standards as presently enforced both in design and construction—in my experience throughout the Americas and in Japan—is as good as any in the world."

The witness also reported:

> "The fact that a portion of this state has not had an earthquake in recent times would in no way change the chance of a major earthquake occurring."

On the basis of the expert testimony which we received, we have concluded that no area in California can be considered to have complete immunity from the earthquake hazard, and that statements of

some school trustees to the contrary are simply not based on the existing state of knowledge relative to earthquake probability in this state

Further, our hearings indicated that the additional safety standards required to be built into schools in California by law probably contribute no more than 1 percent of total construction cost to the school construction bill of school districts The Legislative Analyst pointed out that a report by the John A. Blum and Associates firm relative to costs implicit in the Field Act concluded that:

> ". . . the differences between school construction costs with minimum good construction practice, and code seismic resistance, generally amounts to no more than 1 percent of the total building cost "

The analyst concluded that with respect to the State School Building Aid Program totaling $140 million annually, the Field Act cost would amount to approximately $1 4 million, a relatively economical investment for the value obtained in insuring structurally safe school facilities.

The Legislative Analyst also pointed out, however, that extensive and often duplicative detailed checking of architectural plans for school buildings is done by the Schoolhouse Section of the Office of Architecture and Construction The analyst felt this function, at a yearly cost to the state of slightly more than $1 million, subjected architects to perhaps the most rigorous cross examination by a state agency of any professional group The analyst noted:

> "In the field of construction, we would point out that there is one major exception to this procedure that is followed under OAC's policy of checking and doublechecking. And that is with state buildings themselves This includes hospitals, prisons, office buildings and so forth. These are not checked by any one other than the architect, structural engineer and inspectors that are actually assigned to the project by the OAC. So we see this inconsistency here. The question arises· Should state buildings be any less safe than schools? Does additional inspection really mean that much more?"

In addition to the cost to the state of this service, the witness noted that many school districts suffer long delays after the preparation of their school plans by competent, licensed architects, made necessary by the detailed OAC plan checking Finally, it appears clear that more than mere technical changes are made in architectural school plans by the office, and that many substantive changes which reflect, in reality, differences of professional judgment, are undertaken by the OAC The subcommittee knows of no other professional group which is subjected to such detailed checking by a state agency—*and correction*—in their work.

The Legislative Analyst concluded:

> ". . . the function of school inspection by the OAC and the function of on-site inspection by field representatives of that office, constitute an amount of added insurance for the safety of the school building, but are unnecessary from a point of view of providing minimum standards for the safety of occupancy.

". . . in other words, we think that it would be best to throw the burden of proof back on the original architects and structural engineers that are competent to design the buildings in the first place"

In this recommendation the subcommittee concurs, and we have proposed such a reduction in the duties of the OAC, but we do suggest that a spot-checking service for school plans be retained so that occasional technical errors may be sought out and corrected by the OAC. Our recommendation would result in a general fund budget reduction of approximately $800,000 in the coming budget year, plus the elimination of from 60 to 80 positions in the OAC.

In addition to our purpose of economizing with state funds, we are seriously concerned with the problems of delay in school construction caused by the detailed (and, we believe, largely unneeded) plan checking by the OAC. The following dialogue between the analyst and a subcommittee member should illustrate our concern

Q Have we had any complaints from school districts due to the inspection that is prescribed in the law which adds extra cost as a result of delay in those plans being inspected and gotten back to the school districts?

A. We understand this is the case It is difficult to document, but there have been cases of delay

I can remember talking to one school administrator of a very large district in the state He said in many, many cases, until the time when they got them back it was approximately a three-month lapse And he felt that in this three-month period of time, the delays in getting the construction started amounted to considerable cost to the school district

Q Did they give a reason as to why the lag? What was the reason for the delay?

A. He didn't offer any reasons for this He said this was a situation which occurred in a great many of the school districts And as for the actual reason, he didn't know

It appears to this subcommittee that the actual reason referred to above is a desire on a part of the professional structural engineers to substitute their reasoning and professional judgment, in many cases, for that of the architect paid by the school district to design the building Such a situation, with the accompanying added cost to the taxpayer, is intolerable and has led to our recommendation for a change in the function of the plan-checking service of the OAC

The subcommittee does not hesitate to state here that if it believed that such detailed plan checking as is done by the OAC actually led to a substantial reduction in the safety hazard of school buildings, we would recommend its continuance regardless of the cost However, there is no evidence to support such a thesis We believe occasional spot checking of plans for technical accuracy alone—together with the legal responsibility of an architect on a school job for the safety of that structure which exists in present law—is sufficient to insure compliance at the local level with Field Act standards, provided that adequate local inspection is performed.

The subcommittee is also concerned over the lack of state minimum standards relative to the safety of school sites It appears at the present time that while quite rigorous structural standards are insisted upon in Title 21, which we support it is still quite possible for a school building built to Field Act specifications to be built on a site subject to substantial earthquake damage because no standards exist for the safety of such sites This is particularly important today when more and more schools in subdivisions are being constructed on fill land

The representative of the Office of Architecture and Construction confirmed our fears in this regard when, in answer to a question, he admitted·

> ". the Field Act does not provide authority to the Office of Architecture and Construction to select, or pass upon the selection of sites as such This is entirely the policy of the local school districts In fact, many times, in practically all cases, *this site is selected many years before the architect is even engaged to prepare the plans which are ultimately submitted to us for checking* So we have no control " (emphasis ours)
>
> Q Do you think the act should be amended to include some supervision over the selection of sites?
>
> A I don't know whether the act should be There should be something in state law somewhere that would have some control over this to prevent a school district from selecting a site that is practically impossible for the architect and engineer to build a safe building upon I have been involved in some local disputes as a witness where a site has been selected on a fault zone, and I have given my views And in the one case I'm thinking of, the site was abandoned and they had to pick out another one at some loss of money to the district

It appears clear to us that it is useless to require adherence to some of the most stringent structural building requirements in the nation, as embodied in Title 21, when such well-constructed facilities can be placed on an unsafe site Consequently, we recommend that the Field Act be amended to provide that OAC approval must be obtained relative to site safety prior to construction of a school building on that site The act might state that professional certification of site safety by a soil engineer or other professional expert would serve in lieu of OAC approval

Several other witnesses pointed out to the subcommittee the apparent contradiction in state building safety requirements which find local school district facilities being required to comply with the strict provisions of Title 21 and the Field Act while other state structures, particularly educational facilities, are not required to undergo the same requirements and the consequent close inspection It was suggested that the Field Act might be made applicable at the very least to state colleges, University of California, Youth Authority, and state residential school facilities where educational programs are carried out Indeed, it seems strange to us that the junior colleges, part of the higher education system by state mandate, come under the Field Act while the state-operated segments of higher education do not While we are not

willing at this time to recommend application of the Field Act to these state structures, we believe the matter should be given close study by the appropriate state agencies Hence, we recommend that the 1967 Legislature authorize a joint study by the Joint Legislative Budget Committee and the Office of Architecture and Construction in an effort to determine whether there ought to be a uniformly applied state safety standard with respect to all public buildings under state jurisdiction, and school district buildings, or more particularly with respect to all school structures financed publicly. Such a study should be presented to the 1968 session of the Legislature for its consideration and action

Our final recommendations deal with the implementation of Field Act plans and specifications on the local level, particularly through the use of locally employed school building inspectors A substantial portion of our hearings was devoted to hearing the allegations of a former building inspector for a bay area school district, who alleged he had been fired from his position by the district on orders of the architect when he attempted to enforce provisions of the Field Act relative to structural safety of the school building. The inspector presented substantial evidence to support his claims, and the school district showed equally persuasive material designed to refute them

This subcommittee refused to take a position in the particular matter presented to it, and we restate our reluctance to do so now. In our view, if the inspector who testified before us believes he has reasonable grounds for a civil suit, the courts remain open to him for this purpose Likewise, the very damaging testimony, which he presented relative to the doubtful adherence in one of the school district's buildings to the Field Act, should encourage the district to correct those deficiencies with far more impact than any recommendation or finding of this subcommittee could

However, we believe that substantial faults in the local school inspector system were uncovered by our deliberations in this particular case, and many of them have statewide implications. First of all, it seems basic to this subcommittee that no detailed set of specifications and regulations for the safe construction of schools is at all useful unless it is implemented on the ground when the school is built, *and verified by a qualified local school inspector, indebted to no one*

The subcommittee was frankly amazed at the defense which was presented by architects and personnel of the OAC for the present system of selecting school inspectors. Under this system an inspector may be hired by a school district only if he is approved by the OAC (and meets that office's very minimal requirements relative to experience) plus the job architect In practice, this means quite clearly that the architect has the life-and-death power of job approval over the school inspector, for any time the architect chooses to lift his approval of the inspector, the school board must fire him The probable lack of a truly impartial inspection of a structure, if a defect is found which might disturb the job architect, becomes clear when this system is exposed. The former inspector who testified before us indicated, in pointing up this defect, that upon finding one defect in the school on which he was employed he wrote a letter explaining it to the OAC, but only after the job contractor refused to correct the defect as demanded by the inspector. He testified further:

" . . . the next time I saw the architect, which was two or three days later (after writing the letter), he told me that if I ever wrote another letter like that he would fire me "

Q. Mr. _____, after this threat was made to you, what then occurred?

A. They continued to violate the plans and specifications according to the list that I have here.

Q What did you do when they did this?

A. I stayed on the job and didn't write any more letters and I wanted to get this thing straightened out if possible I wanted to see the jobs done according to the approved plans and specifications and I stayed on the job and hoped that the thing could be straightened out.

Q What event finally caused your firing?

A. The radiant heat system in the school was being installed over the subslab on concrete to be poured over these hot water pipes which were one inch in diameter, and they asked me to make an inspection . . . (at this point, the witness related that he had refused to certify as meeting specifications a hydrostatic test on the pipe which did not meet those specifications).

I stopped the job (it says here in the regulations that I should stop the job) and called the architect He came over from San Francisco and told them to go ahead and pour the concrete, without the 25-hour test and without a change order The architect sent me down to the school district office The business manager fired me.

Q What excuse did he give for firing you?

A. He told me that he had hoped I would help him, but that I hadn't helped him

Q You weren't doing it the way he wanted you to?

A. That's right. I wasn't doing it the way he wanted me to.

This illustrative little colloquy indicates to the subcommittee that ample chance exists for architects who do not like the job being done by their inspectors—even if the inspector is doing a sound, impartial job of enforcing Field Act standards—to fire those inspectors and hire more "reasonable" inspectors Whether the particular inspector who testified at our hearing had a point or not in terms of the alleged deficiencies which he found is really immaterial; the point is that the law allows the architect to select the man who shall inspect the implementation of the architect's plans on the ground In our view it is impossible to get sound, impartial school inspections in such an atmosphere of probable nepotism.

Consequently, we recommend the adoption of legislation which will remove the job-approval power of the school architect over the selection of the inspector, leaving only the state and the local school district as the parties at interest in this matter. We would also recommend that in place of the presently very weak minimum standards which exist by OAC regulations for school inspectors (two years of employment in the construction trades, in any capacity, without even a demonstrated ability to read blueprints and plans), that a system of

state licensing of school building inspectors be established This might be accomplished by establishing a "Board of School Construction Inspectors" within the Department of Professional and Vocational Standards to examine, certify and license school building inspectors, with such licensing to serve as the state approval required before a local school district may hire the inspector. Standards to be used for licensing by the board should be developed by the OAC, and should be considerably stricter than at present

We have also recommended that where a local city or county building code is equal to, or in excess of, Field Act requirements for structural safety, and the city or county operates an inspection bureau, that school districts be permitted to contract with the local jurisdiction for school building inspector services In such case, licensing by the state of such inspectors as school inspectors should be waived This proposal, if adopted, should serve to make more uniform construction inspection procedures and codes, and may make a large pool of talent in the building inspection fields available to school districts which under present law they are unable to use

Finally, we strongly suggest to the OAC that it undertake a massive review of Title 21 in an effort to determine if some of the more technical regulations are not overly stringent, and whether indeed they are being followed by local school inspectors It has become apparent to this subcommittee, without going into our detailed record of testimony and statements here, that often change orders are *not* approved by the OAC before being implemented on local jobs (they sometimes never are), that addenda to plans are often prepared and implemented on jobs before OAC receives the same to check, that verbal or telephonic approval of change orders is sometimes given by OAC personnel but that this cannot be proven because no record is ever kept of such oral approvals, and that many other requirements of regulation and law are simply *not* being followed

Keeping in mind the serious fact that violation of the Field Act, Title 21 or approved plans and specifications for school jobs is a felony, it appears to us that either the practice should be changed to reflect more exact adherence to the regulations and the law, or the regulations and the law should be changed to reflect the practice more adequately Perhaps Title 21 is indeed overly strict in some of its technical requirements; if so, by all means it should be amended The Office of Architecture and Construction should, in our view, give immediate attention to this task of reviewing its Field Act rules and regulations

SCHOOL BUDGETING AND ACCOUNTING

FINDINGS AND RECOMMENDATIONS

In this highly complex and technical area, the committee has seen fit to delegate its initial responsibility for taking testimony and studying proposals to an advisory committee, composed relatively equally of knowledgeable members of taxpayers' organizations and employees of public school districts and county government who are daily involved in school budgeting and accounting matters

At the request of the chairman, in late 1965 Speaker Unruh appointed a distinguished group of public-spirited citizens to serve on an Advisory Committee on School Budgeting and Accounting This group, assisted by departmental and legislative staff, held hearings and meetings, and studied the available literature on this subject On October 3, 1966, the advisory committee presented a final report to this committee, with recommendations for comprehensive changes in the school budgeting and accounting format now in use in California schools

The committee wishes to commend this advisory body warmly for its conscientious work In large part, we agree wholeheartedly with the recommendations made by this group, and we have adopted the advisory committee's report as our own As such, the report follows these brief comments

The committee understands that conversations regarding several of the more technical aspects of these proposals are currently going on among legislative staff, members of the advisory committee and interested state agencies and local counties Consequently, with the understanding that some elements of the legislation growing out of this report may change because of these conversations, the committee adopts the concepts contained in the report, but reserves the right to differ on technical points as they may arise.

The committee wishes to place special emphasis on the proposals contained in this report which are directed at moving the public school system toward a more understandable system of "program budgeting" To any well-meaning citizen the current school budget can be a frightening and confusing document, as many of the members of this committee can attest The quicker our schools can make their fiscal affairs and expenditure patterns more understandable to the public whom they serve, the quicker the incipient "taxpayers' revolt" about which we have heard so much in recent years will be allayed We believe that "program budgeting" represents an approach to better understanding of school budgets We strongly urge the 1967 Legislature to accept these recommendations in principle concerning "program budgeting" for schools.

FINAL REPORT OF THE

ADVISORY COMMITTEE ON SCHOOL BUDGETING AND ACCOUNTING

to the

SUBCOMMITTEE ON SCHOOL EFFICIENCY AND ECONOMY

ALFRED E ALQUIST, *Chairman*
Assembly Interim Committee on Education

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California State Assembly

OCTOBER 1966

NOTE Complete copies of the advisory committee's report, with appendices, are available in limited number in the Sacramento offices of the Assembly Committee on Education

SUMMARY OF RECOMMENDATIONS

Program Budgeting

The committee recommends:

1. That a State Commission on School District Budgeting and Accounting be appointed to advise the State Board of Education relative to ways and means of implementing program budgeting for California school districts.

2 That the commission be authorized to select a firm of independent and qualified consultants to formulate the details of a program budgeting and accounting system for local school districts

3. That the commission evaluate the report of the consultants and recommend procedures for implementing program budgeting in the public school system.

It is recommended that the Legislature appropriate approximately $50,000 to finance the activities of the commission and to remunerate the consulting firm.

4. That upon establishment of the advisory commission, at least one full-time professional staff position be provided to the Department of Education for the purposes of coordinating, on a statewide basis, the development of program budgeting for the public schools

The School Budget Calendar

The committee recommends:

1. That the present school fiscal year (July 1 to June 30) be retained for all public agencies including the public schools

2. That the Revenue and Taxation Code be amended so that all taxable property is assessed as of the first day of January with local and state rolls to be completed and delivered to the county auditor on the first day of May.

3. That school districts be notified of the Collier factor to be applied during the ensuing fiscal year by May 1.

4 That the Revenue and Taxation Code be amended so that school tax rates will be computed on the basis of the local completed roll rather than the equalized roll

5 That the Education Code be amended to provide for the adoption of the tentative school budget on or before May 15, a public hearing between June 1 and June 15, and adoption of a final budget on or before June 30.

School Budget Procedures

The committee recommends:

1 That a separate section of the Education Code be drafted relating to the preparation of the official budget form

2 That provision be made for inclusion on the budget form of income and expenditure data for three years: actual income and expenditures for the last complete fiscal year, the final budget as revised for the current year, estimated income and expenditures for the current year (corrected to actual for the proposed final budget) and proposed income and expenditures for the budget year

3 That legal provision be made for the preparation of a preliminary budget to be submitted by the district superintendent to the district governing board on or before April 1.

4. That school districts be required to prepare a tentative budget on or before May 15

5. That provisions now contained in Education Code Sections 20601 and 20602, with regard to budget content, should be deleted and placed in a separate section of the code.

6 That the publication budget be eliminated in favor of an adequate notice of public hearing published at least twice in a newspaper of general circulation between May 20 and May 31. Copies of the budget should be on file for public review at the time the public notice is first published

7. That prior to the adoption of the final budget, at least one public hearing on the school budget be held in *all* districts (except those in which no district tax is levied) between June 1 and June 15.

8 That adoption of the final budget be required in all districts by June 30.

9. That a copy of the preliminary and tentative budgets be filed with the county superintendent of schools and reviewed only for compliance with legal requirements.

10 That the final budget and the annual report of financial transactions be filed with the county superintendent of schools and the Superintendent of Public Instruction on or before August 15.

11. That the county superintendent of schools shall certify to the county auditor the data required for setting of the tax rates on or before August 15

12 That the final budget, including the annual report of financial transactions, replace Form No. J-26 as the end-of-the-year financial report for school districts. The final budget and the annual report of financial transactions as filed with the state would then reflect actual fiscal data (actual, not estimated, revenues and expenditures) for the prior year

13 That the State Department of Education publish an annual report of financial transactions of school districts rather than the State Controller, and that the publication date be January 1.

14 That the chief administrative officer of a local school district who fails or refuses to make and file his final budget and annual report of financial transactions, within 20 days after receipt of notice from the Superintendent of Public Instruction, shall forfeit to the state $1,000, as provided for other public officers in Section 53895 of the Government Code.

School District Warrants

The committee recommends that the provisions of Senate Bill 157 (1963 General Session), providing that unified and junior college districts may, upon approval of the Superintendent of Public Instruction, draw their own warrants, be enacted into law.

Tax Delinquencies; Budget and Business Practices

The committee recommends:

1. That Section 17503 of the Education Code, which provides that certain specified percentages of the current expense of education be expended by school districts for teachers' salaries, be repealed at such time as a sound system of program budgeting is initiated and implemented by California school districts.

2. That a moving three-year average of district tax delinquency, expressed as a percentage of total collections for the secured and unsecured toll for the year completed, be employed by school districts in computing their tax rates in lieu of the existing 90-percent-of-assessed-valuation factor which is not used in every case.

3 That all sections of the Education Code pertaining to business procedures of school districts be constantly reviewed with the purpose of submitting recommendations to the Legislature for revising and updating laws to keep them current with sound business and budgetary procedures.

Maximum School District Tax Rates and Permissive Override Taxes

The committee recommends that, upon the condition that recommended reforms in the school budgeting and accounting structure are enacted, and upon the initiation and successful operation of program budgeting in the public schools, the Legislature act to repeal present statutory maximum tax limits and present permissive override tax rates.

Permissive Education Code

The committee recommends, in accordance with the committee's aim of improving the atmosphere for the exercise of local autonomy and initiative by school districts in areas where flexibility is necessary and desirable, that the portion of the report of the special consultants to the California Constitutional Revision Commission which proposes the adoption of a "Permissive Education Code" be adopted by the Legislature and the people.

INTRODUCTION

The 1961 Citizens Advisory Committee on the Public School System concluded in its final report to the Legislature "The total educational program, as well as educational costs, are largely dependent on proper budgetary controls Adequate and detailed review of all programs and expenditure proposals prior to the adoption of the annual budget is a major responsibility of any board of education "

For some time in California the ability of some local school boards to properly review expenditure proposals put forth by school administrations has been questioned To our knowledge, however, that ability has never been thoroughly explored despite the doubt which has existed concerning it

The Advisory Committee on School-Budgeting and Accounting has taken upon itself the task of determining whether the complex procedures detailed by the California Education and Administrative Codes, and presumably designed to insure this adequate review, are indeed effective in terms of providing the tools which local school governing boards need for budgetary control In general, we have found them to be woefully inadequate, hopelessly complex and snarled, and containing such a quantity of detail as to raise the question as to their original intent The present system of school budgeting and accounting in California flies in the face of the well accepted governmental principle of centralization of responsibility and ease of understanding So many agencies of local, regional and state government today have a portion of the responsibility of developing the local school budget that it is difficult to see how the taxpayer can make his views known should he happen to disagree with an expenditure proposal In fact, we have concluded that it is far easier for the California citizen to make his disagreement over a spending plan known to agencies of state government than it is for him to make his objections known to local school agencies

Whether this diffusion and decentralization of responsibility and the complexity of school law have contributed to the so-called "California taxpayers revolt," this committee is not willing to render a judgment But, unquestionably, these factors have contributed to increasing unwillingness to support needed school expenditure increases.

Throughout its deliberations the committee has become convinced that it is necessary to make immediate modifications, simplifications and changes in the detailed methods of preparing and presenting to governing boards, and to the public school district, budgetary and accounting data However, we believe that a much more far-reaching approach is needed if school budgetary data are to be made truly understandable to the tax-paying public Here, of course, we refer to the eventual adoption of a recognized and accepted plan of program budgeting for California public schools The committee proposes, in this report, such a beginning

We recognize the difficulty of applying program budgeting to an educational agency, which is, essentially, a resource consuming rather than a resource producing public agency However, governmental agencies in the same general category, both at the state and at the

county level, have been moving in recent years toward systems of program budgeting, generally with considerable success We see no reason why school districts should not be encouraged to move in a similar direction The proposals in this report are designed to initiate proper planning for eventual adoption of program budgeting in California public schools

PROGRAM BUDGET FOR SCHOOLS

In his original charge to the advisory committee, Assemblyman Alfred E Alquist stated that " (the committee members) have volunteered (their) time, intelligence and experience to begin the construction of what may well turn out to be totally new methods of explaining the whys and wherefores of the public schools The key to this new approach is an idea that has been adopted by businessmen and government, an idea that stresses purpose before structure "

The concept of program budgeting has been in existence since 1949 when the first reports of the Hoover Commission were published. Since that time, departments and agencies of the federal government and state and local governments have experimented in varying degrees with program and performance budgets In 1965, the Department of Finance of the State of California submitted 18 sample program budgets to the Legislature for its consideration In his letter of transmittal the Finance Director stated that the program budgets submitted were ". designed to describe the objectives and the program services of the state together with the related costs, rather than just list the details of the proposed salaries and materials by organizational structure In so doing, they are intended to give the Legislature the opportunity to evaluate these various activities individually against the total needs and priorities of the state "

The committee believes that substantial improvements can be made in reporting the proposed activities of school districts to school boards, to interested citizens and to governmental bodies which have a legitimate interest in the affairs of our public school system We believe that a budget should be far more than a listing of sources of revenue and of costs by object of expenditure A budget should state in financial terms the community's ideas as to what it expects from its investment in education, and, in the opinion of the committee, adoption of a system of program budgeting by local school districts in California would serve to accomplish this worthwhile goal The Legislature should, in our view, take appropriate steps to encourage the adoption of program budgeting by local school districts

What Is Program Budgeting?

A program may be defined, in general, as a series or an aggregation of related activities which are designed to accomplish stated objectives In broad terms, the fundamental objective of a public school system is to educate individuals to the greatest extent possible so that they may function as well-informed, useful and productive members of our society The nature and composition of the education that individuals obtain from our school system will depend primarily upon the relative emphasis that the community places on the diverse areas of available knowledge and upon the abilities, interests and goals of the in-

dividual pupils Program budgeting, then, is a budgetary system which will develop and communicate in financial terms the costs of the programs which are designed to accomplish the stated objectives of our local school districts.

What Are the Advantages of Program Budgeting?

Since the educational process is a resource-consuming activity, it is imperative that those responsible for planning and directing this process be supplied with information which will facilitate making rational decisions regarding the allocation of the limited resources available to most local school districts The committee believes that adoption of program budgeting would be an important first step in satisfying this informational need. Such information would not only be useful to persons directly responsible for planning the details of an educational program, but it would also point out to the general public in the clearest possible terms the purposes for which the resources are to be expended.

In a recent speech to a convention of the International City Managers' Association, Mr. Joseph M. Heikoff, Director of the Bureau of Community Planning of the University of Illinois, stated that "program budgeting aims at organizing information about governmental activities so that management may compare program proposals, relate them to current activities, evaluate them in terms of priority, and then increase or decrease allocation of resources to them " He pointed out further that budgets presented in terms of programs provide "a factual basis upon which to compare proposed activities, their relative costs, and their political implications."

What Should Be Done Now?

To implement the concept of program budgeting effectively, the committee recommends that a State Commission on School District Budgeting and Accounting be appointed to advise the State Board of Education The composition of the commission should include one appointee of the Speaker of the Assembly, one appointee of the Senate Rules Committee, and nine other members appointed by the State Board of Education, with at least one member representing·

A Taxpayers groups
B Business
C. The education profession
D. County government
E School boards
F. The accounting profession

The duties of the commission would be to:

1. Select a firm of independent and qualified consultants to formulate the details of a program budgeting and accounting system for local school districts.

2 Evaluate the report of the consultants and recommend procedures for implementing program budgeting in the public school system. To evaluate the report properly, it is contemplated that the commission would hold public hearings, at which time representatives of interested organizations and parties would be invited to testify.

The committee further recommends that the Legislature appropriate an amount approximating $50,000 to finance the activities of the commission

The committee further recommends that effective July 1, 1967, the Legislature establish at least one full-time professional staff position in the Department of Education, Division of Public School Administration, to:

A. Coordinate the activities of the various units
B. Prepare and compile agenda items and research materials for the Commission on School District Budgeting and Accounting
C. Prepare and direct the execution of provisions of agreements and/or contracts with an eminent firm for program budget development
D. Organize pilot projects for testing the system
E. Recommend the amendments, additions and revisions of laws and administrative procedures as necessary.
F. Promote the system of program budgeting through cooperative working arrangements with the California Association of Public School Business Officials, school boards and district offices

Notwithstanding the possibility that support for a program budget approach may not materialize, it is of utmost importance that such a position be authorized so that the State Department of Education may provide effective and continuous leadership in the state in the establishment of uniform budgeting, accounting and reporting practices If this leadership is not provided, the lack of uniformity and the uncertainties of law and confusion now existing will become more pronounced and will not provide a resource for valid, consistent and meaningful information as a basis for intelligent decision-making

In addition to the items outlined above, the proposed position within the Department of Education would have the following responsibilities:

A. Continuous revision and updating of manuals, forms and guidelines
B Working with federal and state agency staff in prescribing the rules, regulations and instructions required
C. Continually assessing the needs and methods of collecting and disseminating financial information
D. Conducting workshops and conferences in training district and county personnel
E. Providing consultant services to colleges and universities on related courses of instruction

The committee proposes that this position be established at a high professional level (at least comparable to the current education project specialist II, $1,214–$1,475 per month) and that the necessary support funds for the position be appropriated

Our committee has discussed the work presently being conducted within the department under the direction of Dr. Alvin Grossman and financed by the U S Office of Education The August 1965 demonstration proposal of Dr. Grossman entitled "The Development of a Total Education Intelligence System Utilizing a Communication Network"

was reviewed by the committee together with other data submitted by Dr. Grossman. We are impressed by his work in systems development and the potential application of the system in the area of program budgeting However, we must point out that, in the main, this work is chiefly being conducted to develop an intelligence system using advanced computer techniques Our work, effort and recommendations are intended to develop a budgeting and accounting system that may be used *with or without computers*

The initial problem is to develop a proper format for program budgeting and, because of this difference of approach, we believe that the budgeting and accounting system must be developed independent of computer intelligence systems We must guide and direct this research to operate with *all* systems rather than just with computer systems not yet operational and functioning in all districts. We feel it is important to carry forth both projects at the same time with close liaison, but not to attempt to merge the two programs because of this basic difference in goals and approach

We have also reviewed examples of work in program budgeting for schools being undertaken outside California, specifically in Philadelphia, Chicago and Pittsburgh Several county offices within California have also begun to pioneer in this area The committee believes that California schools should be in the forefront of this new development, which seems to be proving itself in school systems elsewhere

THE SCHOOL BUDGET CALENDAR

The existing interrelationship of the *school budget calendar*, the *assessment calendar*, and the *fiscal year* hampers good educational planning in most California school districts The element of uncertainty it imposes on governing boards throughout the budget planning cycle extends to interested citizens and taxpayers, making it difficult for them to evaluate the annual school budget prior to its adoption The major defect of the present arrangement is that it requires school officials and school board members to make important decisions about educational expenditures on the basis of incomplete and highly tentative information concerning the amount of revenue that will be available to cover such expenditures.

The fiscal year of the public schools, like that of all other public agencies in California, commences on July 1 of one year and ends on June 30 of the next succeeding calendar year The assessment calendar begins on the first Monday in March, when the taxable status of all property is determined, and ends on the third Monday in August, when the state-assessed roll is transmitted to the county auditor. Although school budget planning begins early in the school year and proceeds on an approved schedule, only three dates on a school budget calendar have legal significance They are as follows

1 *July 1* (on or before) a tentative budget must be filed with the county superintendent of schools
2 *July 20* (on or before) a publication budget must be filed with the county superintendent of schools, with a copy to the county auditor.
3 *August 8* (or August 10 in districts of 10,000 or more ADA) the final school district budget must be adopted.

An understanding of the problems imposed on California public school districts as a result of the existing interrelationship of the fiscal year, the assessment calendar, and the budget calendar can be gained by reviewing the dates listed in Table I, all of which are of legal significance in the development of the annual school budget The sequential arrangement of these dates reveals several important facts

1 For more than a month at the beginning of each fiscal year, California school districts are obliged to operate without an officially adopted budget

2 Reasonably reliable information relative to the value of taxable property assessed by the county assessor is not available until a few days before the publication budget must be adopted and filed with the county superintendent of schools

3. Final information concerning taxable property assessed by the State Board of Equalization is not filed with the county auditor until *after* the final school budget has been adopted

TABLE I

MARCH (first Monday)	Taxable status of all property is determined (Revenue and Taxation Code Section 751)
MAY 1 (through 15)	All teachers to be reemployed for the next school year must be so employed by the governing board, probationary teachers whose services may not be required must be given written notice (Education Code, Sections 13253 and 13443)
JULY 1 (on or before)	Tentative budget must be filed with the county superintendent of schools (Education Code, Section 20601)
JULY 1	Beginning of fiscal year (State Constitution, Article 20, Section 5).
JULY (first Monday)	Assessor must complete local property tax roll (Revenue and Taxation Code, Section 616)
JULY (third Monday)	Local roll equalized by the county board of equalization (Revenue and Taxation Code, Section 1603) Special laws apply to Los Angeles County only.
JULY 20 (on or before)	Publication budget must be filed with county superintendent of schools, with a copy to the county auditor (Education Code, Section 20606)
AUGUST 8 (August 10 in districts of 10,000 ADA or more)	Final school district budget must be adopted (Education Code, Section 20651).
AUGUST (first Monday)	Assessment period ends for state-assessed properties (Revenue and Taxation Code, Section 753).
AUGUST (third Monday)	State-assessed roll is transmitted to the county auditor (Revenue and Taxation Code, Section 756)
SEPTEMBER 1	County board of supervisors sets the tax rate (Education Code, Section 20705)

The fact that school districts are required by law to adopt both a tentative and a final budget before firm information is available concerning the assessed valuation of all taxable property within their boundaries presents special problems for those districts entitled to "equalization" aid Without reliable assessed valuation figures, they have no way of

determining accurately what their income will be from either the local property tax or from the State School Fund This is because state equalization aid formulas are based on local assessed valuation, adjusted to reflect in lieu of tax revenue and miscellaneous income and modified by application of the Collier factor to reflect the difference between the local and the statewide ratio of assessed value to full value of all taxable property. Lack of precise information concerning assessed valuations and the Collier factor to be applied during a given fiscal year makes budget planning especially difficult in equalization aid districts that are at or near their maximum legal general purpose tax limit.

Several studies have been conducted over the years in an effort to seek satisfactory and acceptable solutions to the problems growing out of the present lack of alignment of the fiscal year with the assessment calendar and the budget calendar. The most recent and most comprehensive study was completed in June 1966 The findings of this study have been reported in a doctoral dissertation by John E Perko and William M Purdy, written at the University of Southern California under the direction of Dr Lloyd Nelson The authors of this study concluded that the present arrangement is unsatisfactory for city and county governments as well as for school districts

Perko and Purdy reviewed the 1956 study of the Assembly Interim Committee on Municipal and County Government relative to the feasibility of changing from the fiscal year to the calendar year for all public agencies in the State of California After reviewing present practices in 50 states, they found that the objections and obstacles to such a change which were cited in 1956 were still valid in 1966 They concluded that no change should be made in the fiscal year and therefore sought to determine the most desirable and most acceptable changes that might be made in the assessment calendar and in the school budget calendar. Their study led to the following recommendations·

1 The assessment calendar should be changed so that all taxable property is assessed as of the first day of January, with local and state rolls to be completed and delivered to the county auditor on the first day of June

2. Tax rates should be computed on the basis of local completed roll rather than the equalized roll, since there is normally a change of less than 1 percent between the two rolls

3 The school budget calendar should be changed to provide for the adoption of a tentative budget on or before May 15, and a public hearing and adoption of the final budget on or before June 30.

Their recommendations with respect to school district tax rate limitations and other matters are dealt with elsewhere in this report

Conclusions and Recommendations

The advisory committee has reviewed available literature and special studies concerning the problems associated with the existing interrelationship of the fiscal year, the assessment calendar, and the school budget calendar It has also reviewed pertinent testimony on this subject offered during a public hearing held in Sacramento in February 1966, together with opinions and information contributed by interested individuals

The factual information made available to the committee indicates that it would not be advisable to change the present fiscal year for public agencies in California However, there is good reason to believe that a realignment of legally significant dates in the present assessment calendar and the present budget calendar would permit better budgeting for all public agencies, including schools, than is now possible. A proper alignment of the assessment calendar with the budget calendar would eliminate the element of uncertainty that prevails under the present arrangement It would make it possible for school boards to base their decisions concerning educational expenditures on firm information relative to revenue, and by removing the cause for the uncertainty and confusion that arise under the present arrangement, it would permit more objective evaluation of proposed school expenditures by interested citizens and taxpayers prior to the adoption of the annual school budget.

In the light of the available facts, the committee offers the following recommendations:

1. That the present fiscal year (July 1 to June 30) be retained for all public agencies.
2 That the Revenue and Taxation Code be amended so that all taxable property is assessed as of the first day of January, with local and state rolls to be completed and delivered to the county auditor on the first day of May.
3. That school districts be notified of the Collier factor to be applied during the ensuing fiscal year by May 1.
4. That the Revenue and Taxation Code be amended so that school tax rates will be computed on the basis of the completed roll rather than the equalized roll.
5. That the Education Code be amended to provide for the adoption of the tentative school budget on or before May 15, a public hearing between June 1 and June 15, and adoption of the final budget on or before June 30.

Basis for Recommendations

1. Retention of the present fiscal year is recommended for the following reasons:

(a) It spans the natural year for school districts.

(b) Contractual agreements with teachers are more conveniently made for the academic year.

(c) Budget planning and the preparation of annual reports to the federal and state government would become complicated if the present fiscal year were to be changed.

(d) A change in the State Constitution would be required to change the present fiscal year.

2. The proposed change in the assessment calendar is recommended because:

(a) It would eliminate the confusion that complicates budget planning and evaluation under the existing arrangement. A realignment of the assessment calendar with the budget calendar would enable affected agencies to budget on the basis of firm information relative to available revenue from taxes on both locally and state-assessed property prior to the adoption of the budget. By having complete information

on assessed valuations local school districts would also be able to determine more accurately, prior to the adoption of the final budget, the amount of state equalization aid they may expect to receive during the next fiscal year

(b) By making it possible for school boards to have accurate information about revenue, final decisions relative to expenditures could be made in time to permit interested citizens to evaluate the school budget prior to its adoption in terms of its effect on the educational program and tax rates

3 The proposed change in the date for the determination of the Collier factor is recommended because this information is essential in calculating a school district's state equalization aid A delay in the determination of the Collier factor would defeat the purpose of the other recommendations in this report

4. Basing tax rates on the completed roll rather than on the equalized roll is recommended because the difference is not apt to be of sufficient significance to warrant the delay entailed in adopting the final budget The normal difference of less than 1 percent can generally be expected to be offset by additions to the roll that come about as a result of adjustments due to the discovery of properties inadvertently omitted from the completed roll and by adjustments resulting from postaudits

5 The adoption of the tentative school budget on or before May 15, the holding of a public hearing between June 1 and June 15, and adoption of the final budget on or before June 30 is recommended because it would permit sufficient time for interested citizens and taxpayers to become informed about the school budget prior to its final adoption and at the same time enable school districts to make expenditures at the beginning of a new fiscal year on the basis of an officially adopted budget

SCHOOL BUDGET PROCEDURES

Basic requirements for the preparation and adoption of school budgets are set out in the Education Code and are aimed primarily at securing uniformity in the use of budget forms and uniformity in the budget-making schedule Recommended changes in current procedures are directed toward improvement of the budget format and toward adoption of the school budget prior to the beginning of the fiscal year

It is difficult, if not impossible, to catalog the many and varied reasons for each of the changes which the committee herein proposes The current school budget calendar is so confused, providing as it does for the preparation of four separate budget documents each fiscal year, and so completely lacking in coordination with the fiscal year of July 1–June 30 used by all other public agencies, that any real understanding of the document and the way in which it is prepared becomes extremely complex.

The committee has considered that one of its primary aims in proposing changes in school budgetary procedure is to make school budgets and their formulation easier for the interested general public to understand Additionally, the committee feels it must condemn the present diffusion of responsibility throughout the local governmental spectrum for school budget matters Truly effective schools require, in our judgment, truly effective and informed school boards

Thus, our recommendations are basically aimed toward simplifying of school budgets, so that these documents more closely resemble the proposed budgets of other local public agencies, together with substitution for the so-called "publication budget" (which is a sham providing for little public budgetary exposure or review) by adequate notice of full public hearings Our other recommendations further centralize budget-making authority in the hands of local administrators and boards, and provide for more accurate and timely reporting of school financial statistics by the state

Official Budget Form

Education Code Section 20604 provides that the Superintendent of Public Instruction shall "prepare standard forms and blanks necessary to show the budgeting items and comparisons required by Sections 20601 and 20602 of this code " This provision is included in Article 1, Chapter 2 of Division 16 of the Education Code. Article 1 pertains to requirements for *tentative* budgets of school districts

It Is Recommended That:

1 A separate section of the Education Code be drafted relating to the preparation of the official budget form

2 Provision be made for inclusion on the budget form of income and expenditure data for three years actual income and expenditures for the last complete fiscal year, the final budget as revised for the current year, estimated income and expenditures for the current year (corrected to actual for the proposed final budget), and proposed income and expenditures for the budget year

School Budget Calendar

School districts are required to prepare three separate budgets on or before certain prescribed dates Recommended changes in the currently prescribed budget calendar are meant to conform with recommendations which are being made to revise the assessment calendar.

TABLE II

CURRENT AND PROPOSED BUDGET CALENDAR

	Current	Proposed
Preliminary budget	Optional (no code provision)	On or before April 1
Tentative budget	On or before July 1	On or before May 15
Publication budget	July 20	Eliminated
Notice of public hearing	Last week in July	May 20–21 (twice)
Public hearing	August 1–7	June 1–15
Adoption of final budget	August 8 (10)	June 30
Transmittal of final budget and annual statement of financial transactions		
To county superintendent	By August 15	By August 15
To State Department of Education	By August 15	

Preliminary Budget

The Education Code makes no reference to the preparation of a preliminary budget. However, many district superintendents submit a preliminary budget to the governing board which outlines the proposed spending program for the coming year. Budget discussions which follow this presentation are then the basis for preparation of the first legally required budget. the tentative budget

It Is Recommended That:

Legal provision be made for the preparation of a preliminary budget to be submitted by the district superintendent to the district governing board on or before April 1

Tentative Budget

School districts are required to file a tentative budget with the county superintendent of schools on or before July 1 (Education Code Section 20601). Requirements for the inclusion of income, expenditures, reserves and cash balances are set out in Education Code Sections 20601 and 20602.

It Is Recommended That:

1. School districts be required to prepare a tentative budget on or before May 15.

2 Provisions now contained in Education Code Sections 20601 and 20602 with regard to budget content should be deleted and placed in a separate section of the code

Publication Budget

The district governing board is required to make changes in the tentative budget which constitute the publication budget to be filed with the county superintendent of schools not later than July 20 (Education Code Section 20601) Education Code Section 20504 requires publication of the publication budget during the last week in July.

It Is Recommended That:

1 The publication budget be eliminated, in favor of an adequate notice of public hearing, published at least twice Copies of the budget shall be on file for public review at the time the public notice is published.

Notice of Public Hearing

School districts are now required to publish notice for a public hearing when the publication budget is published during the last week in July.

It Is Recommended That:

Notice of public hearing between May 20 and May 31 be made at least twice in a newspaper of general circulation within the county in which the district is located

Public Hearing

School districts are now required to hold a public hearing on the budget during the first week of August (Education Code Section 20504). Exceptions to the public hearing are: 1) for districts in which

no tax is levied or in elementary districts employing only one teacher and, 2) districts with over 200,000 ADA (Los Angeles Unified and Junior College Districts) provided at least one public hearing has been held prior to August 1.

It Is Recommended That:

Prior to the adoption of the final budget, at least one public hearing on the school budget be held in *all* districts (except those in which no district tax is levied) between June 1 and 15

Adoption of Final Budget

District governing boards which hold public hearings are required to adopt the final budget on August 8, or on August 10 if the district has over 10,000 ADA (Education Code Section 20651).

It Is Recommended That:

Adoption of the final budget be required in *all* districts by June 30

Transmittal and Approval of District Budgets

Following adoption of the final budget, school districts are now required to file the budget with the county superintendent of schools, county auditor, county board of supervisors and State Superintendent of Public Instruction In districts not required to hold a public hearing, the publication budget is filed with the appropriate agencies following approval by the governing board (Education Code Section 20651a)

The county superintendent of schools is required to approve the final budget no later than August 15, and file copies with the county auditor, county board of supervisors and State Superintendent of Public Instruction along with a statement of the amount of taxes required by each district in the county (Education Code Section 20651b)

It Is Recommended That:

1 A copy of the preliminary and tentative budgets shall be filed with the county superintendent of schools and reviewed only for compliance with legal requirements.

2. The final budget and annual report of financial transactions be filed with the county superintendent of schools and the Superintendent of Public Instruction on or before August 15

3. The county superintendent shall certify to the county auditor the data required for certification of the tax rates on or before August 15

Consolidation of Forms Nos. J-26 and J-41

The legal basis for Form No J-26 is found in Education Code Section 805 which requires the county superintendent of schools to submit to the State Superintendent of Public Instruction a "general annual report of financial and other statistics relating to the public schools of the county." The report is submitted on forms prescribed by the state.

It Is Recommended That:

The final budget, including the annual report of financial transactions, replace Form No J-26 as the end of the year financial report for school districts The final budget and the annual report of financial transactions as filed with the state would reflect actual fiscal data (actual not estimated revenues and expenditures) for the prior year.

Financial Transactions of School Districts

Government Code Section 53892 1 requires the State Superintendent of Public Instruction to furnish data to the State Controller for compilation and publication of the *Annual Report of Financial Transactions of School Districts* Deadline for the receipt of data by the State Controller is six months following the close of each fiscal year

It Is Recommended That:

1 The State Department of Education publish an annual report of financial transactions of school districts rather than the State Controller and that the publication date be January 1

2 The chief administrative officer of a local school district who fails or refuses to make and file his final budget and annual report of financial transactions within 20 days after receipt of notice from the Superintendent of Public Instruction, shall forfeit to the state $1,000 as provided for other public officers in Section 53895 of the Government Code

SCHOOL DISTRICT WARRANTS

In accordance with the charge to the committee by Assemblyman Alquist, we have considered it appropriate to explore legislation which has been under consideration by various legislative committees since 1959. This legislation is directly concerned with school district accounting procedures, and particularly with the efficiency and economy of the school district operations In brief, this legislation, introduced as SB 157 (1963 General Session), would permit certain school districts to draw warrants directly on the county treasury, relieving the county superintendent and county auditor of responsibility for approving such warrants, and of any liability for payments made directly by the school district The legislation also provides a procedure for determining in advance the qualifications and ability of individual districts to assume responsibility for the payment of warrants

The legislation has not, to our dismay, been totally successful and has met with varying degrees of success during the various legislative sessions In the past, opposition to the bill has been expressed by the County Auditors Association and the County Superintendents of Schools Association During the 1965 legislative session, an effort was made to reach a meeting of the minds with the legislative committees of these two associations, and substantial agreement was reached with the auditors' legislative committee But the auditors' association did not accept their recommendation The county superintendents' legislative committee was not receptive and opposed the measure

The history of this legislation has been summarized in a report prepared by a committee of the California Association of Public School Business Officials The committee report also summarizes the arguments for and against the measure and concludes that the measure would make a substantial contribution to improving the business operations of school districts

In 1963 this legislation was the subject of a study by the Senate Fact-Finding Committee on Education and is included in that committee's report submitted to the 1963 Legislature (pages 39–41). At the request of the committee, the office of Auditor General, State of California,

made a study of the feasibility of school districts disbursement procedures proposed in the bill then under consideration (SB 276, 1961 General Session)

Although no recommendation was made by the Auditor General, the evidence contained in the report suggests the feasibility of the proposed legislation This particular legislation has gone through a long series of revisions and amendments in an effort to develop acceptance on the part of county auditors, county superintendents, and the Legislature As a result, we feel that the present form of the bill (SB 157) meets the basic objections raised by those opposed, and represents a forward step in the improvement of school district efficiency and economy.

Briefly, the legislation provides that junior college and unified school districts may draw warrants on the county treasurer for the payment of school district expenses without the approval of the county superintendent of schools and the county auditor. A unified or junior college district may acquire this authority in the following manner

The district is first required to file an application with the county superintendent of schools, who then causes a survey to be made by an accountant to determine if the accounting controls of the district are adequate The results of this survey are to be forwarded to the Superintendent of Public Instruction, who then approves or denies the application. If the state superintendent determines that the county guidelines are not adequate, he must state the specific steps which must be taken by the school district in order to gain approval In addition, the approval of the Superintendent of Public Instruction may be revoked at any time that he determines that, based upon the recommendation of the local county superintendent of schools, the district's accounting controls are no longer satisfactory.

Finally, the legislation requires school districts which issue their own warrants to file with the county superintendent of schools and the county auditor, a monthly list of all warrants issued, a monthly financial statement, and an annual financial statement.

In the committee's view, this legislation moves in the direction of more local autonomy and financial control for those types of school districts which the Legislature has determined are best able to exercise that control. We strongly urge the bill's adoption by the 1967 Legislature

TAX DELINQUENCIES; BUDGET AND BUSINESS PRACTICES

Education Code Section 17503

Education Code Section 17503 stipulates that districts must spend no less than a specified percentage of "current expense of education" (less pupil transportation) for teachers' salaries

In 1964–65, 89 districts, approximately 6 percent, did not satisfy the requirements of Section 17503 Fifty-four districts, about 4 percent, were exempted for various reasons Of the 35 districts that were denied exemption, 24 did not even file for exemption Thus, the penalty factors of Section 17503 were imposed on only about 0 8 percent of the districts in California

According to a survey done by a member of the committee, county and district officials are opposed to the law They do not recognize any value in the law and feel that it hampers instructional enrichment, re-

quires additional bookkeeping and creates situations that could pose financial crises to some districts.

If the true intent of Section 17503 is to reduce pupil-teacher ratio, then a much more significant law exists in Section 17507 which is cited as the authority for *California Administrative Code, Title 5, Education* Sections 4000–4012, inclusive This law requires progressive reduction of class size in grades 1–3 and requires that the teacher-pupil ratio in grades 4–8 not exceed the ratio in 1964.

If, on the other hand, the intent of Section 17503 is to ensure that classroom teachers are properly compensated for their efforts, then the manner of calculation of the percentage is at fault. An example will illustrate this point.

> In Unified District A, current expense less pupil transportation is $10,000,000 and teachers' salaries is $5,600,000
>
> $$\$5,600,000 \div \$10,000,000 = 56\%$$
>
> Unified District B has teachers' salaries totaling $5,600,000 In addition to the $10,000,000 current expense, District B has a health and welfare plan which adds $300,000 to the fixed charges portion of current expense
>
> $$\$5,600,000 \div \$10,300,000 = 54\ 36\%$$

Thus, District B, which does more than District A in the way of teacher compensation, fails to meet the requirements of Section 17503

In any event, the major goal is the education of the child Many educators believe that the best instructional program is one which supports the teacher with supplementary personnel and materials, the purpose being to help the teacher do the job more efficiently. Thus, the district which tries to enrich the instructional program through the use of teacher aides, consultants, clerical assistance, etc, must in turn raise the salaries of teachers in order to maintain the required percentage While we endorse the principle of increasing salaries of classroom teachers, we cannot condone this illogical and irrational process of forcing increases.

Recommendation

Section 17503 should be repealed at such time as a system of program budgeting is adopted and implemented by California school districts

Tax Delinquencies

Tax delinquencies are those tax receipts which, following assessment of property and levying of tax rates, are not collected Tax delinquencies can occur for a number of reasons Basically, however, these reasons boil down to either an inability to pay or a specific desire not to pay.

Tax delinquencies naturally have profound effects on the ability of any governmental agency to operate as an effective unit However, since all other agencies have unlimited taxing power and can, therefore, tax the paying citizen at a higher rate, school districts, which must operate within statutory or voted maximum ceilings, are uniquely susceptible to the disastrous effects of tax delinquencies The tax delinquency factors for school districts range between 3 and 18 percent. In-

sofar as legal provisions recognize no more than a 10-percent delinquency factor, certain districts find fiscal operations to be truly traumatic.

Several suggestions have been advanced as possible remedies to the tax delinquency problems. These suggestions have included. 1) statewide levies; 2) countywide levies; 3) district overrides; and, 4) reserves for noncollected taxes.

We oppose the district override concept plainly on its demerits The committee has discussed at length the pros and cons of overrides, and by far the cons outnumber and outweigh the pros The imposition of an additional override is not worthy of consideration

The reserve for noncollected taxes concept does not bring in additional funds, but it does point out very clearly to the board and to the citizenry that tax delinquencies are a very real and serious matter Those districts which realize delinquencies of more than 10 percent have no choice but to set aside some of their anticipated revenues into reserves From a public information standpoint, this reserve should be separate and apart so that the average citizen can recognize it for what it is and not assume that the district is stockpiling reserves

The statewide and/or countywide levies could prove to be a satisfactory answer to the problem Contra Costa County established the precedent for this procedure some years ago by levying a very small tax on the entire county. Over a period of years the moneys collected have produced a fund which serves two purposes. 1) no agency need borrow money to carry it from July until December when tax receipts are realized; and, 2) no agency is in danger of having its operations seriously curtailed because of tax delinquencies It must be recognized that there are shortcomings with this procedure First, the paying citizen is forced to compensate for his less civic-minded neighbor. Second, tax delinquencies are becoming more and more the vogue with those who are more interested in making a dollar than accepting their responsibilities. As long as penalties are calculated at a smaller percentage than that realized on interest bearing loans, tax delinquencies can be expected to increase.

Recommendation

We propose that a three-year tax delinquency factor, averaged over that period, be employed by school districts in computing tax rates in lieu of the present 90 percent of assessed valuation factor. Such a factor will conform more closely to the fiscal facts of life in each district than does the present system.

Budget Practices, Salary Considerations and Fringe Benefits

In collecting material on this subject, it was found that the greatest possible variety of practices exists when considering salaries and fringe benefit effects on the budget Some boards of education scrutinize the budget at this point to such an extent that educational goals and concepts are lost At the other extreme, there are boards of education which are so engrossed in the educational plan that the sole budget concern is the adequacy of dollars

Neither one of these extremes is acceptable As a matter of fact, we believe that at each extreme both the educational program and the citizen suffer Somewhere in the middle is a happy and satisfying com-

bination of efforts wherein both the educational program and the budget receive adequate consideration

There is no way of describing this medium ground While recognizing the need to enter into explanations of salary and fringe benefit costs, how much is enough and how much is too much? We understand that a study of this matter is presently under way by California Association of Public School Business Officials

Business Practices

Protection of the taxpayer has long been an incentive for the Legislature to enact certain laws which govern the business procedures of school districts Too frequently, however, we find that legislation enacted 10, 20 or 30 years ago is so restrictive as to impose hardships on the operations of districts or to regulate business procedures in such a manner as to be excessively expensive

A few examples will clarify the point made above In the early 1930's the Legislature enacted a law limiting district force labor account expenditures to $1,000 per job This limitation was not raised until the 1965 session of the Legislature Thus, it took about 30 years to recognize that each year salary increases lessened the ability of a district to accomplish force labor account jobs

Recently, a unified school district administration was approached by two different corporations with proposals to lease data processing equipment These proposals, when submitted to the district attorney and to the external auditing firm, were endorsed and approved as good business procedures One proposal would have reduced leasing costs by 20 percent annually, the other by 25 percent annually However, the district attorney then proceeded to advise us that, due to certain sections of the Education Code and in spite of the merits of the proposal, the district is saddled with a more costly and less efficient lease operation

These are only two of many possible instances which could have been cited to illustrate the need to update those sections of the Education Code which govern the business procedures of school districts

Recommendation

All Education Code sections pertaining to business procedures of school districts should be reviewed with the purpose of submitting recommendations to the Legislature for revising and updating laws to keep them current with good business procedures

STATUTORY MAXIMUM TAX RATES FOR SCHOOL PURPOSES

The committee studied the problem of the statutory maximum tax rates and has reviewed numerous materials, particularly the following.

1 Report of the Assembly Interim Committee on Education, Volume 10, No 18, January 1965 "School District Property Tax Rates," pages 25–29
2 Report of the Senate Fact Finding Committee on Revenue and Taxation "State and Local Fiscal Relationships of Public Education in California," March 1965, page 11
3 "Why Retain Statutory Maximum Tax Rates" by Ronald W Cox and Archie L McPherran, *California Education*, November 1965, pages 15–18

These studies are most comprehensive and complete in their analysis of the problem, and it was not felt that further data needed to be collected in order to support a recommendation for the elimination of statutory maximum tax rates and special exempt tax rates authorized by the Legislature Each of these studies have been consistent in pointing up the complexities of the present tax structure for school support in California and the resulting confusion and misunderstanding

The initial charge to the advisory committee by Assemblyman Alquist placed particular emphasis on "the need for clarification and simplification of school financial matters " The advisory committee in its study of the legal requirements, forms and procedures of the school district budget process in California noted particularly the problems of statutory and special purpose tax rates The budget procedures and accounting controls required to account for the various tax rates are extremely complicated and confusing and discourage understanding by the average taxpaying citizen Excessive record keeping, accounting controls and paper work result from the present structure

The studies noted above all reached the conclusion that the present tax structure of statutory maximums and permissive special purpose tax rates has failed to control school district expenditures effectively The advisory committee has concluded that effective control of expenditures by school districts in California can only be achieved through responsible administration by local boards of education and school administrators To this end the committee has recommended a comprehensive study of program budgeting for the public schools with the objective of developing a meaningful and understandable system of financial control With the development of such a system, local boards of education would be placed in a position of justifying their program and expenditures to the local taxpayer Local boards would then have to assume full responsibility for the total local school district tax levy

The purpose of the advisory committee's consideration of the problem of the tax rate structure was primarily related to the budgetary and accounting complications of the present system and recognizes that this problem is inherently related to the total problem of financing education in California However, the committee feels the simplification of this phase of the school finance picture is essential to the development of greater understanding of school financing

The advisory committee submits the following recommendation for consideration by the Subcommittee on School Efficiency and Economy

When an improved system of budgeting and reporting of school district expenditures has been developed and implemented throughout the state, statutory maximum and permissive special purpose tax rates should be eliminated

PERMISSIVE EDUCATION CODE

The committee has noted with interest the recent proposal of the special consultants to the California Constitutional Revision Commission on education matters which suggests, in part, that the highly restrictive nature of school district law in this state be reversed by a constitutional amendment The existing court interpretations of school law in California have led to a system whereby a school district may do only those things which state law *specifically empowers it to do.*

Thus, in *Pasadena School District v City of Pasadena* (1913), a key case in point, the court said.

> School districts are quasi municipal corporations of the most limited power known to law . . .
>
> The power conferred on the trustees of the school district to erect school houses is to be taken only as a grant of power to effectually carry out the purposes of their creation As a public agency of the state the trustees would have no such power unless it was specifically granted

The consultants point out that:

> Due to this repressive interpretation of law practically unknown in other states, changes, adaptations and innovations are often possible only by action by the Legislature In this day of rapid change in education, this repressive interpretation deters and delays change and experimentation and needlessly burdens the Legislature (*A Study of Educational Provisions of the California State Constitution,* H. Allen and C Briner, January 1966, p. 18-19)

This committee agrees with the consultants' contention in this regard, and we note that this is even more true in the area of school district financial budgeting and accounting While we Californians seem to be inordinately fond of defending the principle of "local control and autonomy" in school affairs, the fact is that the nature of school law in this state makes true local control, at least in financial affairs, impossible

The committee, consequently, endorses the timely suggestion of the consultants to the Constitutional Revision Commission that a constitutional amendment be approved by the 1967 Legislature and placed before the people which will provide, specifically, that school districts may do those things which *reasonably follow* from their given function of educating the state's youth, without specific legislative authorization.

We see ample protection in this proposal for the Legislature's interest in education and for the interest of the state as a whole There is nothing in the proposal which would preclude the Legislature from either mandating educational offerings, or prohibiting certain activities by school districts which it determines are undesirable The proposal is aimed simply at eliminating the necessity for the hundreds of single purpose (and often special interest) educational bills which are introduced and passed at each session of the Legislature, often with only perfunctory debate

We note, however, that the report to the Constitutional Revision Commission includes a number of additional recommendations, which do not directly relate to school budgeting and accounting matters, and on which, consequently, we do not desire to take a position. Our support here is exclusively for the proposed constitutional amendment to give school districts desired flexibility to adopt new approaches and to innovate, provided that appropriate provisions of state law—expressed in the Education Code—are complied with This recommendation, we believe, will effectively further local school responsibility.

SCHOOL DISTRICT REORGANIZATION

FINDINGS

1 The Assembly Subcommittee on School Efficiency and Economy finds that as a result of the passage of Assembly Bill 145 (Unruh) by the 1964 Legislature and the Master Plan Law of 1959 the quality and quantity of school district unification in California has been vastly accelerated, and many smaller, less-efficient school districts have been consolidated into larger, better financed units offering a nonbifurcated program Without question, these developments have had a greater effect upon school district reorganization in California than any measures in the last several decades

2 The committee finds that, in large part, school administrators in the larger districts of the state report improved conditions as a result of unification in their districts in the following areas:

A. Greater coordination of elementary and secondary program;
B Cross assignment of nonclassroom instructional specialists;
C More effective use of district staff;
D Improved use of special equipment, such as audiovisual aids;
E Improved school transportation services, through merger and consolidation of several, overlapping systems;
F Improved district research capability;
G Increased special services, such as guidance and counseling, made available to children;
H. Better administration through the provision of one, consolidated budget;
I. More education for the tax dollar;
J Better management and use of school supplies, through improved storage and availability;
K. Reduced bookkeeping;
L Interlevel use of school equipment and facilities;
M More efficient use of school buses;
N. Increased public interest in school activities;
O Increase in prestige and status of the local unified district school board,
P. More effective building utilization;
Q Generally, an improved educational program for children;
R Better opportunity for teachers to teach in their area of specialization;
S Provision of guidance and counseling over a greater grade span;
T Equalization of local support for education;
U Equalization of educational opportunity among children of the former component districts;
V Improved capability to attract and hold capable teachers;
W Greater, rather than less, local control and autonomy than was possessed by the former component districts.

3 We find that since the passage of AB 145 in 1964 there have been no unifications into particularly poor new unified districts, thus supporting the Legislature's original hope that unification would result in only

strong, well-financed school units. Since the bill's enactment, no unified districts with less than $5,000 in assessed valuation per unit of average daily attendance at the elementary level have been formed

4 We find that unification often involves increased school costs, largely due to the desire to place all teachers and classified employees in the district on a single, uniform salary schedule. The state's augmentation to unified districts of $15 per ADA has been insufficient, in most districts, to cover these new costs completely We believe, therefore, that this type of state aid should be increased to at least twice its present level

5. While the large majority of unifications should take place on existing high school boundaries if an educationally sound district is to be formed, the committee finds certain instances where flexibility should be allowed Although the law allows such flexibility, the committee notes that the State Board of Education has been unwilling—up to this time—to approve the vast majority of requests for exception from the high school line requirement of the law. We also note, however, that so long as school district reorganization remains, largely, in the hands of local school trustees, it is natural to expect many more requests for exception than there is justification for

6. Despite the progress made in California in the last two years in school district reorganization, the committee notes that this state still has more than 1,100 elementary, high school and unified school districts, more than 350 of which are separate elementary districts enrolling less than 200 children each The committee does not believe that such tiny districts can easily offer an efficient and well-rounded educational program The committee further notes that many of these extremely small districts exist not for educational purposes, but primarily as tax havens to protect their residents with an absurdly low school tax rate

7 The committee has been unable, in light of conflicting testimony received at its hearings on this subject, to come up with an optimum school district size Our testimony would seem to place such a district at a size somewhere between 10,000 and 25,000 units of average daily attendance

However, all the authorities with whom we have consulted agree that no elementary school district which is unable to support at least one class at each grade level (district size of 180–200 children) is educationally sound, and most agree that no unified district should be formed which is unable to support at least one, comprehensive senior high school of approximately 1,500 students

8. Despite great expressions of unhappiness from some witnesses who apppeared before the committee over the prospect of facing unification elections in their areas every two years, the committee has been unable to elicit from such persons a viable alternative to this provision of the law Certainly, the committee is unwilling at this time to consider mandating nonunified areas into unified districts, and we are equally unconvinced that it would be wise to eliminate the every-two-year election requirement from the law, for to do so would insure in many areas of the state that the people would never have an opportunity to express themselves on district reorganization We believe that the solution lies in allowing greater flexibility in the preparation of unification plans

to be put before the voters If we can achieve this, no one should have a reasonable argument over requiring a periodic vote on the issue

9 We note that in many cases the State Board of Education has insisted upon resubmitting defeated unifications proposals to local electors a second time, without a critical evaluation of whether a better plan for the area in question might not exist While we do not believe that the narrow defeat of a unification proposal once should be the sole criterion for the declaration of an "exceptional circumstance" by the state board, we believe that such a defeat should be given substantial weight by the board in approving the submission of locally prepared plans to the electorate, together with an evaluation of whether submitting the once-defeated plan to an election again has much of a chance of passage.

RECOMMENDATIONS

The Committee Recommends:

1. That the Legislature reaffirm the basic concepts of school unification, including the stated policy that eventually all areas of the state be included in a unified school district, on the basis that this form of school district organization has demonstrated that it affords a superior educational program, with the possibility of providing such a program more efficiently.

2 Legislation should be introduced in 1967 which provides greater flexibility to local county committees on school district organization in the preparation and presentation to the voters of unification plans Briefly, we recommend a measure with the following elements.

A. The State Board of Education *may* deviate from the high school boundary standard, upon request of a county committee on school district organization, when it finds that all of the following criteria are met

1) There is a measure of community identity in the new unified districts proposed to be formed from the existing high school district,

2) There is an equitable division of property and facilities of the high school districts among the proposed new unified districts, such that the educational program will not be adversely affected;

3) There is no "material deviation" in the assessed valuation of any one of the proposed new unified districts from the assessed valuation of the others We propose that any deviation greater than 15 percent in assessed valuation be defined as being "material" and hence barring a division;

4) The proposed high school district split does not place bars in the way of racial integration of the proposed new unified districts In the event of disagreement over this point, the State Board of Education may order its Commission on Intergroup Relations to survey the proposed unifications and make a determination on this issue The commission's finding them would be required to be accepted as *prima facie* evidence as to this question

5) There are in each of the proposed new unified districts an average daily attendance of at least 15,000 as projected to September 30, 1970

B As a part of the same bill, we recommend that the 1967 Legislature take immediate action—through an increase in the school district lapsation requirement—to consolidate, effective with the 1968–69 fiscal year, all school districts in California having less than 200 pupils in average daily attendance This action will fully justify the Legislature's desire to make unification requirements for larger districts more flexible, by removing nearly 400 of the smallest, admittedly educationally inadequate school districts in the state

While we believe such a bill as we have outlined to be necessary to insure the future progress of unification in California, we strongly

believe that such a measure must contain both the elements we have outlined here If unification is to be truly effective, we must not penalize those districts which are able to stand on their own feet by forcing a larger consolidation upon them, simply because we have an overabundance of truly tiny, inadequate school districts The committee proposes such an omnibus bill, as stated above, but it will oppose any measure which contains merely one or the other of the proposals suggested above.

3 We propose legislation which would result in a virtual doubling of the present unification bonus of $15 per child, together with a recognition that these additional funds represent an attempt by the state to fund those elements of unification—chiefly the single salary schedule—which are more costly, but also educationally beneficial.

We further propose that this increase be incorporated into a single foundation program of state support for all unified school districts, so that such districts will no longer be treated for state support purposes as two separate school districts Such a change will provide the state with more meaningful educational cost statistics, as well as remove the stigma presently attached by some people to the $15 unification bonus.

4. We recommend repeal of the Lanterman-Ryan Bill of 1965, which sets up an "impasse committee" to resolve differences between county committees and the State Board of Education While we believe that the philosophy behind this legislation was commendable, it is clear to us that it has not worked as desired and represents simply another delay in the accomplishment of unification.

5 We propose legislation which will include in the calculation of a component school district's wealth for unification purposes a reasonable measure of Public Law 874 funds received by that district. Since these funds represent real income to the district, and thus an ability to support an improved educational program, they should be considered when factors such as "material deviation" are compared.

6. We propose legislation which will require the State Department of Education to prepare, for each proposed unification plan which goes to a local election, the official statistics relative to tax rates and state support in the proposed new unified area if the plan is approved by the voters The availability of such accurate figures should enable the local voters to see more clearly the effects of their decision on school unification matters in their area.

SCHOOL DISTRICT REORGANIZATION

On September 19, 1966, the subcommittee met in San Mateo to consider and hear testimony relative to the problems confronted by the state and by local school districts relative to unification under current state school district reorganization laws, including the most recent of such statutes Assembly Bill 145 of the 1964 session of the Legislature While substantial progress has been made in the years since the passage of the 1959 Master Plan law and AB 145, the subcommittee was aware of considerable local misunderstanding of, and opposition to, such laws and similar efforts of the State Department of Education and the Legislature to encourage improved and more educationally sound school organization on the local level

That almost phenomenal progress has been made in the reduction of the total number of California school districts in the two years since enactment of AB 145 seems clear from the statistics presented to the committee by a representative of the State Department of Education This witness noted that whereas prior to the passage of the legislation in 1964 California had 1,585 school districts, by August 1966 the school districts of the state (minus junior college districts) totalled 1,129, representing a reduction in total elementary, high school and unified districts over the two-year period of 406 separate districts Figures showing the reduction in one year's time—from 1964–65 to 1965–66—indicate a net reduction alone of 168 districts, coupled with the creation of 37 new unified school districts, operating an elementary and secondary program under a single administration.

School district reorganization, and the efforts of the state to induce it, are not new in California They date back more than 45 years to the famous "Jones Committee" of the California Legislature in 1920 Even in 1907, then Orange County Superintendent of Schools Richard P Mitchell wrote in his annual report.

> "I am sorry that the majority of people are not yet prepared to lay aside their one-teacher schools and join hands with their neighbors and form a union school district"

The Jones Committee, headed by influential Senator Herbert P Jones, recommended in 1920 the formation throughout California of countywide school districts, a proposal that has been heard continuously in California since that time

Again, in 1933 State Superintendent of Public Instruction Vierling Kersey appointed a Committee on the Reorganization of School Districts, which recommended the mandatory unification of school districts along the boundaries of existing high school districts, another idea that still has currency The committee's proposal was endorsed in the 1933 Legislature by the State Chamber of Commerce, which sponsored a bill which provided that all elementary school districts be absorbed by high school districts

California's first major school district reorganization law was enacted in 1935, and mandated the creation of unified school districts—providing a nonbifurcated program—in all areas where elementary and high school boundaries were coterminous and a single board governed the two districts In 1945 the Legislature adopted a measure which was the forerunner of existing law, and which provided that local "county

committees" might study unification plans and bring them to a local vote This program was guided by a statewide "Commission on School Districts"

In 1959 the Master Plan Law was adopted, which called for creation of county committees on school district reorganization to prepare unification plans While the determination under this law as to the boundaries of school districts was still left to the county committees, the Legislature made clear its policy that the ultimate form of organization was to be a unified form, and that the State Board of Education was to have authority for approving the local plans

However, the local county committees were criticized for their lack of action on unification Many felt that as long as unification remained a purely voluntary matter, to be determined (or not determined) by local committees composed of school trustees who had much to lose in the event of unification, little was likely to be accomplished Charles H Loos has written of the feeling at that time

> "But soon after the Master Plan Law was enacted, county committees and many local school authorities became as reluctant as the state lawmakers were determined
>
> "County committees tended to become, in fact, obstructionist organizations, refusing to admit that change was necessary and bent on preserving the status quo The committees were aided by the peculiar way in which their members were selected In brief, county committee members are elected by school boards, usually after careful screening of their views on unification
>
> "The method allowed control of committees to fall to representatives of smaller and wealthier elementary districts whose members wanted no part of redistricting because it meant their districts would have to share the wealth with neighboring, but less favorably endowed, districts" [1]

The result was a lack of substantial action in the field of unification of districts, and a consequent loss of the improved education which many educational experts feel such districts make available A further result was the passage in 1964 of AB 145, which as enacted provided that by 1966 county committees shall have prepared plans for the unification of all school districts in their counties, to be organized—except in "exceptional circumstances"—on existing high school boundaries Such plans were to be submitted to the voters after approval by the State Board of Education and, following any possible defeat, a unification plan covering the area was to be resubmitted to the voters each two years Although the law does not require that the same plan be resubmitted each two years, the interpretation given by the State Board of Education to the statute has resulted in such situations

School districts voting to unify, or which do unify or have done so in the past, receive an additional amount in state equalization aid of $15 per child, while districts refusing to unify by a local vote have a $0 60 equalization tax levied, the proceeds of which are then redistributed in the area on a per pupil basis Thus, for state aid purposes, the district is considered to be unified even though it is not in fact

[1] Loos, Charles H, in the *Daily Pilot*, published by the Costa Mesa Orange Coast Pilot, June 19, 1965

The subcommittee felt it necessary to review the substantial history of school district reorganization in California to point up the fact that nothing really new was contained in AB 145 The measure was the product of a long history of attempts to fashion the school district system of California into something approaching an intelligent, ordered system where equality among taxpayers for school purposes was more than just a slogan The measure also grew out of a school finance crisis in 1964 which saw numerous school finance measures defeated because they contained features which certain powerful interests felt were onerous, such as the countywide tax proposal or the repeal of basic aid Clearly, too, it appears to us that the basic reason for the large number of unifications which have occurred in the years since the passage of this legislation is *the very fact that local people have had an opportunity to vote on unification proposals,* an opportunity denied to them for years under the previous county committee system It seems obvious, then, that the present unification laws have not taken control over district reorganization away from local voters, but rather they have given such control to these voters We believe it would be grave error to halt completely the progress made over this long period of time—and culminating in AB 145—by returning the situation to that which existed prior to 1959 or even 1964, when the people had no method of forcing a vote on unification plans

Just as we defend the purpose and intent of AB 145, however, we have found certain defects in the law and more specifically in the actions of the State Board of Education in carrying it out We find the insistence of the law upon unification on high school boundary lines—and the state board's uncompromising attitude in refusing to declare the existence of more than three "exceptional circumstances" among the hundreds of proposals it has considered—has proven inflexible and requires modification We also find that legislative criteria are required to guide the local county committees and the State Board of Education in approving unification plans which propose to split existing high school districts. In addition, certain technical areas require clarification

Then, too, it appears to us that the law as presently worded and interpreted insists upon combining districts which are already large—while providing little flexibility—but it does not sufficiently insist upon the consolidation of truly tiny elementary school districts without delay, which we believe was part of its original intent

Thus, we have suggested in this report added flexibility in local unification proceedings to fulfill the agreed-upon and beneficial intent of the law, while we insist upon more vigorous action to consolidate very small districts We strongly oppose wholesale repeal of the present unification statute, on the ground that it is unwise policy, given the historical and nonpartisan background we have cited, and because wholesale repeal would be unfair to those districts which have unified under the law as it now exists.

The Effects of California's Unification Law

Initially, it was instructive to the subcommittee to consider the quantity of professional educational opinion on the question of the educational value in a unified form of organization for schools. We

noted that shortly after the passage of AB 145 in the fall of 1964, the Napa County superintendent of schools sent a questionnaire to all superintendents of unified school districts in the state in an attempt to gauge the state of professional opinion regarding unification Superintendents responded, generally, that unification—while it might be more costly initially due to expenses inherent in moving to a single districtwide teachers' salary schedule—seemed to provide improved educational opportunity.

In an attempt to ascertain whether professional opinion has changed in the intervening two years, the committee staff sent an identical questionnaire to all newly unified district superintendents in the fall of 1966. The administrators overwhelmingly backed up the earlier responses to the Napa County superintendent's survey, by pointing out that in their opinion the following characteristics of their school districts had changed for the better following unification, some in great degree.

1 Greater coordination between teachers at the elementary and secondary level
2 Some instructional improvement brought about through coordination of educational program.
3 Assignment of nonclassroom instructional employees to both levels increased
4. More effective use of such specialists made possible
5. Improvement in the following special educational services:
   A. Audiovisual aids;
   B. Health services;
   C Guidance;
   D. Welfare and attendance services;
   E Food services;
   F Transportation;
   G. Research

6. An increase in these special services available to help children was noted.
7. Greater ease of administration with respect to these special services

These are comments from people in a position to know relative to the educational benefits to be derived from unification. The same superintendents were asked in the survey what benefits, if any, unification had brought with respect to the financial and administrative aspects of school operation In brief, they report

1. One budget, made possible because of unification, had been an aid to administration.
2 The tax dollar, most of them felt, has bought more education.
3. More efficient management of supplies and equipment
4 A reduction in bookkeeping.
5. More efficient use of schoolbuses.
6 An *increase* in public interest in school affairs resulted
7 A gain in the status and prestige of the local school board.
8. More effective utilization of the school buildings
9. An increase in paperwork, but . . .

10 The provision, generally, of a better educational program

11 Equalization of tax support for education in the area has resulted.

12 Previously unequal educational opportunities have been equalized

13 The climate in the district, once unified, made it easier to recruit and attract able teachers.

Most importantly, we note that of the unified superintendents polled in the survey, 26 of 30 responding felt that the *increased local authority* of the new unified board to control the entire educational program, from kindergarten through grade 12, more than offset the loss of previously limited local authority possessed by separate districts And finally, 19 of 30 responding felt that interest in education remained high after unification among former board members of previously nonunified districts The entire survey appears in Appendix C of this report Suffice it to say that we believe it demonstrates the benefits inherent in school district unification as they have not been demonstrated before

We also note, however, that in the past unification has been "sold" on the basis that it saves the taxpayers money, and provides more education for less This is clearly an error, in our view, since over the short run it appears that unification often results in no reduction in expenditures and sometimes an increase Of course, this is largely due to the costs inherent in moving to a single districtwide salary schedule for teachers once unification occurs, which is probably an educationally beneficial occurrence But the point we wish to make is this We believe it can and has been demonstrated that unification brings a superior educational program, and does so with the very real possibility—if it is seized by local boards and administrators—of providing that improved education with greater use and efficiency of the educational dollar But greater *efficiency* does not mean *less cost* It simply means a more efficacious use of the tax dollar In the short run, unification probably does cost more Hence, the augmentation of the state aid in unified districts in an effort to cover those increased costs is well justified In the long run we still believe that unification can cost less per pupil in constant dollars, largely because of the increased efficiency in the use of plant, equipment and personnel, and the possibility of reduction in overlapping administrative staffs

Work done by another subcommittee of the Assembly Committee on Education has come to light which further indicates the educational benefits growing not from school district unification *per se* but from larger district organization The results of the statistical comparisons done by the staff comparing district size and reported scores on statewide achievement tests in 1965 show, according to the report,

> Overall, tiny and small districts do significantly poorer than larger districts [2]

Additionally, the recorded testimony received on AB 145 by the Assembly Education Committee in 1964 when the measure was being consid-

[2] Staff report to the Subcommittee on School Curriculum and Pupil Achievement, Winfield A Shoemaker, chairman, dated January 1966

ered by the Legislature refers to an apparently accurate statistical comparison of the composite raw scores on statewide achievement tests of 1962–63, showing that while the statewide average raw score for all school districts in that year was 200, the statewide average for unified districts was 210 and for nonunified elementary districts it was approximately 196

This committee does not believe that pupil-testing scores form the entire background in evaluating the effectiveness of an educational program However, it is a useful tool which may help to indicate the quality of the output of a school program, and it is in this sense that we use such testing scores here

It is admittedly difficult to find data to support the thesis that unified districts provide a better education Consequently, we note that opponents of unification have usually contended that such mere absence must indicate that there is no difference between unified and nonunified districts in terms of educational effectiveness The subcommittee does not believe that such a jump in logic is justified For the mere absence of proof may also indicate (as we believe it does) that few evaluation mechanisms are available to test this issue For these reasons we have used what data has been brought to our attention and, until it is refuted by more competent evidence, we must conclude that unification provides not for a less costly public school program, but for an improved educational program which insures equality of educational opportunity for children

It is also instructive to note that, since the passage of AB 145, no unified district with less than $5,000 of assessed valuation per unit of ADA at the elementary level has been created Such low-assessed value districts are obviously unable to offer an educational program approaching those of their more affluent neighbors, largely due to their lack of tax base The success of AB 145 in halting the creation of overly impoverished unified districts is proof that a part of the intent of the Legislature to equalize educational opportunity has been fulfilled

The Subcommittee's Program

Our proposal for legislation amending California's unification laws at the 1967 session of the Legislature encompasses two major aspects which we believe to be essential to the improvement of educational opportunity and the fulfillment of the promise inherent in the concept of school unification On the one hand it is apparent that some substantial modification is required in the provisions of the law which have given rise to inflexible interpretations by the State Board of Education with regard to unification along high school boundaries It was, in our view, neither the explicit or implicit intent of the Legislature to lock a rigid, unbending organizational standard into this law At the same time that flexibility is given, it must be guaranteed by the legislative criteria that mere flexibility will not become mass splitting of high school districts so that no effective equalization of education expenditures or tax rate can possibly result

On the other hand, while we guarantee through such statutory criteria that no ponderous, unwieldly districts are formed, we must take swift action to consolidate those truly tiny, obviously unjustified districts which are unable to offer a sound education at reasonable per

unit costs. In our view, it was the consolidation of districts such as these which AB 145 was, in large part, aimed at in the first place

Consequently, we propose in this report a program, both major parts of which we consider to be inseparably linked. It is our hope that the Legislature in 1967 will seriously consider enactment of both facets of our recommendation We would oppose, however, the passage of either element of this package approach to the problem of school unification separately, since such a program would not be properly balanced.

Our program follows·

1 We suggest legislation specifically stating that the State Board of Education may, at the request of a county committee on school district organization, approve the recommended splitting of an existing high school district to form two or more unified districts, but only providing that the following minimum criteria are met:

A. There exists in each of the proposed new unified districts a substantial measure of community identity, sufficient to augur well for the successful support of an educational program

B Equitable division of property and high school facilities is possible between the proposed new unified districts.

C. There is no material deviation in the assessed valuation per pupil of one new unified district from each of the other proposed new unified districts For this purpose, "material deviation" in assessed valuation, a term not presently defined in AB 145, should be defined as a deviation greater than 15 percent, on a per pupil basis. The existence of such "material deviation" should, in any case, cause disapproval of the plan.

D. There will be no bars to racial integration, caused as a result of the proposed high school district division. Should differences of opinion arise on this point between the county committee and the State Board of Education, the State Commission on Intergroup Relations within the Department of Education should be required to study the proposed unification plan for this purpose, and its findings should be accepted by both parties as conclusive on this issue

E. There are in each of the proposed new unified districts 15,000 units of average daily attendance, or there will be such an ADA in each such districts as shown by projections to September 1970 The intent of this criteria is to prohibit willy-nilly splitting of high school districts into small, weak unified school districts The figure of 15,000 is based upon testimony received by the subcommittee indicating that an optimum-sized unified school district lies somewhere between 10,000 and 25,000 ADA

2 The second element of our program proposes that legislation be adopted which increases the district "lapsation" figure from its present level of 6 to 200. The lapsation provision of law provides that any district with less than six ADA in any year shall, in the next year, be dissolved and combined with its neighbor The subcommittee believes this figure to be absurdly low; no one has ever contended that a district of six children could provide anything approaching a sound educational program However, witnesses have suggested that California should permit no district to continue operating which cannot support

at least one class and teacher per elementary grade level (180–200 children) Thus we suggest that the approximately 350 smallest elementary districts in California be "lapsed," with the county committee to determine the larger district to which the lapsed district and its ADA shall be attached Our proposal would be a major step toward school district consolidation in California The representative of the Department of Education testified on this point

> "The Department of Education has previously recommended that all one-teacher districts be lapsed. There is no reason why districts with fewer than five teachers could not be lapsed if the objective of graded classes is to be encouraged If such a step is taken, these provisions should be adopted
>
> "A Recommendation to attach the lapsed district to another district should be made by the county committee to prevent violation of the county master plan.
>
> "B Automatic bond assumption by lapsed districts should be eliminated, and bonds assumed only by vote of the electors
>
> "C Permit a petition of two-thirds of the parents of children attending a school in a lapsed district to prevent abandonment of the school if such school meets the statutory requirements of a necessary school "

We endorse this proposal, and we note that the department's proposal will prevent necessary schools from being closed, an objective which we also endorse

In addition to this dual approach to the problems of school district unification, we suggest legislation which will virtually double the present unification bonus of $15 per child, together with a realization on the part of the Legislature that such added state support for unified districts should be intended not as an "incentive," but rather as an attempt by state government to cover the short-range increased costs implicit in unification With such an understanding there should be less resistance to appropriating additional funds to unified districts

Such an increase in the unification bonus should also be locked into a new foundation program for unified districts, thus permitting ease of cost comparison which is presently not available because unified districts are treated, for state support purposes, as two separate districts. Inclusion of the unification augmentation into such a unified district foundation program should remove much of the stigma presently attached to that portion of state aid as well

We recommend that the Lanterman-Ryan Bill of 1965, which established county review committees to study impasse situations resulting when a county committee and the State Board of Education fail to agree on unification plans for a particular area, be repealed The measure, while sound in intent, has resulted in a great deal of wheelspinning and time delay, and since the suggestion of a review committee is only advisory on the State Board of Education, it has been largely a waste of effort This is true because the State Board of Education, in its inflexible attitude on unification, has rarely if ever heeded the recommendation of a review committee. In place of the review committees, the new flexible approach which we recommend for splitting high school districts, when justified, should eliminate the need for such review bodies.

Finally, one technical point involved in the calculation of school district wealth should be brought to the attention of the Legislature and corrected in 1967 Under present law when assessed valuation of a proposed new unified district is computed for the purpose of determining whether "material deviation" exists or not, PL 874 funds received by the district are not considered Since these funds represent real wealth to the district, and an ability to support an educational program, it is hard to see why such moneys should not be considered as district wealth, or assessed valuation We propose legislation stating that PL 874 funds shall be so included, so that a better measure of district ability may be obtained when unification plans are being considered

SCHOOL BUILDING AID PROGRAM

FINDINGS

The Subcommittee Finds That·

1 The State School Building Aid program has accomplished, and is continuing to accomplish its basic purposes of providing classroom and other school facilities in school districts without legal bonding capacity

2 The standards established by the State Allocations Board for space allowances are reasonable and afford sound educational plants without undue excesses in school construction

3 Requests for increases in square footage allotments have not been justified on any basis other than a local desire to build more sophisticated plants

4 The allocation of building space to classroom—as opposed to other types of construction—varies in individual districts, and that only an average of one-half of the allowable square footage is devoted to actual classrooms

5 Financial pressure on the State School Building Bond Fund will be reduced to an, as yet, unmeasured extent, due to reorganization of school districts into sounder financial units.

6 The reduction of maximum class sizes pursuant to 1964 legislation will create some additional pressure on the bond fund—as yet undetermined

7 Many impoverished and state-aided districts will not need additional bond funds for class size reduction due to local past policies favoring low class sizes

8 The increase in kindergarten enrollment for 1966–67 was only 2 7 percent, a slower growth rate than the growth in property assessments, and that consequently, future pressure on the State School Building Aid Fund will be reduced.

9 Transportable classrooms of high quality and lower cost are now being manufactured, and are used by many school districts as an efficient method for dealing with highly variable enrollments in school attendance areas

10 There are no state regulations requiring the use of at least some portable classrooms as a method for balancing space requirements with fluctuating attendance patterns

11 State financing of the School Building Aid program exclusively through the sale of state bonds threatens to increase state budget expenditures substantially in the next three decades and undermine the credit of the state

12 Partial or complete state funding of the School Building Aid program through taxation, instead of bonds, will reduce long term state costs, although state costs for the near future would be higher

13 If the program were funded through taxation, the first year's state cost would be the highest, and subsequent state costs would decline year by year to a level substantially below what continued reliance on bonding would cost

14 Few state publications are available for the guidance and direction of local school officials in matters of ·

A. Site selection
B Selection of architects and contractors
C Single vs. multistory construction
D Economies of construction
E. Rehabilitation vs replacement
F. Other equipment requirements

RECOMMENDATIONS

1. It is recommended that the formulas and regulations governing the State School Building Aid program be continued as presently constituted [1]

2 It is recommended that the Legislative Analyst be directed to continue his examination of square footage per student allowances to determine whether recent advances in school construction methods and the use of portable classrooms warrant changes

3 It is recommended that state-aided school districts be required to utilize portable classroom structures in attendance areas where the ultimate student enrollment will be substantially less than the temporary maximum enrollment

4 It is recommended that a percentage of any 1967 increase in the state revenue structure be dedicated to pay-as-you-go financing of part of the State School Building Aid program

5 It is recommended that the State Department of Education develop specific guidelines for all phases of site selection, school building construction and ancillary equipment, which allow for regional variation, and that local school districts be required to justify purchases of more expensive equipment or more expensive building plans

6 It is recommended that the State Department of Education provide a study for the Legislature of the percentage of school building area devoted to classroom instruction, and that the State Allocations Board establish minimum standards for the proportion of state-aided building area to be devoted to classroom space

7 It is recommended that the State Allocations Board be urged to give first priority to school districts which require additional classrooms.

8 It is recommended that the State Allocations Board produce a comprehensive analysis of the most efficiently constructed school plants under the State School Building Aid program, for submission to the Legislature and for distribution to all local school boards

[1] Assemblyman Elliott does not concur in this recommendation He states "I do not wish to subscribe categorically to this statement that 'the formulas and regulations of the State School Building Aid Program be continued as presently constituted,' because this would foreclose any consideration of the special needs of school districts in concentrated urban areas which receive no assistance but contain residents who contribute substantially to financing of the program"

THE STATE SCHOOL BUILDING AID PROGRAM

Since the enactment of the State School Building Aid Law of 1952, the State of California has guaranteed the existence of necessary school facilities in all local school districts Due to the excessively high growth rate of school-age children in the late 1940's and throughout the 1950's, it became apparent that many local districts would be able to finance their own facilities only at the cost of extremely high local property tax rates Thus, the Legislature determined that the resources of the state as a whole should be placed at the service of the needy local units

Local school districts have traditionally been limited in their authority to bond themselves For a unified school district operating grades K–12, the legal limit is 10 percent of the assessed valuation of the district For separate elementary and high school districts, the limits are 5 percent each.

However, the existence of bonding limits does not automatically mean a reasonable limit on the local property tax rate which is necessary to finance the bond interest and redemption payments In numerous localities where population expands rapidly, a crash program of school construction could cause very high rates in situations where a school district had to commit its entire bonding capacity within a few years

It should be kept in mind that some school districts have no construction problems whatsoever, save for the replacement of worn-out buildings from time to time School taxes for bond interest and redemption are very low, and in many cases, nonexistent Conversely, the postwar expansion of the suburbs has required vast construction programs wherein virtually all of the buildings in a district are less than 20 years old

The solution to the problem in the high growth districts was partially resolved by a state program which provides construction loans to eligible districts—loans which will be converted into grants if they are not redeemed within 30 years The Legislature established a ceiling on property tax rates for school construction, and it is due to this ceiling that some of the poorest school districts will never repay their state loans

In round figures, a unified district has a tax ceiling of $0 80 per $100 of assessed valuation for bond purposes The first call on the revenues must go to redeem the district's own bonds If the district is participating in the State School Building Aid program, the remaining portion of the 80-cent rate is used to repay state loans (For separate elementary and high school districts, the ceiling is $0 40 each)

However, if the district is using its entire bonding tax rate to satisfy its own bonds, the repayment of the state loan is postponed from year to year When 30 years have elapsed, the unpaid portion of the state loan is written off

This system serves admirably to make necessary school facilities available without inexcusably high taxes locally. Through various amendments since 1952, state loans have been made available not only for the basic classroom unit, but for nearly all facets of the school district operation

Local school districts now receive state loans for constructing administrative facilities, purchasing new sites, buying supplies, including library books, furniture and the rest Barely half of the state funds are

now being used strictly for classrooms, but with the 5-percent limit on local bonding capacity and the desires of local school districts for more sophisticated plants, there is no alternative

The State School Building Aid program provides for a maximum of local choice within financial limits Overall, the district is permitted to build a plant which reflects the average costs of nonstate-aided schools in other districts Individual cost factors, such as labor rates, are adjusted frequently so that estimates can be accurate

The amount of space allocated is based on a formula which allows maximum local determination in the use of the allocation

At the elementary level, grades K or one through six, each district has an allocation of 55 square feet per student to be housed Not more than 30 or so square feet will be used for the actual classrooms The remainder will be allocated by the local district to other costs or desired facilities

For junior high schools, the square footage allowed is increased to 75 square feet, reflecting the general practice of having separate gymnasiums, science laboratories, and other specialized services For high schools, there is a sliding scale, depending on enrollment, which averages about 90 square feet per student

For some time, there have been pressures to change these allowable square footage amounts Generally, the Legislative Analyst has requested that they be reduced by 10 percent, and the argument is made that modern construction techniques, including the judicious use of well-constructed but portable classrooms, permit a reduced reliance on state support without endangering the quality of school facilities provided to children.

At the other end of the spectrum, school officials have requested that the square footage allowances be raised to reflect the ever more comprehensive functions that a school district often seeks to undertake They point to schools in nonaided districts where as much as 155 square feet per student is used in building a new high school

Various members of this committee have visited schools built under state aid formulas, both individually and as committeemen We have found that state-aided schools are generally very adequate, though without ornate embellishments that characterize some nonaided schools and are added at local option

We have observed that individual state-aided districts will sometimes use a high percentage of allowable space in large, modern, administrative buildings, while others will make do with older administrative structures and concentrate square footage on actual classrooms and school plants such as libraries

We think, therefore, that no need has been demonstrated for increasing the square footage allocations

On the other hand, we believe that the suggestions of the Legislative Analyst are perhaps premature We think that, aside from using portable classrooms which may not be appropriate in every district, a more precise showing is needed to support the thesis that modern advances have reduced the need for state help

Since the State School Building Aid program operates as a full partnership between the state and eligible districts, it is always necessary for the local district to contribute its share toward needed construction.

Necessary construction arises from two sources On the one hand, it may be necessary to repair or replace an old unsafe structure (See our report in this volume on the Field Act.) More commonly, the district's student enrollment has risen markedly, and totally new school plants are required.

Although the district has been bonded to legal capacity in the past in order to participate, the annual growth in assessed valuations almost always requires that a district sell some additional bonds in order to requalify as being fully bonded. To do this, the district will have to ask local voters for bonding authorization to bring the district up to the qualifying limit of 95 percent of 5 percent of the assessed valuation

In 1965, we note that the Legislature changed the definition of assessed valuation to reflect county assessment practices This has been done for over a decade with respect to regular state apportionments.

Basically, in counties that are overassessed—e g , where local property taxpayers contribute more actual tax money at the same tax rate—the new formula reduces the book value of the assessed valuation, and therefore, the district does not have to sell as many bonds in order to qualify for the program The law reduces the overtaxation on individuals by automatically reducing the overassessment

Nevertheless, it is still the responsibility of the local school district to receive authorization to establish its eligibility, and this requires the customary two-thirds vote of the electorate

In a typical case, the district may be eligible for $1 million worth of construction, allocated on the basis of square footage. A district which has already participated in the State School Building Aid program will probably be very close to its legal bonding limit through previous sales establishing eligibility. Thus, the district might have to authorize $50,000 or perhaps $100,000 of local bonds in order to receive the balance as a state loan under the program.

If, in selling these local bonds, the local tax rate rises sufficiently high, the repayments on the state loan will be deferred until such time as the local tax rate is reduced to reasonable proportions

The State School Building Aid program, then, is basically an efficient operating system for supplying necessary school buildings in local emergencies. We believe the State Allocations Board which controls the program, and the State Office of Local Assistance within the Department of General Services, have met their responsibilities with the dispatch, fairness and efficiency of which any private corporation could be proud.

What modifications we would suggest for the program grow out of new developments, and do not in any way reflect adversely on the above agencies These include the methods of financing the system and new developments in the field of school construction

One of the foremost findings of recent years is the fact that in many school areas, patterns of family living have developed which have implications for school construction

We refer to the testimony of the Los Angeles City Schools in which it is stated that a pattern of rapid growth, subsequent moderate decline, and final leveling off has characterized the attendance areas of many new elementary schools within the district.

It appears that new housing tracts frequently draw to them large numbers of younger families with school-age children With the passage of time, the area becomes more representative of the general population, with a smaller percentage of school-age children in the attendance area. Then, the area becomes relatively stable so far as the need for classrooms is concerned

While this pattern is not totally pervasive, we believe that it represents a sufficiently large problem to warrant changes in the construction program

The Los Angeles district is not now, and has never received state loans. The district has never had to use up all its local bonding capacity However, to finance their local schools most efficiently, the district has adopted a local policy whereby a new elementary school is built to only 80 percent of its expected capacity in terms of classrooms

Administrative and other buildings are built as permanent structures, but 20 percent of the classrooms are built as transportable buildings The district has found that with a few years of maximum enrollment, there is a decline in attendance, and the classrooms no longer needed can be moved economically to schools that are being constructed and serve the same purpose in another location.

The committee was also impressed by the materials presented by various manufacturers of modern portable classrooms, and therefore, we urge the State Allocations Board to consider the possibility of requiring some percentage of portable classrooms if it is determined that the local attendance area is likely to follow the pattern found in Los Angeles

The original cost of a portable building was stated to be about $12,000, whereas the permanent building costs about $20,000 a classroom We think this could represent a significant saving without interfering in any way with proper education From the evidence submitted to us, these portable buildings are excellent instructional structures with all the latest advances in equipment

Secondly, the need for land area for schools is forcing up land prices for many school districts We do not propose that local districts be restricted in the size of school site they choose However, we would encourage the use of portable structures to some degree, in order that local districts could provide adequate outside space permanently without using up too much land area

We see the possibility of a local district choosing to buy somewhat less land, and while total outdoor space might be somewhat restricted during the first few years of the school's life, the removal of no-longer-necessary portable buildings would give the school adequate grounds

Another field in which we think continuing study is needed involves the projects on which local districts use state loans When the State School Building Aid program was first established, it provided only for actual classrooms In the intervening years, the program has been amended to provide for all other types of buildings, administrative offices, multipurpose rooms, and so forth Districts may also use state funds for equipment, and in the latest 1965 changes, they may purchase books for libraries

We do not question the policy of having the state program subsidize the entire school needs, but we think that studies should be undertaken to determine whether some minimum state standards should be established.

If such a study were to find that a few school districts are devoting too much of their state loan funds to nonclassroom purposes—thus possibly maintaining excessively high class-size standards—we would ask the State Allocations Board to require that more emphasis be placed on those school structures which directly affect the student's education every day

We see, for example no reason whatsoever why a state-aided district should not be fully in compliance with the lower maximum class sizes in primary grades contained in 1964 legislation (AB 145) Our preliminary studies indicate that many state-aided districts actually do meet the maximum limits already, and that they have used their construction allotments to maintain acceptably small class sizes even prior to the passage of that law

Although the State School Building Aid program is independent of the lower class size rules, we believe the two programs should be fully integrated to complement each other

An increasingly serious problem, however, is the recurring necessity to float large state bond issues to support the program In recent years, it has become the pattern for the Legislature to propose, and for the public to approve a major authorization for state bonds to finance the program In the most recent authorization (1966), the people approved a $260 million issue which is expected to last only two years.

As the sale of state bonds becomes a financing pattern, this committee, the Legislative Analyst, and the Legislature as a whole have become increasingly concerned with the mounting interest costs to the General Fund—to state taxes in general

The committee believes that the basic justification for bond financing, in lieu of pay-as-you-go taxes, lies in the necessity to build a necessary facility immediately without overburdening a single year's tax burden. However, when a bonding program becomes a semi-permanent arrangement, as the State School Building Aid program has, we are no longer spreading the financing of a one-time construction project out over several decades We are, in fact, building up to the point where bond redemption and interest costs to the state will exceed the total funds which would be required under a pay-as-you-go system

The Legislative Analyst presented us with projections which indicate that in the late 1970's and early 1980's, the cost of the presently financed system will be definitely unprofitable on an annual basis, and that from that point on, the burden on the state's annual budget will be very serious.

We suggest, therefore, that a means must be found to finance at least a sizable portion of the program's costs through current taxation We have been shown where full support through taxation would ultimately *lower* the state's cost by about $50 million a year. Partial funding through tax revenue would save a proportionate amount of this

We recommend, therefore, that if the state sales tax or some other rapidly growing revenue device is increased in order to support the public schools, that a fixed percentage of the additional growth revenue from that tax be set aside to fund the State School Building Aid program currently. With increasing returns from growth, it may be possible to finance the entire program through this added revenue

The immediate gain to be derived from this funding change is that the presently authorized bond issue might well last for three or four years, and that we would not have a period of emergency every two years when state loans must be granted only on a priority basis Local school boards would be able to plan more confidently toward the end of the bond authorization

During our study, it became apparent that certain misconceptions exist on the availability of state loans for emergency purposes With the adoption of Assembly Bill 145 in 1964 and subsequent 1966 amendments, class sizes in districts must be reduced to a maximum of 30 in the primary grades by 1968–69. In 1965, the Legislature adopted Assembly Concurrent Resolution 128 which directed the State Allocations Board to authorize additional building space for this purpose

We think that the 1967 Legislature should reaffirm this position, so that local officials will have continuing notice that state help is available to meet the maximum class size standards

Finally, we have heard considerable testimony related to the optimal needs of school districts. The Department of Education presented material which would indicate, on the surface, that the State School Building Aid program is somewhat overthrifty in its allocations formulae, yet an analysis of this material indicates that the schools relied on by the department are essentially concentrated in wealthy areas of tax base, or serve an educationally oriented population where high taxes for schools are more gladly accepted

We do not believe that the Legislature ever intended that the State School Building Aid program should subsidize the finest and most expensive school buildings possible It would be pleasant if tax revenues were that easy to acquire.

Thus, we think that the Department of Education should alter its analytical approach to the problem by beginning a series of studies which compare the ways in which different school districts actually operate a construction program under state aid

We cannot believe that with hundreds of separate districts participating, there are not some who build better educational plants than others We think the department has an obligation, as a state agency, to provide frankly comparative and objective analyses, since local school boards can rely on no other source for third party information

Therefore, we recommend that the Department of Education be directed to commence a major comparative study of the various school plants that have been constructed under the program And we would expect the department to make critical judgments as to the educational advantages or disadvantages of differing approaches—particularly as they relate directly to the day-by-day education of the child in the classroom

The committee has heard that approximately 50 percent of state-aided construction is devoted to classrooms, but we have no indication as to whether this practice is uniform, or merely the average of widely disparate local practices

The department has continually expressed its plan of operations in terms of "guidelines" To our knowledge, these have no force of law, and hence, they can be and often are ignored at will by any individual district For the well-being of the whole program, the Legislature needs specific information as to whether voluntary guidelines are having the intended effect

The Legislative Analyst has pointed to the fact that departmental guidelines are few and far between His suggestions add up to the conclusion that the most expensive school building or equipment is not necessarily the best educational investment; it may, indeed, be wasted money in terms of improved academic achievement which is the central purpose of the schools.

It is particularly irksome to the committee when the department cites irrelevant material to buttress its case for increased square footage allotments Such an example was brought to our attention as it relates to the department's adamant opposition to portable classroom structures. The department cited rather dated research which indicated only that more expensive portables are easier to maintain than cheaper ones However, the findings were used to buttress the case for totally permanent construction as against portable structures.

To summarize our study of the State School Building Aid program, we have found that it is an effective instrument in maintaining adequate school buildings in needy school districts.

The month-by-month operation of the program by the State Allocations Board and its administrative arm, the Office of Local Assistance, has been excellent.

Investigations by the Legislative Analyst have indicated the need for more critical examination of the programs's operations in the future by the Department of Education.

The financing of the program should be significantly changed to a pay-as-you-go basis insofar as the program appears to have become a permanent feature of California government.

For the immediate future, the slowing rate of growth in kindergarten enrollment promises to reduce pressure on the program; but further reduction of class sizes in primary grades, or the enactment of legislation requiring lower class sizes in the upper grades, could have the opposite effect.

On the whole, we believe the California program serves our people well.

SEPARATE VIEWS OF ASSEMBLYMEN STEWART HINCKLEY AND VICTOR V. VEYSEY

We concur with Parts II and IV of the subcommittee report, dealing with school district budgeting and accounting and with the state school building aid program, respectively. However, we dissent from Parts I and III dealing with school construction standards and with school district reorganization

We are dissatisfied with Part I of the report because it will serve to usurp the policymaking responsibility of local boards of education and thrust it upon the electorate The subcommittee proposal requires the local board to develop a renovation plan for school buildings constructed prior to the Field Act of 1933 and requires that plan to be put to a referendum whether or not the school board believes the plan to be desirable. In other areas of school policy, such as school budgeting, we are attempting to make elected school board members *more* responsible for their policy decisions, not less so. (See pages 51–52 of this report.) We see no justification for departing from sound principles of public administration in the single area of school construction standards

We therefore recommend that the Legislature absolve local school board members of personal tort liability for injuries resulting from earthquake damage to pre-1933 school buildings, provided that the board has made an express policy determination on the question of whether to renovate and after public hearings on the question have been held, regardless of which way the board decides The board will then be performing one of the functions for which it is created, and proper board functions will not be shunted onto the voters

With respect to Part III of the report, while we support the recommendations relative to deviations from the high school boundary standard, we prefer other alternatives to the proposed $30 unification "bonus" and to mandatory lapsation of districts with ADA less than 200.

The unification bonus is distasteful and is widely looked upon as a bribe of the local voters with their own tax dollars This is made abundantly clear by the fact that nearly two-thirds of the unification proposals in the past two years have been defeated at the polls. If unification is to be a voluntary matter, as we believe it should be, the voters should be permitted to evaluate the unification plan *on its merits*, and not be influenced by financial inducements proffered by the state. At the same time, we recognize that there are certain cost increases associated with district unification, chief of which is the conversion to single-salary schedule

We therefore propose that in lieu of a bonus the Legislature provide for a cost-sharing plan under which the state would assume 50 percent of actual cost increases due to the new unified district converting to the single-salary schedule

We propose also that mandatory lapsation be applied only to those districts with an ADA under 25. Bigness per se does not guarantee education quality, nor does smallness necessarily result in inferior

education Specialized services where needed may be obtained on a contract basis from the intermediate unit We believe that the Legislature has been excessively enamored with unification for unification's sake, and that it has too often overlooked the assets of the small district.

APPENDICES

APPENDIX A

OFFICE OF THE ATTORNEY GENERAL
State of California

THOMAS C. LYNCH
Attorney General

OPINION

of

THOMAS C. LYNCH
Attorney General

DAN G. LUBBOCK
Deputy Attorney General

No. 65/324

May 4, 1966

THE HONORABLE JOHN B HEINRICH, COUNTY COUNSEL OF SACRAMENTO COUNTY, has requested an opinion on the following questions:

1 Does the board of trustees of a junior college district have a legal duty within the meaning of the Government Tort Liability Act of 1963 to procure an inspection of school buildings which were constructed prior to 1933?

2 If there is such a duty with regard to buildings constructed prior to 1933, to what extent, if any, does a corresponding duty apply to school buildings constructed or altered after 1933?

3 Assuming that the board of a school district has a legal duty to inspect, that no inspection has been made, that an accident was proximately caused by a structural defect in a school building constructed prior to 1933, could the board members be held personally liable?

4. Should the conclusions reached with regard to personal liability of board members of a school district in 43 Ops Cal Atty. Gen 209 (1964) be reaffirmed?

5. Assuming the answer to question number 4 is in the affirmative, would board members of a school district be acting within the scope of their employment within the meaning of the indemnity provisions of the Government Tort Liability Act of 1963 if they refuse to obey the mandates of section 15503 of the Education Code once the requisite conditions for board action set forth therein have occurred?

The conclusions are:

The governing board of a school district does have a legal duty within the meaning of the Government Tort Liability Act of 1963 to procure an inspection of school buildings which were constructed prior to 1933. There is no corresponding duty under normal conditions for

school buildings constructed after 1933 since the plans and specifications have in such cases been approved under the Field Act Failure to inspect a school building constructed before 1933 will result in personal liability for board members of a school district when an accident was proximately caused by a structural defect, if funds for an inspection were or could be made immediately available Failure to repair a school building, regardless of when constructed, when advised of the unsafe condition under sections 15503–15516 of the Education Code will result in personal liability A board member of a school district nevertheless will be entitled to indemnification under section 825 of the Government Code, his acts being within his scope of employment

ANALYSIS

The Field Act of 1933 was enacted as an emergency measure as a direct result of a series of earthquakes "in order that the lives and property of the people will be protected" Stats 1933, Ch 59, pp 354–55, sec 9, Ed Code §§ 15501–15516 The rules and regulations prescribed under the authority of the Field Act established minimum requirements for the design, construction and reconstruction of public school buildings "in order to attain the requisite stability to withstand vertical loads and lateral forces (wind or earthquake) . . " 21 Cal Admin.Code § 2 Although the required techniques, methods, and inspections of construction may not apply to pre-1933 buildings, the standards of requisite stability should apply nevertheless Since buildings constructed after 1933 would be considered unsafe if they failed to attain the requisite stability to withstand vertical and lateral forces as established, it follows that buildings constructed before 1933 which do not attain such stability would also be considered unsafe under the standards of the Field Act

An unsafe building which failed to meet the structural support requirements of the Field Act would be a "dangerous condition"[1] for which a school district would be held liable assuming all the requirements of Government Code section 835 were proven

For instance, assuming that it is shown that the dangerous condition existed at the time of the injury, that the dangerous condition proximately caused the injury and that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, a public entity would be liable for injury caused by the dangerous condition of which it had actual or constructive notice a sufficient time prior to the injury to have taken measures to protect against the dangerous condition Gov Code § 835 A public entity has constructive notice if the condition has existed for some time and is of such an obvious nature that the public entity, in the exercise of due care, should have discovered the condition and its dangerous character Gov Code § 835 2(b)

On this issue of due care, Government Code section 835 2(b) provides that admissible evidence includes but is not limited to.

[1] A dangerous condition is defined by Government Code section 830(a) as "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used" The risk of injury to persons and property in the case of school buildings which would not withstand certain vertical and lateral forces was so substantial that the Legislature enacted the comprehensive scheme of the Field Act

"(1) Whether the existence of the condition and its dangerous character would have been discovered by an *inspection system* that was reasonably adequate (considering the practicability and cost of inspection weighed against the likelihood and magnitude of the potential danger to which failure to inspect would give rise) to inform the public entity whether the property was safe for the use or uses for which the public entity used or intended others to use the public property and for uses that the public entity actually knew others were making of the public property or adjacent property

"(2) Whether the public entity maintained and operated such an inspection system with due care and did not discover the condition" (Emphasis added)

When the Legislature enacted the Field Act, it established the fact that the magnitude of potential danger to persons and property far outweighs the practicability and cost of inspection, it legislatively established a standard of due care Failure to inspect a building constructed before 1933 to ascertain whether it can withstand certain minimal forces, consequently, is failure to exercise due care Consequently, a public entity would have constructive notice of a structural deficiency which existed in such case

The defense of "reasonableness" would not be available in such a situation For while a public entity is not liable for injury caused by a dangerous condition if it is established that inaction by the public entity was reasonable, reasonableness is determined by weighing the probability and gravity of potential injury to persons and property foreseeably exposed to the risk of injury against the risk of such injury. Gov Code § 835 4(b). Again, the legislative pronouncement of the Field Act applies here as well as above, so that failure to inspect a building constructed before 1933 is not reasonable

Neither a public entity nor a public employee [2] is liable for an injury caused by a plan or design of a construction of, or an improvement to, public property where such plan or design has been approved in advance of the construction or improvement by the appropriate authority. Gov Code § 830.6 The plans and specifications together with estimates of cost for the construction or alteration of school buildings are required to be submitted to the Department of General Services for approval Ed Code §§ 15404, 15454 Therefore, neither the board nor its members would be liable for an injury resulting from a plan or design of construction or alteration to a school building which was accomplished after 1933. Consequently, in the absence of peculiar or extraordinary wear or damage to a school which might qualify as actual notice of a dangerous condition, continued inspection of school buildings constructed after 1933 should not be required

Similar principles apply to the personal liability of board members in such a situation, except that they have certain rights of indemnification from the district Thus, board members would be personally liable for an injury caused by a dangerous condition in a school building constructed prior to 1933 if the board had failed to provide for an inspection to ascertain whether the building met the standards of requi-

[2] "Public employee" as used in the Tort Claim Statute includes members of the governing board of a school district Gov Code § 810 2

site stability under the Field Act For while a public employee in the execution and enforcement of any law is not liable for an act or omission if he exercises due care (Gov. Code § 820 4), failure to inspect a school building constructed prior to 1933 to ascertain whether the safety standards of the Field Act are satisfied is failure to exercise due care.[3]

When a public entity is liable for an injury caused by a dangerous condition, a public employee is also liable for injury caused by a dangerous condition if the employee had the actual authority and it was his responsibility to take adequate measures to protect against the dangerous condition at the expense of the public entity and the funds and the other means for doing so were immediately available to him.[4] Gov. Code § 840.2(b).

Since school board members would have the authority and the responsibility to take adequate measure to protect against the dangerous condition,[5] only where funds are not immediately available for inspection would members of the board be immune from personal liability

Immediate availability and the measures to be taken to procure funds have been discussed in detail by 43 Ops Cal.Atty Gen 209 (1964). The conclusions of that opinion regarding the personal liability of board members have not changed.

An employee acts within the scope of his employment when he acts in furtherance of his employer's purposes even though he may act contrary to specific instructions *Rupe* v *City of Los Angeles*, 186 Cal. 400, 402 (1921) Under section 825 of the Government Code, it is mandatory that the public entity indemnify the board member when he acts within the scope of his office, subject to a right of subrogation only where he acted or failed to act because of actual fraud, corruption or malice Gov. Code §§ 825, 825.4, 825 6.

* * * * * * *

[3] The discussion above of due care under Government Code Section 835 2(b) should apply here also

[4] A further requirement of Government Code Section 840 2(b) is constructive notice When a public employee has constructive notice is specified in Government Code Section 840 4(b) Of the three requirements thereunder, the third, that of obvious nature, would be established when constructive notice is established for liability of the public entity Gov Code §§ 835(b), 835 2(b) The other two requirements under Section 840 4 are substantially the same as the prerequisites to liability of a public employee under Government Code Section 840 2 other than constructive notice

[5] The governing board of any school district shall manage and control school property within its district Ed Code § 15801

APPENDIX B

Proposed Legislation on School Safety Standards

An act to amend Sections 15503, 15504, 15505, 15507, 15509, 15510 of, to amend and renumber Section 15501 of, to add Sections 15501, 15501.5, 15510.5, 15512, and 15513 to, and to repeal Section 15511 of, the Education Code, relating to public school buildings.

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

SECTION 1. Section 15501 of the Education Code is amended and renumbered to read:

~~15501~~ *15502.5.* If the supervisor of health of any school district notes any defect in plumbing, lighting, or heating, or any other defect in the school building which tends to make the building unfit for the proper housing of the children, he shall at once make a detailed report to the governing board of the school district.

If within 15 days after he has filed this report, he finds that the board has made no provision for the correction of the defect, he shall at once report the defect to the county superintendent of schools who shall under the provisions of Sections 15851 to 15856, inclusive, proceed to have the defect corrected.

SEC. 1.3. Section 15501 is added to the Education Code, to read:

15501. The Legislature finds and declares as follows:

(a) By an urgency act (Stats. 1933, Ch. 59), the Legislature at the 1933 General Session established reasonable minimum standards for the design and construction of new school buildings, as now defined in Section 15452. Although it was not required that then existing school buildings incorporate these standards, it was intended by the Legislature that in the intervening years continuous progress would be made in the repair, reconstruction or replacement of such school buildings

(b) Progress toward this end has been outstanding in some school districts In other school districts the matter has been ignored, thus prolonging a dual level of safety for the school children of California.

(c) Recognizing that some school buildings are better preserved than others, that some are less hazardous than others, that some more nearly satisfy modern educational needs than others, but that the best of these buildings are at least 33 years old and approaching the end of their efficient service life, it is reasonable to expect that all of them will have been repaired, reconstructed or replaced by 1983, at which time the newest of them will be 50 years old

SEC. 1 5. Section 15501.5 is added to the Education Code, to read:

15501.5. It is the intent of the Legislature to re-examine the progress under this act from time to time To enable it to do so, and to expedite the provision of safe educational facilities for California school children, the Legislature intends that the governing board of each school district adopt a plan for the orderly repair, reconstruction, or replacement of school buildings not repaired, reconstructed, or replaced in accordance with this article.

SEC. 2. Section 15503 of the Education Code is amended to read:

15503 *The governing board of any school district which has in use for regular school purposes any school buildings which were not constructed under approved plans and the supervision and inspection requirements of Article 4 (commencing with Section 15451) of this chap-*

ter shall have such buildings examined pursuant to this section and shall have completed on or before January 1, 1970, the examination, reporting and estimate requirements of this section and Section 15512.

Whenever an examination of the structural condition of any school building of a school district has been made by the Department of General Services, or by any licensed structural engineer or licensed architect for the governing board of the school district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law

For the purposes of the examination and report required by this section, the level of safety for a school building for protection of life and prevention of personal injury shall be equivalent to that provided by a similar building constructed in accordance with Article 4 (commencing with Section 15451) of this chapter, disregarding insofar as possible considerations of permanence of construction, and the condition of the school building as a result of depreciation due to wear and tear or obsolescence or damage to the building resulting from horizontal or vertical forces

The estimates required by this section shall be based on the current costs for repair or reconstruction, and may include other costs to reflect modern educational needs The estimates shall include a computation of the cost of replacement using the standards established by the State Allocation Board for area per pupil and cost per square foot.

SEC 3 Section 15504 of the Education Code is amended to read:

15504 After securing the estimate, the governing board of the district shall, if the district has sufficient funds to its credit to permit the repairs, reconstruction, or replacement, *and such funds do not represent the proceeds of a bond issue previously authorized by the electorate of the district for other purposes*, immediately proceed in such manner as is authorized by law to secure the necessary authorization for the expenditure of the funds If authorization to expend the funds is not required by law, the board shall within ~~60 days~~ *six months* from the receipt of the report of the examination of the building *or buildings* ~~proceed~~ *initiate action for* ~~with~~ the repair, reconstruction, or replacement of the building *or buildings*

SEC 4. Section 15505 of the Education Code is amended to read:

15505 If the district ~~has not~~ *does not have* sufficient funds available to permit the governing board of the district to proceed with the repair, reconstruction, or replacement of the building *or buildings*, the governing board *shall* ~~may~~ after receiving the report of the examination of the building *or buildings, and within six months following submission to the Bureau of School Planning within the Department of Education of the report and plan required by Section 15512,* order the county superintendent of schools to call an election at which there

shall be submitted to the qualified electors of the district ~~three propositions, as follows:~~ *the question of adoption or rejection of the governing board's proposed plan for the repair, reconstruction, or replacement of the affected school building or buildings A plan shall be approved if a majority of the votes cast on the question of the adoption or rejection of the governing board's proposed plan are in favor of the adoption thereof*

At such time as the governing board of the district submits to the qualified electors of the district its proposed plan required by Section 15512, it shall also order the county superintendent of schools to submit to the qualified electors of the district at the same election two propositions, as follows:

(a) (1) Authorization of bonds of the district in an amount sufficient, as shown by the estimate, to provide funds for the repair, reconstruction, or replacement of the building *or buildings, in accordance with the governing board's plan* ; or

(2) Authorization of bonds of the district in an amount sufficient as shown by ~~an~~ *the* estimate obtained by the district to construct new school facilities on the site of *one or more of* the unfit building *or buildings*, or on ~~another site~~ *other sites, in accordance with the governing board's plan*

(b) Authorization of the increase of the maximum tax rate of the district for such length of time as will permit raising sufficient funds by district taxation for the repair, reconstruction, or replacement of the building *in accordance with the governing board's plan*.

~~(c) Abandonment of the building and use of tents or other temporary structures for school purposes in lieu of the building abandoned.~~

Neither of the above two propositions shall be required to make provision for financing of the entire repair, reconstruction or replacement program of the district, but shall at least provide funds for commencement of such repair, reconstruction or replacement, consistent with the governing board's plan

SEC. 5. Section 15507 of the Education Code is amended to read

15507. The resolution ordering and the notice calling the election shall specify the building or buildings *initially* proposed to be repaired, reconstructed, or replaced, and ~~these proposed to be abandoned~~ *those proposed to be repaired, reconstructed or replaced pursuant to the governing board's proposed plan.*

SEC 6 Section 15509 of the Education Code is amended to read.

15509 If, at the election, the requisite number of voters cast their ballots in favor of the issuance of bonds, the bonds shall be issued and sold in the manner provided by law for the issuance and sale of bonds of the district, and the proceeds used for the purpose or purposes specified in the resolution or notice calling the election In such event, the results of the voting upon the ~~other two propositions~~ *proposition calling for an increase in the maximum tax rate of the district* submitted at the election shall be disregarded

SEC 7. Section 15510 of the Education Code is amended to read

15510 If, at the election, issuance of bonds of the district if not authorized, and if, on the proposition of increasing the tax rate of the district the number of votes cast in the affirmative is sufficient to authorize an increase in the tax rate of the district, the increase shall

be authorized, and the governing board shall proceed to increase the rate and to use the proceeds of the increased tax solely for the purpose or purposes specified in the resolution or notice calling the election. ~~In such event the result of the voting upon the third proposition submitted at the election shall be disregarded.~~

SEC 8 Section 15511 of the Education Code is repealed.

~~15511. If, at the election, neither the proposition to issue bonds nor the proposition to increase the maximum tax rate is authorized by the electors, the result of the voting upon the proposition to authorize the use of tents or other temporary structures shall be considered by the governing board, as an advisory vote, and the tents or other temporary structures may be used for school purposes to the extent that such use is deemed necessary by the governing board.~~

SEC. 9. Section 15510 5 is added to the Education Code, to read:

15510 5 If, at the election, the governing board's proposed plan for the repair, reconstruction or replacement of the affected school building or buildings is approved by the voters, but neither the proposal for the issuance of bonds nor to increase the maximum tax rate of the district to initiate the proposed plan is approved and authorized, the governing board of the district shall present the same plan or a modified plan, together with proposals to authorize the issuance of bonds or an increase in the tax rate, no later than five years following the last submission of these propositions to the qualified electors of the district.

If, at the election, the governing board's proposed plan for the repair, reconstruction or replacement of the affected school building or buildings is not approved by the voters, the results of the voting upon the other two propositions submitted at the election pursuant to Section 15505 shall be disregarded, and the governing board shall, no later than five years following the last submission of these propositions to the qualified electors of the district, submit the same or a modified plan, together with proposals to authorize the issuance of bonds or an increase in the tax rate, to the qualified electors of the district

LEGISLATIVE COUNSEL'S DIGEST

Unsafe School Buildings · Repair.

Amends, adds and repeals various sections, Ed.C.

Includes requirement in provisions of law relating to repair or replacement of school buildings found to be unsafe after examination, that school district governing board (1) cause examination of certain school buildings not constructed according to specified standards of safety to determine their safe condition, (2) estimate cost of repairs or replacement, (3) formulate plans for the repair or replacement thereof, and (4) finance repair or replacement upon approval of voters by bond issuance or increased tax rates where school district has insufficient funds

Makes provision for reporting all examinations, estimates and other specified data relating to unsafe school buildings to Bureau of School Planning within Department of Education; and requires bureau to summarize data and report to Legislature thereon every two years.

Eliminates choice of abandoning unsafe school buildings, and use of tents or other temporary structures in lieu thereof, as an alternative to repair or replacement of unsafe buildings

Requires approval of plan to repair or replace unsafe school building, as well as approval of bond or increased tax rate financing by voters, in order that replacement or repair be so financed

Makes other related changes

Vote—Majority, Appropriation—No, State Expense—Yes.

APPENDIX C

A Staff Report

to the

SUBCOMMITTEE ON SCHOOL EFFICIENCY AND ECONOMY

ALFRED E. ALQUIST, *Chairman*

RESULTS OF QUESTIONNAIRE ON UNIFICATION

Based on Questionnaires Completed by 30 District Superintendents

Prepared by the Staff

of the

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

CHARLES B. GARRIGUS, *Chairman*

September 1966

STAFF SURVEY OF NEWLY UNIFIED SCHOOL DISTRICTS

In 1964, Mr Piercy C Holliday, the Napa County Superintendent of Schools, published a survey he had made of the unified school districts existing at that time In the summer of 1966, the Holliday survey was duplicated (except for updating the ADA year) and redistributed by the staff of the Assembly Education Committee to the superintendents of districts which had become effective and operative since the passage of AB 145

The sample includes 37 districts, of which 30 responded in time for this report The general conclusion, as shown in Table I, is that the results of the staff resurvey virtually duplicate the answers obtained by Mr Holliday in 1964

In the recruitment and utilization of teachers, significant gains are noted Special services are more widely available and more effective

The business operations of the districts are noted to be more efficient, with the qualification that no marked reduction in the number of classified personnel occurred

Quasi-political factors such as tax rates, public interest, community group support and board prestige show gains on balance

Tables II and III are analyses of the responses to the staff survey comparting important variables in the operation of school districts.

In Table II, we have separated 13 "larger" districts from 13 "smaller" ones and provided selected examples of the results The selection excludes the questions which are so overwhelmingly onesided in the result that the analysis would be useless

There are not too many significant differences between larger and smaller districts In strictly educational matters, the overall results are quite similar. The nonconcurrent tendencies appear to involve

1. Reduced bookkeeping (net gain for larger districts)
2. Tax rates (stability in larger districts)
3. Opportunities for the gifted (better in larger districts)
4. Attracting and holding teachers (better in larger districts)

In Table III, 13 "richer" districts have been separated from 17 "poorer" ones. There are some expectable differences, although the magnitude does not seem to be too large

An opposite trend is noted in the provision of better audiovisual services. There seems to be more reduction of bookkeeping in poorer districts. The tax rate is more stable in poorer districts, and the poorer ones seem better able to attract and hold teachers through unification.

Insofar as this resurvey is nearly a repeat of the pioneering effort of Superintendent Holliday, there is little in the way of new insights to be gained, other than to note that the predicted utility of unification seems to be borne out in those areas where unification has been specifically encouraged by legislative action in the past two years.

There are some indications that the unification of smaller districts is still insufficient to secure the advantages reported by larger ones. There is also some indication that unification of poorer areas achieves somewhat greater efficiencies than in richer areas Immediate tax advantages seem to occur in the richer areas, whereas poorer areas seem to achieve educational advances.

In matters of public support and the like, there appears to be little difference according to wealth or size

In attachments to the questionnaire, a number of superintendents indicated that various services or advantages had not yet become available or operative, but that further advances were anticipated Hence, the results of the survey can be considered minimal, with the expectation that a later study in a year or two would add somewhat to the positive responses

For long-term advantages, it may be noted that none of these newly unified districts had assessed valuations per ADA at the elementary level of less than $5,000 Thus, the progress since 1964 has not produced any unified districts which are so impoverished that even voluntarily high tax rates would only produce an inferior educational program.

LIST OF UNIFIED DISTRICTS RESPONDING IN TIME FOR REPORT

ABC
Borrego Springs
Cabrillo
Capistrano
Castro Valley

Chico
Coalinga
Del Norte
Fremont
Garden Grove

Jackson
John Swett
Konocti
La Honda
Laton

Live Oak
Los Banos
Mendocino
Napa
Newark

Norwalk-La Mirada
Pajaro Valley
Pierce
Rialto
Richmond

San Ramon Valley
Surprise Valley
Ukiah
Winters
Woodland

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

CHARLES B. GARRIGUS, *Chairman*

AUGUST 1, 1966

Resurvey of Unified District Superintendent Opinion Limited to Newly Unified Districts Effective for All Purposes on July 1, 1964, or July 1, 1965

		Results
1. When did unification occur? Within the past	1 yr	24
	2 or 3 yrs	6
	4 or 5 yrs	
	6 or 7 yrs	
	8 or 9 yrs	
	10 or 11 yrs	
	12 or more yrs	
2 1965-66 district ADA	less than 500	4
	500- 1,000	3
	1,001- 3,000	6
	3,001- 6,000	4
	6,001-10,000	5
	10,001-15,000	4
	15,001-21,000	
	21,001-28,000	
	28,001 or more	4
3 Length of time you have been superintendent of this district	less than 1 yr	10
	1 to 3 yrs	18
	4 to 6 yrs	1
	7 to 9 yrs	1
	10 to 12 yrs	
	13 to 14 yrs	
	15 or more yrs	
4 Approximate assessed valuation per ADA	less than $5,000	0
	$5,000-$10,999	10
	11,000- 15,999	7
	16,000- 19,999	3
	20,000- 29,999	6
	30,000- 49,999	3
	50,000- 99,999	1
5. Has unification made possible greater coordination between the teachers of the elementary and secondary levels?	Yes	28
	No	2
	No answer	
6. Has this change in coordination generally brought instructional improvement?	Much	9
	Some	19
	None	1
	No answer	1
7. Have consultants, coordinators, etc, been assigned to work at both elementary and secondary levels?	Yes	23
	No	6
	No answer	1

			Results
8	If used, has this cross-assignment been valuable?	Much	10
		Some	12
		None	
		No answer	8
9.	Has there been more or less cooperation between elementary and secondary teachers?	More	24
		Same	5
		None	
		No answer	1
10	Have educational consultants, supervisors, etc, been more or less effective?	More	20
		Same	6
		None	1
		No answer	3
11.	Have elementary and secondary teachers found value in working together on curriculum committees?	Much	19
		Some	10
		None	
		No answer	1
12	Have the special services been improved in the specific areas of		
12a	Audiovisual aids	Better	14
		Same	14
		Poorer	1
		No answer	1
12b.	Health	Better	16
		Same	12
		Poorer	1
		No answer	1
12c	Guidance	Better	21
		Same	8
		Poorer	
		No answer	1
12d.	Welfare and attendance	Better	18
		Same	11
		Poorer	
		No answer	1
12e.	Food service	Better	19
		Same	9
		Poorer	
		No answer	2
12f.	Transportation	Better	24
		Same	4
		Poorer	
		No answer	2
12g	Research	Better	14
		Same	14
		Poorer	
		No answer	2
13	Has the number of special services to children been increased?	Increased	23
		Same	7
		Decreased	
		No answer	

			Results
14	Has the overall effectiveness of the special services been increased?	Increased	23
		Same	6
		Decreased	
		No answer	1
15.	Are the special services more easily administered?	More	24
		Same	4
		Less	1
		No answer	1
16	Has one budget been an aid to administration?	Advantageous	27
		Same	2
		Disadvantageous	
		No answer	1
17.	Has the tax dollar bought more education?	More	17
		Same	4
		Less	
		Don't know	9
		No answer	
18.	Has the management of supplies and equipment been more efficient?	More	25
		Same	2
		Less	
		Don't know	3
		No answer	
19	Has unification reduced bookkeeping?	Reduced	16
		Same	4
		Increased	7
		Don't know	3
		No answer	
20.	Has interlevel use of equipment been made?	Yes	30
		No	
		No answer	
21.	Has the use of school buses been more efficient?	More	26
		Same	4
		Less	
		No answer	
22.	Has the number of classified personnel been affected?	Reduced	6
		Same	13
		More	11
		No answer	
23.	In the first year of unification how did your operational tax rate compare with that of the combined elementary and secondary rates for the previous year?	Lower	8
		Same	12
		Higher	8
		Don't know	
		No answer	2
24.	Has public interest in school activities changed?	Greater	16
		Same	12
		Less	1
		No answer	
25	Have community groups changed their support of the schools?	Stronger support	6
		Same	23
		Less	1
		No answer	

			Results
26.	Has the board of education gained in status and prestige?	Increased prestige	18
		Same	11
		Less	1
		No answer	
27	How has building utilization been affected?	More effective	24
		Same	5
		Less effective	1
		No answer	
28	Has competition for the tax dollar changed?	More	2
		Same	22
		Less	4
		No answer	2
29.	What has happened to the "paper-work"?	More	19
		Same	7
		Less	3
		No answer	1
30.	Has reorganization enabled you to provide a generally better educational program?	Yes	27
		No	1
		No answer	2
31.	Has reorganization enabled teachers to teach to a greater extent in their major fields of study?	Yes	17
		No	3
		Same	9
		No answer	1
32	Has reorganization enabled the district to provide guidance and counseling over a greater grade span?	Yes	20
		No	4
		Same	6
		No answer	
33	Has the authority of the unified district to control the educational program from the kindergarten through grade 12 been of sufficient value for the education of children to offset the loss of the limited authority previously possessed by separate districts?	Yes	26
		No	
		No answer	4
34	Has interest in education and its control remained high by former board members of previously separate districts?	Yes	19
		No	7
		No answer	4
35	Has reorganization brought about equalization of local support for education?	Yes	21
		No	2
		Same	7
		No answer	
36	Has reorganization enabled the district to provide special opportunities for the gifted and the academically talented?	Yes	15
		No	15
		No answer	
37.	Have previously unequal educational opportunities been equalized?	Yes	22
		No	2
		No answer	6
38.	Has the reorganized district provided a climate that attracts and holds particularly able teachers?	Yes	18
		No	
		Same	11
		No answer	1

APPENDIX C

TABLE I

COMPARATIVE RESPONSES OF UNIFIED DISTRICT SUPERINTENDENTS

	Question	1964 Holliday survey—percent	1966 staff survey—percent
1.	1 yr.	4	80
	2- 3 yrs.	10	20
	4- 5 yrs.	22	--
	6- 7 yrs.	15	--
	8- 9 yrs	9	--
	10-11 yrs	6	--
	12 yrs. up	31	--
	No answer	2	
2.	1- 500 ADA	4	13
	500- 1,000	6	10
	1,000- 3,000	30	20
	3,000- 6,000	18	13
	6,000-10,000	10	17
	10,000-15,000	9	13
	15,000-21,000	7	--
	21,000-28,000	2	--
	28,000 up	9	13
3.	Under 1 yr	7	33
	1- 3 yrs	31	60
	4- 6 yrs.	28	3
	7- 9 yrs.	15	3
	10-12 yrs.	3	--
	13-14 yrs.	7	--
	15 yrs. up	6	--
4.	Under $5,000	3	--
	$5,000-11,000	40	33
	11,000-16,000	16	23
	16,000-20,000	12	10
	20,000-30,000	9	20
	30,000-50,000	12	10
	50,000 up	4	3
5.	Yes	93	93
	No	2	7
	No answer	6	--
6.	Much	48	30
	Some	45	63
	None	--	3
	No answer	7	3
7.	Yes	72	77
	No	19	20
	No answer	9	3
8.	Much	37	33
	Some	40	40
	None	2	--
	No answer	21	27
9.	More	73	80
	Same	19	17
	None	--	--
	No answer	8	3

APPENDIX C

TABLE I—Continued

COMPARATIVE RESPONSES OF UNIFIED DISTRICT SUPERINTENDENTS

Question		1964 Holliday survey—percent	1966 staff survey—percent
10.	More	67	67
	Same	16	20
	None	2	3
	No answer	15	10
11	Much	61	63
	Some	27	33
	None	3	--
	No answer	9	3
12a.	Better	61	47
	Same	27	47
	Poorer	2	3
	No answer	10	3
12b	Better	58	53
	Same	33	40
	Poorer	2	3
	No answer	7	3
12c.	Better	73	70
	Same	19	27
	Poorer	--	--
	No answer	7	3
12d	Better	52	60
	Same	39	37
	Poorer	2	--
	No answer	7	3
12e	Better	55	63
	Same	36	30
	Poorer	--	--
	No answer	9	7
12f.	Better	67	80
	Same	24	13
	Poorer	--	--
	No answer	12	6
12g	Better	49	47
	Same	39	47
	Poorer	--	--
	No answer	12	6
13	Increased	69	77
	Same	16	23
	Decreased	5	--
	No answer	10	--
14.	Increased	67	77
	Same	21	20
	Decreased	2	--
	No answer	10	3

APPENDIX C

TABLE I—Continued

COMPARATIVE RESPONSES OF UNIFIED DISTRICT SUPERINTENDENTS

Question	1964 Holliday survey—percent	1966 staff survey—percent
15. More	66	80
Same	22	13
Less	--	3
No answer	12	3
16. Advantageous	82	90
Same	6	7
Disadvantageous	--	--
No answer	12	3
17. More	66	57
Same	21	13
Less	--	--
Don't know	4	30
No answer	7	--
18. More	72	83
Same	16	7
Less	--	--
Don't know	2	10
No answer	10	--
19. Reduced	60	53
Same	12	13
Increased	12	23
Don't know	2	10
No answer	12	--
20. Yes	85	100
No	7	--
No answer	7	--
21. More	70	87
Same	18	13
Less	--	--
No answer	12	--
22. Reduced	18	20
Same	43	43
More	24	37
No answer	15	--
23. Lower	6	27
Same	42	40
Higher	9	27
Don't know	33	--
No answer	10	7
24. Greater	52	53
Same	31	40
Less	--	3
No answer	17	3
25. Stronger support	43	20
Same	49	77
Less	3	3
No answer	5	--

APPENDIX C

TABLE I—Continued

COMPARATIVE RESPONSES OF UNIFIED DISTRICT SUPERINTENDENTS

Question	1964 Holliday survey—percent	1966 staff survey—percent
26. Increased prestige	51	60
Same	31	37
Less	2	--
No answer	16	3
27. More effective	66	80
Same	19	17
Less effective	--	3
No answer	15	--
28. More	12	7
Same	55	73
Less	13	13
No answer	19	7
29. More	39	63
Same	22	23
Less	30	10
No answer	13	3
30. Yes	84	90
No	3	3
No answer	13	7
31. Yes	70	57
No	13	10
Same	4	30
No answer	12	3
32 Yes	93	67
No	12	13
Same	3	20
No answer	12	--
33. Yes	81	87
No	2	--
No answer	18	13
34. Yes	58	63
No	10	23
No answer	31	13
35. Yes	64	70
No	13	7
Same	2	23
No answer	21	--
36. Yes	52	50
No	26	50
No answer	21	--
37. Yes	66	73
No	13	7
No answer	21	20
38. Yes	70	60
No	13	--
Same	3	37
No answer	13	3

APPENDIX C

TABLE II

ANALYSIS OF RESPONSES FROM "LARGER" AND "SMALLER" DISTRICTS *

	Question	Larger	Smaller
11	Interlevel curriculum cooperation	10 much 3 some -- none -- no answer	6 much 6 some -- none 1 no answer
12a	Audiovisual	7 better 4 same 1 poorer 1 no answer	5 better 8 same -- --
13	Special services	10 increased 3 same	9 increased 4 same
17.	Tax dollar bought more education	8 yes 2 same 3 don't know	6 yes 2 same 5 don't know
19	Reduced bookkeeping	9 reduced 2 same -- increased 2 don't know	5 reduced 2 same 5 increased 1 don't know
22.	Number of classified personnel	1 reduced 7 same 5 more	4 reduced 5 same 4 more
23.	New tax rate	3 lower 7 same 2 higher 1 no answer	5 lower 3 same 5 higher -- no answer
24.	Public interest	8 greater 5 same -- less -- no answer	7 greater 4 same 1 less 1 no answer
25.	Community group support	2 stronger 11 same -- less	3 stronger 9 same 1 less
26	Board prestige	7 increased 5 same 1 no answer	9 increased 4 same -- no answer
29.	Paperwork	6 more 5 same 1 less 1 no answer	9 more 2 same 2 less 1 no answer
31.	More teaching in field	7 yes 1 no 4 same 1 no answer	7 yes 2 no 4 same -- no answer
33.	Unified organization outweigh loss of separate authorities	11 yes 2 no	12 yes 1 no

APPENDIX C

TABLE II—Continued

ANALYSIS OF RESPONSES FROM "LARGER" AND "SMALLER" DISTRICTS *

Question	Larger	Smaller
34. Former board member interest high	12 yes 1 no -- no answer	7 yes 2 no 4 no answer
35. Equalized support	10 yes 1 no 2 same	8 yes 1 no 4 same
36. New opportunities for gifted	8 yes 5 no	5 yes 8 no
37. Equalized educational opportunities	9 yes 1 no 3 no answer	10 yes 1 no 2 no answer
38. Attract and hold teachers	10 yes -- no 3 same -- no answer	5 yes -- no 7 same 1 no answer

* NOTE "Larger" defined as 13 districts above 6,000 ADA; "smaller" defined as 13 districts below 3,000 ADA. Four districts between 3,000–6,000 omitted.

APPENDIX C

TABLE III

ANALYSIS OF RESPONSES FROM "RICHER" AND "POORER" DISTRICTS *

Question	Richer	Poorer
6. Change in coordination; improved instruction	5 yes 8 some -- --	4 yes 11 some 1 none 1 no answer
11. Interlevel curriculum cooperation	8 much 4 some 1 none	11 much 6 some --
12a. Audiovisual	8 better 5 same -- --	6 better 9 same 1 poorer 1 no answer
13. Special services increased	9 increased 4	14 increased 3 same
17. Tax dollar bought more education	8 more 2 same -- less 3 don't know	9 more 2 same -- less 6 don't know
19. Reduced bookkeeping	6 reduced 1 same 5 increased 1 don't know	10 reduced 3 same 2 increased 2 don't know
22 Number of classified personnel	3 reduced 4 same 6 more	3 reduced 9 same 5 more
23. New tax rate	6 lower 3 same 4 higher -- no answer	2 lower 9 same 4 higher 2 no answer
24. Public interest	6 greater 5 same 1 less 1 no answer	10 greater 7 same -- --
25. Community group support	4 stronger 8 same 1 less	2 stronger 15 same -- less
26. Board prestige	8 increased 5 same -- less -- no answer	10 increased 6 same -- less 1 no answer
29. Paperwork	10 more 1 same 2 less -- no answer	9 more 6 same 1 less 1 no answer

APPENDIX C

TABLE III—Continued

ANALYSIS OF RESPONSES FROM "RICHER" AND "POORER" DISTRICTS *

Question	Richer	Poorer
31 More teaching in major field	7 yes 2 no 4 same -- no answer	10 yes 1 no 5 same 1 no answer
33. Unified organization outweigh loss if separate authorities	11 yes 2 no	15 yes 2 no
34. Former board member interest high	7 yes 3 no 3 no answer	12 yes 4 no 1 no answer
35. Equalized support	8 yes 1 no 4 same	13 yes 1 no 3 same
37. Equalized education	9 yes 1 no 3 no answer	13 yes 1 no 3 no answer
38. Attract and hold teachers	6 yes -- no 6 same 1 no answer	12 yes -- no 5 same -- no answer

* NOTE "Richer" defined as 13 districts above $16,000 per elementary A D A, "poorer" defined as 17 districts below $16,000 per elementary A D A

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THE RESTORATION OF TEACHING

A REPORT OF THE

SUBCOMMITTEE ON SCHOOL PERSONNEL AND TEACHER QUALIFICATIONS

Assembly Interim Committee on Education

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TABLE OF CONTENTS

	Page
Letter of Transmittal	4
Report of the Subcommittee on School Personnel and Teacher Qualifications	5
I *Teacher Licensing in California:*	
Findings	7
Recommendations	9
"The Red Tape Jungle"	
Part I The Fisher Act	11
Part II Teacher Supply and Demand	16
II *Procedures of the Committee of Credentials:*	
Findings	21
Recommendations	24
The Report	27
III. *A Study of Methods of Upgrading and Improving the Teaching Profession:*	
Findings	36
Recommendations	38
Appendices	47

LETTER OF TRANSMITTAL

California Legislature
Assembly Committee on Education
January 1, 1967

HON JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen:

Pursuant to House Resolution 710, of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith the final report of its Subcommittee on School Personnel and Teacher Qualifications.

This report was considered and adopted by the subcommittee listed below and appears in subcommittee report form.

I respectfully commend these recommendations to you for your consideration.

CHARLES B. GARRIGUS, *Chairman*
Assembly Interim Committee
on Education

LEO J. RYAN, *Chairman*
Subcommittee on School Personnel
and Teacher Qualifications

Subcommittee on School Personnel
and Teacher Qualifications

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WINTON

FINAL REPORT OF THE

SUBCOMMITTEE ON SCHOOL PERSONNEL AND TEACHER QUALIFICATIONS

of the

ASSEMBLY INTERIM COMMITTEE
ON EDUCATION

MEMBERS OF THE SUBCOMMITTEE

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E Richard Barnes
Willie L Brown, Jr.
Edward E Elliott *
Charles B Garrigus
George W Milias
Gordon H Winton, Jr **
James E Whetmore

January 1967

* Assemblyman Elliott concurs in all but Part III of the report, dealing with methods of upgrading the teaching profession He dissents from that portion of the report
** Assemblyman Winton concurs generally in the report, but wishes to abstain on specific proposals.

TEACHER LICENSING IN CALIFORNIA

FINDINGS

I. With respect to the Fisher Act, we find that:

1 All major organizations of educators support the basic credentialing law, known as the Licensing of Certificated Personnel Law of 1961, and regard substantive change as undesirable and unnecessary.

2 The implementation of the 1961 reforms has been poorly handled by the responsible persons in the Department of Education and various public college and university campuses

3 The wording of credential rules and regulations implementing the law is unnecessarily complicated, and that this serves only to confuse legitimate applicants for credentials

4 The Department of Education has provided only the most limited information to applicants and inquirers from within and without the state, and does not attempt to simplify the credentialing procedures

5 The California credential law is very typical of those which now exist in other major states, in terms of its emphasis on broad training in the liberal arts and sciences for all future teachers and administrators

II. With respect to the alleged teacher shortage, we find that·

1. There is no shortage of credentialed teachers in California. There are at least 100,000 fully credentialed persons not employed in school districts, and yet some individual districts experience a lack of applications for open positions.

2 Any relative shortage of teacher applicants is proportional to the salary schedule, professional conditions, and living conditions offered by individual school districts

3 Surpluses of teacher applicants are found in many more favored areas and districts in California, and a major problem in recruiting school personnel is one of dislocation, rather than shortage

4 Out-of-state private teacher placement agencies are not used for teacher recruitment in California, and they are largely unaware of the 1961 credential changes emphasizing basic academic preparation of teachers

5 Many school districts rely too heavily on recent graduates—primarily female—from out of state, and since teacher turnover in this group is extremely high, this requires repeated duplication of effort in recruitment.

6 The issue of an adequate supply of public school teachers is a national problem, and not one peculiar to California alone

7. *The Department of Education issued 60,000 initial teaching credentials in 1964–65—the same year when the same department's official projections indicated a new supply of less than 7,000 new teachers.*

8 The increasing rate of enrollment in higher education, combined with a decreasing rate of growth in elementary school enrollment, should result in a more adequate supply of teachers in terms of quantity and quality in future years

III. With respect to the characteristics of school districts experiencing teacher recruitment difficulties, we find that:

1. Salaries for teachers in districts requesting provisionally credentialed teachers in 1966 are substantially lower than in adequately staffed districts, but this is not necessarily caused by a lack of local ability to finance adequate salaries.

2 District effort to provide adequate educational programs and teachers varies widely, but the greatest shortage of applicants is found in districts where school tax rates are significantly below the statewide average tax rates

3 Unified school districts, with single districtwide salary schedules, are far better able to attract elementary teachers than are separate elementary districts.

IV. With respect to implementation of the Fisher Act by the colleges and universities, we find that:

1 Several schools or departments of education in the California State Colleges and the University of California have adopted restrictive rules requiring prospective teachers to enroll in excessive courses in education and educational methodology, in unreasonable excess of state requirements.

2 Serious confusion exists, as between the definitions of a "major" for state credentialing purposes and the definition for degree-granting purposes.

3 Serious misunderstanding exists on the minimum requirements for elementary teachers, and many persons do not understand that an elementary teacher may receive a valid credential after four years of college preparation, with the fifth year to be earned within the next seven years.

4 Numerous prospective teachers are avoiding schools of education within colleges and universities in an effort to satisfy minimum state credentialing requirements without being forced to enroll in excessive education courses

RECOMMENDATIONS

We recommend that:

1. The Legislature make no substantive changes in the philosphy of the Licensing of Certificated Personnel Law of 1961, and the basic reforms of that law—fully operative only on September 15, 1966—be continued

2 Either

A The State Board of Education be directed by legislative resolution to declare a one-year moratorium on all changes and amendments to the rules and regulations implementing the credential law, with a view toward stabilizing public understanding of the law, and to provide sufficient time for simplification and rewriting of the credential administrative regulations, or alternatively

B The Legislative amend the law to make substantive simplifications in the technical terms used therein (see the text of our report), so that ease of understanding will be permitted by both prospective teachers and their college advisers. If this alternative is adopted, only the mechanical terms used by the law should be changed, not the broad state policy contained therein Additionally, if this alternative is adopted, an amendment should be included which will direct the State Board of Education to make as few regulation changes as possible in the future.

3. In order to assure an adequate supply of teachers in all districts—and contingent on substantial increases in state aid to impoverished districts—that a minimum statewide salary schedule for teachers be enacted to provide not less than $9,000 per year for fully prepared, experienced and successful teachers with at least 10 years of teaching experience and an M A. degree

4. The trustees of the state colleges and the regents of the university be requested to review their teacher credential policies carefully and critically to determine whether campus rules and regulations comply with the spirit, as well as the letter, of the law

5. The trustees and the regents be strongly urged by legislative resolution to provide a basic curriculum whereby an undergraduate may obtain a teaching credential without taking unnecessary courses which are not required by state law.

6 If various state college and university campuses persist in requiring excessive units of credit in education courses, that legislation be adopted requiring the State Board of Education to withdraw recognition of such campuses where it finds violations for teacher preparation purposes

7. To simplify the procedures for obtaining a state teaching or administrative credential, each campus recognized by the State Board of Education for teacher preparation purposes be required by law to issue, in the name of the Department of Education and the college, an appropriate credential, subject to a postaudit by the Board of Education.

8. Contingent upon the transfer of duties to the individual college campuses, the excess credential personnel in the Department of Education be proportionately reduced, or assigned to other functions if necessary.

9 The Legislature direct a comprehensive study be made during the next biennium to survey the quantity and quality of teachers, supervisors and administrators who may be expected to serve the public school system during the next decade, as well as the broad question of teacher supply and demand

NOTE In the interests of brevity, documentation for the statistics used in this portion of the report do not appear here They are available to the general public upon request in the Sacramento offices of the Assembly Committee on Education

Teacher Licensing in California

THE RED TAPE JUNGLE

Part I—The Fisher Act

During the past two years, the Assembly Education Subcommittee on School Personnel and Teacher Qualifications has held extensive hearings on the subject of the quality and quantity of teachers now being prepared by our colleges and universities.

Our study is a direct response to various legislative proposals during 1965 that would have, had they been enacted, effectively repealed the Licensing of Certificated Personnel Law of 1961 (the "Fisher Act").

Particularly during 1965, numerous statements were made that California was facing a severe shortage of teachers, and that the credential law was to blame. From our study, we have found that there is no evidence whatsoever to substantiate such claims, and we believe that proponents of the "shortage theory" are essentially in conflict with the basic spirit of the law itself, rather than primarily concerned with its practical effects.

The 1961 credential law, Senate Bill 57, was a direct legislative response to the recommendations of the noted Citizens Advisory Commission on the Public Education System which was established by the 1959 Legislature This broad-based group heard voluminous testimony during the 1959–61 interim period

We are aware that there has been substantial public criticism of teacher education in the last decade, primarily directed at the "methods" courses within the schools of education of our colleges Conversely, there has been great public consternation at the fact that California teachers have not been required to study in college those things that they will teach to their students

Prior to 1961, for example, it was possible for a teacher to earn a credential without ever having studied English, history, mathematics, foreign language, science or the fine arts—except for a mandatory two-unit course in the Federal and State Constitutions

The essence of the present credential law is that every future teacher will have spent at least 40 percent of his college years studying the liberal arts and sciences, and that if a person aspires to school administration, he shall have an advanced degree in one of the subjects that are mandatory for all school children, e g , English, mathematics, etc.

However, the credential law is a flexible rule which permits those persons who wish to teach in vocational fields to take major course work in these fields, while at the same time becoming educated in broad cultural fields

Senate Bill 57 also affected the quantity, as well as the quality, of teacher education. It raised the required years of college from four to five, although a five-year leeway period was specifically added to allow elementary teachers to begin work after only four years of college. The 1965 Legislature amended this leeway to seven years.

We would be remiss if we did not fully acknowledge the fact that the 1961 law was an extremely controversial issue, although the controversy was largely outside, rather than within the Legislature. Senate Bill 57 was passed by the Assembly on a 66-to-11 vote and concurred in by the Senate 26 to 2 Heavy majorities of both parties supported it.

Major opposition to the legislation was expressed by the State Department of Education, teacher preparation institutions and several major statewide organizations of educators At issue was, and still is occasionally, the dichotomy of views as to whether the proper preparation of teachers is one of broad education or narrow vocational training.

The report of the Citizens Advisory Commission is clearly on the side of broad liberal education, with leeway for vocational preparation for vocational teachers, and it was largely through the nonprofessional public demand that SB 57 was enacted and signed by the Governor.

Our study has shown that California is far from unique in this regard. Since 1960, all major states that we studied have enacted very similar credential requirements, some of them requiring more academic preparation than we do

Academic college courses have been defined by the Education Code to include those subjects traditionally associated with true scholarship and research. We believe the people of California would ratify the list which includes the humanities, the social sciences, mathematics, the natural sciences, foreign languages and the fine arts

We also note that in accordance with legislative authority, the State Board of Education has placed such confidence in the scholarly quality of several other college majors that it has awarded three campuses of the University of California the right to confer academic status on physical education (UCLA and UC, Berkeley) and agriculture and home economics (UC, Davis).

We understand that the courses in physical education, so recognized, are close to being premedical courses, as far as intellectuality is concerned, and we would concur that college majors of this quality ought to be granted the academic status they deserve. We would be equally chagrined if such status were granted to courses consisting primarily of how-to-win games or football strategy.

Possibly because of the flexibility provided by the law and the rules of the state board, we were gratified to hear from many major school organizations that they now support the California credential law [1] Most of our witnesses admitted that there were some serious problems of initiation and administration, but their criticism was directed almost exclusively at two targets: the immense complexity and instability of the official regulations, and the degree to which teacher preparation institutions moved to implement the law effectively.

On the basis of the testimony, we have found that if there is a problem of educating future teachers, the fault lies not with the law, but with those who are responsible for this task on a day-to-day basis.

We found, for example, that it is extremely difficult for an individual teacher to get reliable information from the credentials office of the State Department of Education The departmental officials ex-

[1] See Appendix A for statements of support for the law

plained that there was a staff shortage and that the Department of Finance had urged minimum efforts, but we are inclined to think that it is unnecessary administrative complexity that causes much of the problem.

As an example, we are including in this report, in the Appendix, a form for the standard elementary credential[2] This is an actual case, and the reader will note that the form carries a nearly hidden line at the bottom by which an applicant *might* be informed that he was eligible for the credential on a partial-fulfillment basis However, it is clear to us that an applicant might take one look at a top-line rejection and never bother with the fine print at the bottom

In this particular case, the applicant, an experienced female teacher from Alabama, contacted the committee staff for aid and was told that the problem derived simply from the fact that she had not forwarded written affidavits of her past experience. The reader will note, however, that the form she received from the department did not state this explicitly.

The woman in question is clearly elgible for an elementary credential on a partial-fullfillment basis, but the 1966–67 school year began while she was still in the process of trying to get through the redtape jungle.

The other major problem with the implementation of SB 57 has been forced upon prospective teachers by some of the schools of education within our public colleges and universities The law requires that future teachers either enroll in a practice-teaching course or enter teaching through an internship process It was clearly the intent of the Legislature that elementary teachers should be allowed to begin teaching after four years of college training. Yet, several schools of education have renumbered the course in practice teaching so that it falls in the graduate year administratively, and thus a teacher is forced to remain in college for the fifth straight year, legislative intent notwithstanding.

In addition, our studies indicate that while no college requires future teachers to take academic coursework above the state minimum, they do require several extra educational methods courses as prerequisites to enrollment in the required courses The practical effect on the student, of course, is to force him into the traditional, vocationally oriented program the 1961 reforms were intended to reduce.

As a result of this behavior by college authorities, the committee was informed that many students have now developed a decoy maneuver in which they remain anonymous as potential teachers in order to avoid being "Advised" into unnecessary education courses. They are, in their words, "working for the state minimum "

Seldom in the history of California has a public mandate of such a proportion, heavily supported by both parties, been subjected to so much bureaucratic frustration We think it is incumbent on the State Department of Education and the persons responsible for teacher education to accept the public demand and do their duty.

As we have said, other major states have adopted teacher credential laws very similar to California's New York, for example, now requires some 66 semester units of academic courses as we define them Previously, New York required only 36 units of education courses, which has

[2] See Appendix B.

since been reduced to 30. Connecticut raised its academic requirements from 30 to 75 units, and North Carolina jumped from 40 to 78

The committee believes, in the context of the continuing world crisis facing the United States, that any attempts to dilute the academic preparation of future teachers is highly inappropriate The law now says, in effect, that the chief purveyors of our nation's culture and heritage, our teachers, will have spent at least 40 percent of their college years studying the heritage they will have to transmit to the next generation of schoolchildren We do not think this is asking too much.

And we are especially concerned that the future school administrators who will make the operating decisions should be equally or better versed in this heritage We note, for example, that almost all of the elementary school curriculum and a great deal of the secondary curriculum is composed of basic academic subjects Such subjects as reading, English and history are required of all students, and it is clear to us that the fundamental problems of curriculum development in local districts cannot be solved as well by those not versed in the subjects taught.

Our basic recommendation, therefore, is that the 1967 Legislature make no substantial changes in the Licensing of Certificated Personnel Law of 1961.

We agree that the administration of the law leaves much to be desired, and therefore we recommend two possible courses of action It was noted by many of our witnesses that the rules and regulations of the State Board of Education (Title 5 of the California Administrative Code) have changed with a seemingly unceasing rapidity. Basically, the changes are ratifications of suggestions or proposals made by the Department of Education These rules now cover nearly 100 pages of Title 5, and it is difficult at best to understand them even if a month does go by during which time they are not changed (which rarely happens)

Thus, we would recommend, on the one hand, that the State Board of Education be directed by resolution to deny all proposals for rule changes, except in obvious cases of emergency Upon such action, we would suggest that the board distribute an up-to-date copy of the regulations to each teacher-preparation institution, county superintendent of schools and school district in a form that could be easily reproduced by the recipient Every prospective teacher should have a copy of the official rules and regulations so that he may plan his course of study with as much confidence as possible

On the other hand, the Legislature may decide that the present rules and regulations are so cumbersome that a moratorium on rules changes now would only add to the frustration of students and officials As an alternative, therefore, we would recommend that the law be amended to permit a much more simplified rewriting of the rules

It has come to our attention that many of the regulations are written in words that may be very inappropriate For example, Title 5 uses such technical phrases as "major," "minor," "upper division courses" and "lower division" Some of these concepts do not exist in out-of-state colleges. They exist in California largely because of the existence of a widespread junior college system.

Again, the rules speak of a "major" or "minor" required for a credential Colleges and universities also require "majors" and "minors" for degree purposes, and the two majors are not necessarily synonymous

We were told, for instance, that one state college requires an unbelievable 90 units of credit (equivalent to three years in college) but the state board requires only 24 "upper division" units for its major The student can easily become confused and come to believe that the credential requires more than he thought it did

The rules speak of three units in certain methods courses, while some universities offer courses with two or four units of credit It seems to us that rather than tying state rules to specific college terms, our credential law might be rewritten to speak of general concepts like percentages

The State Board of Education could be directed to recognize various departments within colleges and universities as suitable for the designation of "academic" At this point, any student could calculate whether his proposed course of study will ultimately satisfy the minimum percentages established by law

We think such simplification has much to recommend it, and if simplicity is achieved, we think it might be well to authorize each recognized college or university in California to issue state teaching or administrative credentials in the name of the State Department of Education, subject to random postaudits by the department

Such a transfer of duties should relieve the pressure on the department and possibly permit budget reductions The department would then be giving most of its attention to out-of-state applicants

It is important, however, that the substantive principles established by SB 57 be reinforced in any technical changes In *Suffer Little Children*, Dr Max Rafferty, now the State Superintendent of Public Instruction, wrote:

> "They [teacher preparation professors] actually believed this stuff, you know WHAT was taught was far less important than HOW it was taught Trigonometry might be trivial, basket weaving basic . .
>
> ". . . He'll [a curriculum consultant] agree, now, with those of us who have been saying for quite a spell that America's survival depends upon the students of chemistry and calculus and languages rather than upon the worthy patrons of upholstering and badminton and second-year table-setting He'll admit—now—that in the hierarchy of subject matter, there are giants and there are dwarfs "

Dr Rafferty speaks quite as strongly on the subject of the education of school administrators when he says·

> "Administration is—or should be—infinitely more than a collection of skills .
>
> ". Our forebears in this business were, whether we like the idea or not, men of pith and substance . . .
>
> "What has brought about the transformation? Is it not—more than anything else—the hard-to-face truth that the trail blazers

in our profession were learned men, and that we, whatever else we may be, are certainly not that?"

Consider this:

"THEY KNEW LITTLE OF TOPOLOGICAL AND VECTOR PSYCHOLOGY—BUT THEY COULD WRITE PERFECT ENGLISH.

"THEY WERE NAIVE IN THEIR IDEAS OF PUBLIC RELATIONS—BUT THEY COULD READ THE *ILIAD* IN GREEK AND THE *AENEID* IN LATIN.

"THEY WERE BABES WHEN IT CAME TO EQUALIZATION FORMULAS—BUT THEY WERE FLUENT IN ART, IN MUSIC, IN HISTORY, IN PHILOSOPHY [Emphasis original.]

"Here, I believe is the nub of the whole matter People admired and respected and looked up to our predecessors as the cultural leaders of their communities. They represented education magnificently because they WERE educated

". . . Unless we can somehow find the upward trail we left a generation ago, we are doomed to wander endlessly from pillar to post, from job to dwindling job"

We think Dr Rafferty, as well as others we might have quoted, has admirably expressed the fundamental concept inherent in California's 1961 credential law For all practical purposes, these beliefs expressed in *Suffer Little Children* in 1962 were enacted by 1961 Legislature because of general public demand and the specific recommendation of the Citizens Advisory Committee

We believe a general lack of public confidence in local school officials has recently come to the surface, as measured by the large number of defeated school tax and bond proposals during the past few years Many school systems have suffered because of this, and public respect will not be restored until school administrators, as well as teachers, are again the broadly and liberally educated people of past generations

Part II—Teacher Supply and Demand

Inasmuch as the present credential structure has been cited as a cause for a teacher "shortage," we have also made a serious study of this question

Basically, we have found that there is no shortage of teachers in California, that in fact there is a substantial surplus of people who hold credentials, but that there is a dislocation of teachers according to the desirability of a geographic area

Secondly, even in areas of dislocation, the credential structure has little if anything to do with the lack of applicants an individual school district may experience

The representative of the Department of Education estimated that there were at least 100,000 nonteaching teachers living in California, and the most recent annual report of the credentials office informed the State Board of Education that nearly 60,000 new teaching credentials were issued in the 1964–65 year alone.

New annual openings for teachers have been estimated at from 8,000 to 12,000 a year, and it is abundantly clear that qualified people exist to fill the posts The real problem is enticing qualified people to go to work—to practice their profession

Our study of midsummer teaching vacancies clearly points up the fact that the more desirable areas have surpluses of applicants, and less desirable areas experience great difficulty in attracting and keeping fully-credentialed teachers.

Some persons seem to think that teachers do not react to life in the way that other people do. As individuals, the hypothetical teacher is frequently characterized as "dedicated," and this appellation may then be used to illustrate why teachers will and should work for less than the average family income in California

However, the recent employment statistics indicate that the problems of teacher recruitment are very similar to those experienced by any type of employer—that the public schools must live within the laws of economics whether they like it or not

In the midsummer of 1966, the Department of Education reported 925 elementary teaching positions open throughout California This figure is up from approximately 300 in 1965, but is still less than 2 percent of the total force.

The striking finding in our study was that the reported openings are not evenly spread around the state They are concentrated in specific areas which have many features in common.

The committee received a report which ranked 56 counties in their need for teachers. (Los Angeles and Sacramento did not report numerically.) Beginning with Trinity County, which reported a need for 8.33 teachers per 1,000 ADA, down to 11, mostly larger, counties which reported none, an average ranking by area presents a pattern of teacher supply.

With the lowest index number indicating the greatest need, the areas are:

21—Mountain counties
22—San Joaquin Valley
24—Sacramento Valley (excluding Sacramento County)
34—Central Coast
45—San Francisco Bay area
47—Los Angeles metropolitan area

With the finding that the unfilled need for teachers is variable, the committee has learned that school districts and areas facing a shortage of applicants have certain features in common.

Separate elementary districts find it more difficult than unified districts operating elementary schools The average salary schedule in a separate elementary district is more than $1,000 less than in unified districts. The rate of teacher turnover is 25 to 50 percent greater

However, there are some elementary districts which have surplus applicants We find that areas of shortage are usually associated with very low property tax rates, indicating a low level of public interest in their schools The elementary districts in the most needy county, for example, had an average operating rate of $1.04, whereas metropolitan districts averaged around $2.00

The same principle applies to rural and metropolitan unified districts In a county of shortage, the unified districts averaged $2 36 as the total operating rate, while a county of surplus averaged $3 99 for unified districts It can also be said that, generally, the low tax rate counties are also low assessment counties, so that the low rate cannot be explained as an offset to high assessments

The committee is appalled by the fact that some school districts, reporting "shortages," have a teacher's salary schedule which never goes above $6,000 or $6,500 Our study shows that those districts which requested permission to hire provisionally credentialed teachers have substantially lower salary schedules than average

Thus, we are recommending that the Legislature provide a first step toward remedying the situation We propose that all school districts be required to have schedules rising to at least $9,000 after 10 years' service and the possession of a master's degree by the teacher.

This figure is still far below the salaries offered by all or almost all large districts. It would, in practical effect, bring about a change only in those areas which have reported the greatest shortages, and in the light of very low local school taxes, we do not believe that this minimal step requires any subvention by the state.

If it can be shown that a particular school district is so impoverished in local tax base that it is unable to afford this modest schedule without an above-average tax rate, we would recommend an exception to the no-subvention recommendation, but we seriously doubt whether such a case exists.

While the committee has not specifically studied the topic of teacher tenure laws, we note that the smallest districts (under 250 ADA) are not required to extend job protection status to their teachers, and this may well be another circumstance contributing to the very high turnover rate in these districts

There are certainly other aspects of the teacher's work which affect supply and demand Chief among these are the general living conditions in an area and the professional working conditions.

Many areas of high reported shortage are isolated. The ordinary perquisites of modern life are frequently unavailable—such mundane aspects as television reception or a low-cost supermarket. In these circumstances, private employers normally offer substantial benefits to compensate for the lack of normal conditions Far from this, our relatively small and isolated school districts usually offer far less money than those districts in areas which afford the cultural amenities that are attractive to highly educated teachers.

The teacher's professional duties may also be more difficult. In smaller districts, the teacher must handle two, three or even four grade levels during a single day. Even though the number of children may be smaller, multiple preparations call for extensive planning far exceeding that required of the single grade or single subject teacher.

The committee believes that the relative shortage of teacher applicants depends almost exclusively on the specific problems of employment—not on the state credential structure.

Compounding the problems are the de facto district policies which affect the type of out-of-state person attracted to California. The com-

mittee understands that district recruiters rely heavily on recent female graduates, and the San Diego district testified that two out of three of these teachers leave the district within three years

A survey by our staff indicated that recruitment through private placement agencies—supplying experienced teachers for the most part—is minimal One agency wrote that it received only 17 replies from California districts out of 350 contacted by the agency

A further development which should not go unnoticed is the increase in the number of alternative vocations attractive to potential teachers The most outstanding is probably the Peace Corps, which seems to have no trouble at all recruiting for these relatively low paid and often hazardous positions, and we are led to wonder whether the success of the Peace Corps is not due to the high degree of professional responsibility *and authority* which Peace Corpsmen receive

The practice of assigning both responsibility and authority to corpsmen differs markedly from the traditional personnel practices of school districts As noted elsewhere in this subcommittee's report, California teachers have only two professional rights directly connected with the actual teaching situation—the newly enacted (1965 session) rights to assign final grades and to suspend unruly students temporarily.

At that, the committee was appalled to read in the local press on the final day of our last hearing that one district had completely misinterpreted legislative intent, and a local teacher was forced to go to court for a proper interpretation The court is reported to have opinioned that "the law is clear and unambiguous . . ."

If school districts wish to compete effectively with these recent quasi-educational developments, e g educational research center, it would appear that they will have to offer future teachers the personal dignity which derives from delegated authority. Again, this has nothing whatever to do with state credential matters, it is a local matter between the local board, the school administration and the teachers.

On the encouraging side of the problem of teacher supply and demand, the committee notes that immediate prospects seem to be very bright. The state college and university systems are growing at a rapid rate—approaching 10 percent annually A quite different trend is found in elementary enrollment, due to declining birth rates since the late '50's Kindergarten enrollment was up only 2 7 percent this year

It is clear that these disparate trends will increase the number of California-produced teachers available, relative to the need Whether the prospective teachers can be enticed to start a teaching career, however, is another matter

Some light may be shed on this in the very near future At the request of the committee, one of the state colleges is administering a questionnaire designed by our staff It seeks to determine, from both prospective teachers and prospective nonteachers, who will and won't enter education, and why

The committee hopes to provide the Legislature with a report on this survey midway in the 1967 session, and we would strongly caution

against any major activity before it becomes available. To our knowledge, this is the first attempt to assess the whys and wherefores of teacher recruitment at the source—the undergraduate level.

Our work for the past two years has led us to a greater confidence in the acts undertaken by the Legislature in 1961 The alleged "shortage" of teachers exists only because of their unwillingness to work for what is offered The "crisis" will be eliminated as quickly as the so-called "engineering shortage" during the Korean War

The committee has recognized the practical problems engendered by the ineffective administration of the credentialing program, and we have proposed two alternative courses of action.

We believe the trustees of the state colleges and the regents of the University of California must take extraordinary steps to impress upon their respective institutions the need for active and positive cooperation with the spirit, as well as the letter, of the law—even though the committee notes that our emphasis on sound academic preparation for teachers is still offensive to some in the ranks of professional education schools.

We recommend strongly to local school boards and administrators that they review their fundamental assumptions as they pertain to teacher recruitment. We are not living in an era of high unemployment, such as the depression, when teacher applicants were bountiful. Futhermore, the quality of person we need for our schools is increasingly being enticed by newly emerging professions to ignore teaching as a career

Local boards must ask themselves what personal benefits they offer teachers—aside from the traditional method of promoting them out of the classroom into administration. The declining rate of growth in the public schools will gradually diminish this avenue of "advancement," and if there is not true dignity and authority attached to classroom instruction, recruiting problems will be compounded again.

Local districts must reassess their principles and practices in the light of modern economic conditions and modern business practices As a motto, we recommend the traditional adage of an effective, competitive society—"You get what you pay for "

PROCEDURES OF THE COMMITTEE OF CREDENTIALS

FINDINGS

1. The committee finds that the Committee of Credentials within the Department of Education, although it acts in an investigatory, "grand jury" capacity and does not possess formal capacity to revoke or deny teaching credentials finally, has a substantial ability to influence the actions of teachers—both in and out of the classroom—through its use of the instruments of public censure and economic sanction. We further find that this ability is unwarranted, and was not intended by the Legislature when it enacted the statute authorizing the committee

2. We find that this committee does not judge teachers on objective standards of conduct, nor does it apply the so-called standards which it does use equally to persons accused of the same or similar offenses. Neither does the committee keep any formal records or minutes of proceedings, nor are transcripts made, and thus it becomes impossible for teachers under investigation and their legal counsels to determine the committee's probable action on each case We find this situation to be contrary to the conduct of most quasi-legal proceedings conducted in this state, and completely counter to the typical American concept of fair play and the constitutional protection that one under investigation is presumed innocent until *proven* guilty

3 We find that the Committee of Credentials is poorly organized, in that it has a rotating membership comprised of anyone in the Department of Education who happens to be free on a particular day on which the committee is meeting. This irregular membership assures that most committee members are uninformed as to the cases which come before them. We further find that so long as the Committee of Credentials remains imbedded within the administrative structure of the Department of Education, this will continue to be the case, since any departmental employee is likely to regard his assignment on the committee as a secondary, and rather tiresome, task

4. The committee finds that teaching is the only profession requiring a college degree plus substantial graduate study and experience which does not police itself for malpractice and offenses repugnant to continuance in the profession. Self-policing by the bar and the medical profession have long been recognized and have, by and large, worked well in California. We see no reason why teachers and other certificated employees should not be permitted to govern the conduct within, and admittance to or denial from, their profession We are convinced that self-policing by teachers would result in a high degree of self-discipline

and professional conduct, but with a greatly improved measure of fairness and orderly procedure than is presently available under the Committee of Credentials, none of whose members are practicing teachers.

5. We also find, however, that because teaching represents one of the most sensitive areas of endeavor—to which the public must remain close—any self-policing panel of certificated employees should also include lay members to provide representation from the general public

6 We find that the State Board of Education has failed in its responsibility to police the functioning of its Committee of Credentials adequately, and to supply that committee with guidelines and policy statements by which to govern its reactions to various categories of cases The board's failure in this respect provides additional reasons for the transference of the Committee of Credentials out of the Department of Education

7 After intensive study and observation of the Committee of Credentials at work, we have concluded that the committee's use of open, public meetings for the discussion of extremely delicate personnel matters is not only inappropriate and embarrassing to the teacher, but also provides those members of the committee who desire it with a platform of publicity with which they may foist their views of morality upon the public through the media In several specific cases which were widely publicized, we found that the committee condoned a circus atmosphere, rather than a calm, deliberate and impartial investigation and interrogation.

We further find that the very presence of the publicity media at Committee of Credentials hearings, in large number, appears to encourage inquisitorial techniques on the part of some Committee of Credentials members. Specifically, we find that questions relating to unimaginable hypothetical situations directed at teachers under investigation are peculiarly irrelevant to the committee's investigation of what a teacher is alleged to have done at some time in the past We believe that the committee's investigative techniques require substantial improvement in this regard

8 We find that the Committee of Credentials is guided by no statement of legislative intent as to its purpose for existence. Thus, it is not surprising that the committee has appeared in the past to be confused over what constitutes its chief function

9 The Committee finds that in the past, many teachers have been called to Sacramento for a hearing before the Committee of Credentials before no more than a cursory field investigation had been made relating to the charges lodged against the teacher In fact, we have found numerous cases where the Committee of Credentials has asked teachers to appear before it in Sacramento, *even though the committee knows that even if all the charges against the teachers are true, there is no foundation in law which permits revocation or denial of a teaching credential* Again, we do not believe that the Legislature intended such conduct by the committee when it established it in law.

10 We have found that many times teachers under investigation and their lawyers are refused permission to see copies of the written charges filed against them or their client, and other necessary file

records and documents, prior to the teacher's hearing before the committee This we believe to be contrary to good rules of procedure and elemental American concepts of justice, which provide that an accused is entitled to know of the nature of the charges made against him, and also counter to legislative intent

11 We find that investigations of teachers by the Committee of Credentials often stretch on for long periods of time, without any final resolution—or notice of such resolution—of the case One case brought to the committee's attention has gone on for four years and has still not been resolved We believe that such delay is unfair to both the investigated teacher and to the school district employing him, which is entitled to know whether or not the teacher is guilty of the charge which has been made

12 We find that the Committee of Credentials is extremely cavalier about its relations with local school districts, and neither informs a district as a matter of course when one of the district's teachers is being investigated, nor takes into consideration (unless it desires to) any investigations which the local school board may have made into the teacher's fitness We find this to be a rather strange disregard of the principle of "local control"

13 In summary, we have concluded that the Committee of Credentials exists without policy guidelines from either the Legislature or the State Board of Education, and tends to ignore the typical American rules of fair play and legal rules of evidence The result is often intimidation of school teachers into silence or their acceptance of the committee's own views of proper conduct

RECOMMENDATIONS

The Subcommittee recommends the following:

1. Legislation should be adopted by the 1967 Legislature which sets forth, in specific terms, the legislative intent relative to the duties and functions of the Committee of Credentials The lack of such intent in the present law has led, we believe, to serious misinterpretation of the Legislature's purpose in establishing the committee. Such a statement, which we discuss and specifically propose later in this report, should recognize the legitimate right of the committee to act in a grand jury role in the investigation of complaints lodged against teachers, but should make clear the Legislature's desire that the committee perform its functions consistent with the rules of due process of law and fair play for the accused teacher

2 All Committee of Credentials' meetings should be conducted "in camera," in much the same way as other public bodies now conduct personnel-type sessions under the Brown Act. We suggest that only committee members, the accused teacher and his legal counsel, committee staff members, and any necessary witnesses be allowed to attend such sessions, and we further recommend legislation which will make unauthorized release of information received at a committee meeting—or in the course of an investigation of a teacher—by a member of the committee, a staff person in the Department of Education, or the teacher, a misdemeanor.

We note that grand jury proceedings in California and in many other states are presently conducted as closed sessions, and we believe that this policy ought to apply here in the case of the Committee of Credentials, which performs an analogous task

3 We recommend the enactment of legislation which will provide one full-time executive secretary and one clerical position to the Committee of Credentials, with a further provision that all committee meetings be recorded by the committee staff, with the recording to be made available to the accused teacher and his attorney upon request We do not suggest that the committee go to the expense of preparing a formal transcript of each meeting, but the availability of a recording of a meeting to an accused teacher will enable him to have a transcript made at his own expense if he desires one. We believe that in addition to providing full and accurate records of all meetings—which is not now done by the committee—the presence of recording equipment should mitigate against some of the absurdly unfair questioning practices by the committee which have become obvious to us in our study.

In addition, we recommend that the committee secretary prepare accurate minutes of all actions of the committee at each meeting, and that a copy of these minutes pertaining to his case be sent to each teacher who appears before the committee no later than one month after the teacher's appearance.

4. We recommend that the present law relative to the selection and composition of the Committee of Credentials be amended to provide:

A. The State Board of Education shall biennially appoint seven members to the Committee of Credentials, composed as follows:

Four shall be full-time teachers in the public schools of California, two elementary teachers and two high school teachers;

One shall be a person engaged in supervisory or administrative work in the public schools of California at any level;

One shall be a past or present member of a local school district governing board at any level;

One shall be a staff member of the State Department of Education.

B The Superintendent of Public Instruction shall personally serve as ex officio member of the committee and shall have the right to vote

C The committee's executive secretary shall serve as ex officio member of the committee, but shall have the right to vote only in the event of a tie.

We further recommend that this legislation include provisions providing for the necessary number of days off for teacher and administrator members of the committee The legislation should prohibit the nine-member committee from operating without a quorum of five members, and no alternates for appointed or designated members should be permitted.

We believe that these proposals will provide for objective, fair-minded, self-policing of the teaching profession. They should also put an end to the rotating membership situation which we have found in the present committee

5 We recommend legislation which grants certain rights to teachers under investigation by the Committee of Credentials, set forth below:

A The right to be notified of the specific allegations of misconduct which have been made against him, when the letter requesting the teacher's presence at a Committee of Credentials' hearing is sent;

B. The right to see those portions of the investigator's file which constitute the charges which have been made against him;

C. The right to be notified by the Committee of Credentials when and if the committee's investigation has uncovered additional evidence, such that new charges may be filed against him;

D. The right to be notified, within one month after appearing before the committee, of its final disposition of the teacher's case, together with specific information relative to the teacher's right to an administrative hearing;

E. The right to have an investigation dropped within twelve months of initial notification by the committee to the teacher, if sufficient evidence has not been found to proceed further

6. We propose legislation which will require the Committee of Credentials to state, in its letter to the teacher informing him that an investigation is being conducted into his right to hold credentials, that *if* the allegations which have been made are true, that legal grounds

exist to revoke or deny granting the credential. We make this recommendation because we have received testimony indicating that the Committee of Credentials, in the past, has asked teachers to appear in Sacramento when it knows full well that grounds do not exist for revocation even if all charges and allegations are true We believe that our proposal should end such harassment.

7 We strongly suggest to the State Board of Education that it provide its Committee of Credentials with policy guidelines to assist the committee in handling troublesome types of cases. We also urge the board to police more closely the operations of the committee, in an effort to insure that its (the board's) and the Legislature's mandates are being followed

PROCEDURES OF THE COMMITTEE OF CREDENTIALS

Much of the work of this subcommittee in the period 1965–67 was devoted to a study of the methods and procedures used by the Committee of Credentials within the State Department of Education This body, chaired and appointed by the Superintendent of Public Instruction, is responsible for reviewing all complaints about a teacher's or teacher applicant's misconduct, together with possible prior criminal records of such persons, in an effort to determine their fitness to hold California teaching credentials Thus, in a legal sense at least, the five-member committee serves as a screening agency, with final action to be taken by the State Board of Education and with the possibility of appeal above that level through the courts We shall see, however, that this committee has extralegal powers far in excess of those expressed or implied by the Legislature when by statute it authorized the committee's existence

The subcommittee chairman, in his opening statement to the subcommittee at its hearing on October 24, 1966, in San Francisco, amply described both the legal and the extralegal powers of this committee when he said:

> "The duties of the Committee of Credentials are very simply enumerated by the Education Code and by the rules and regulations of the state board The committee exercises the power of the state board to review charges made against public school teachers, to investigate these charges and to determine whether a formal hearing ought to be instituted against that teacher's credentials or application for credentials before a state hearing officer
>
> "Thus, in a real sense, the Committee of Credentials fulfills a duty similar to that of the grand jury in a criminal proceeding If the Committee of Credentials finds there is probable cause to proceed with the charge, to use a legalistic term, it files . [such] a charge which is then heard in a quasi-judicial proceeding by a state hearing officer Following the hearing officer's ruling, if the teacher wishes to appeal, he may take the matter to the State Board of Education which may overrule the hearing officer's decision
>
> "Then, of course, there is ultimate redress in the courts Thus, although the Committee of Credentials does not actually have power *itself* to deny or revoke a teacher's credentials, it has very substantial powers of moral suasion *If the personnel of the committee wishes to utilize this power, it is possible to intimidate a teacher . . .*
>
> "The reason why we are concerned about the power of the Committee of Credentials is because in theory a teacher's rights may be upheld before the state board and the courts . . *but in practical fact the damage occurs long before that in the sense that there is an economic sanction implied when any teacher is called before the Committee of Credentials . . .*
>
> "Any teacher who is called or who is served with a letter from the Committee of Credentials automatically loses some ability and

movement and flexibility as a teacher because a teacher's reputation is about all he has to go on. He deals in no particular specific product; he deals in intangible results, and as a consequence, all he has to go on is his reputation If the reputation is damaged even to the extent of receiving a letter, it may very substantially involve his loss of capacity to obtain any other job in education." (Emphasis ours)

Clearly, the Committee of Credentials does possess powers which range far beyond those given it by the law If that power is judiciously and objectively used—and if in the exercise of it, proper procedures are followed—it should present no lasting harm to a teacher falsely accused before the committee However, we have concluded that neither of these conditions have been obtained in recent years on the committee, and we will document our findings in the following pages

Before proceeding we should point out that over the past 12 months this subcommittee has instructed its staff investigators to sit in on hearings and proceedings of the Committee of Credentials and to file written memoranda of all observations Literally hundreds of cases have been processed by the Committee of Credentials within this time period, and our staff has noted the peculiarities of the committee's proceedings and these observations have been reported to us The subcommittee wishes to make it very clear that its study and investigation are *not* based on the sensational press reports of one case, but rather they represent recommendations drawn from a long and arduous staff and legislative study Examples of staff memoranda and evidence obtained by this subcommittee during its study appear in the appendix of this report.[3]

Initially, we have found that because of the use by the Committee of Credentials of the instrument of public hearings by which popular shame, censure and publicity can be brought to bear on any individual credentials case, it is literally impossible for a given teacher, against whom a sensational allegation has been made, to receive a fair hearing by the committee. We have noted that in criminal cases in this state, hearings are held by grand juries in secret, in order to determine whether indictments shall be returned. There are obvious reasons for this procedure, which are deeply rooted in our Anglo-American legal procedures One is the requirement of fairness to one wrongly accused by the prosecutor. Clearly, if such an individual has been wrongly accused he should not be subjected to public censure or "tried in the press" Another requirement deals with the necessity for a grand jury to get to the bottom of a charge, without the distracting glare of klieg lights which tends to invite public performances by those more interested in their own "public image" than in justice

This subcommittee is cognitive of the fact that hearings and investigations of fitness to hold teaching credentials do not constitute criminal proceedings Yet, we apply these grand jury standards because we believe that the Committee of Credentials' functions closely parallel those of a grand jury, and because the teacher requires an extra measure of fairness due to his inability to defend himself from public passions of the moment. As the chairman noted at our hearing, the

[3] Appendix C.

teacher has nothing to sell but his ability to teach (which is difficult to measure) *and his reputation*. Once the latter has been destroyed or seriously damaged in a public hearing, regardless of the truth of the allegations, the teacher's livelihood may be destroyed

For these reasons the legal and medical professions, in hearing initial allegations of professional malpractice, do so in secret proceedings. Likewise, the Brown Act in California, which requires public bodies to hold all business meetings open to the public, makes an exception for personnel matters. Only the Committee of Credentials—with its great power to judge teacher morality and conduct on its own subjective scale—has escaped this requirement This is a loophole in the law which should, we believe, be closed

Although this subcommittee's study of the Committee of Credentials has been directed at a large number of cases investigated by that body in the last twelve months, the most sensational and newsworthy of these was the Committee of Credentials' investigations of a San Diego teacher who was accused of writing a play which some people considered "blasphemous" We have made no determination relative to the quality of that teacher's play, nor do we intend to do so. We merely raise that case at this point because it is an excellent illustration of the circus atmosphere which the Committee of Credentials has encouraged by its open-door procedures This subcommittee dispatched investigators to attend that particular hearing in Sacramento They reported that the hearing room was literally packed with members of the various media who entered *prior* to the entry of the teacher. After all the members of the media were present, the accused teacher entered and was asked by the chairman of the committee whether she wished to have her hearing in secret. Obviously, in such a charged climate where, had she refused a public hearing, her refusal would have been taken as an *ipso facto* admission of guilt, the teacher opted for a public hearing. Our appendix contains copies of the committee chairman's amazing and totally irrelevant statements regarding this case given to the press at this hearing in an obvious and blatant attempt to try this case in the press [4]

This practice must be stopped, and consequently we have recommended that all hearings of the Committee of Credentials in the future be conducted "in camera," with only the accused teacher and her attorney, members of the committee and its staff, and any material witnesses allowed to be present.

We have also been surprised to learn that the Committee of Credentials evidently exists without any legislative statement of policy intent at all. The sole reference to the committee in statutory law is as follows:

> 13102 There shall be within the Department of Education a Committee of Credentials, consisting of the Superintendent of Public Instruction and four persons appointed by the Superintendent of Public Instruction
>
> 13103 The State Board of Education may assign to the Committee of Credentials within the Department of Education such

[4] Appendix C.

administrative duties as it may see fit relating to the granting, issuance, suspension and revocation of credentials and life diplomas. (All references are to the Education Code)

Further, the State Board of Education has failed utterly in its responsibilities implicit in Section 13103, above, to provide its Committee of Credentials with policy guidelines relative to the treatment of various types of cases Thus, we have found on examination and observation of the committee at work that it often treats identical offenses differently on the most whimsical bases. On one occasion which was observed by our staff, the committee engaged in the most irrelevant questioning of a teacher who was accused of resisting an arrest—the charge had been dropped by the local law enforcement authorities—by asking the individual if he "believed in our democratic institutions," implying that on the basis of the unproven allegation made against him, that he did not While this particular teacher satisfied the committee that he was "safe" for classroom duty, another teacher accused of an identical offense, which took place at the same time and place, was denied his credential It is noteworthy that the hearing officer later reversed this ruling

The point, however, is clear In the absence of State Board of Education directives relative to the treatment to be accorded to certain similar types of cases, the Committee of Credentials has developed its own criteria, and these vary not with the circumstances but with the impression which the accused individual makes upon the committee Such a situation makes it impossible for teachers and their attorneys to have any reasonable idea as to how the committee will react in a specific instance

To overcome this lack, we suggest that the Legislature clearly state its legislative intent as to the functions to be assumed by the Committee of Credentials We recommend that language be added to Education Code Section 13103 cited earlier, so that the new section reads as follows.

13103. The State Board of Education may assign to the Committee of Credentials within the Department of Education such administrative duties as it may see fit relative to the granting, issuance, suspension and revocation of credentials and life diplomas, *and it shall supervise the work of the committee and shall provide statements of policy relative to committee operation and procedures as it deems appropriate to do so*

It is the intent and purpose of the Legislature in establishing the Committee of Credentials that the committee conduct its affairs with the highest degree of propriety and objectivity, giving due regard for the rights of teachers who appear before it who are not yet proven guilty of the offense with which they may be charged. The Legislature intends that the Committee of Credentials shall serve only as a screening agency, and shall not make policy relative to the issuance, revocation or denial of credentials or life diplomas other than the policy the committee is required to implement by order of the State Board of Education or by directive from the Legislature.

One of the major reasons for the committee's shifting standards by which teacher conduct is adjudged is that body's lack of formal record-keeping, save only the most sketchy kind of minutes The committee has no permanent staff, using as its secretary a credentials technician from the certifications office Minutes consist of jottings in pencil in the margin of the committee's mimeographed agendas No recordings or transcripts of committee proceedings are ever kept Since this is the case, it is obviously impossible for an attorney representing a teacher to attempt to defend that teacher on grounds that in a similar case the committee ruled in favor of the accused He simply has no way of knowing what the committee's prior action was

By the same token, the teacher cannot use as a part of his defense in his administrative or State Board of Education hearing—or in a later appeal to the courts—any claim that he was treated unfairly by the Committee of Credentials since he is unable to prove his allegation by using a formal transcript This practice encourages, as well, some of the most astonishing, inquisitorial questioning techniques this subcommittee has ever encountered Obviously, since there is no formal recording of proceedings, those committee members, more interested in enforcing their own narrow ideas of the public morality on teachers than in bringing justice to all the parties, are given every opportunity to do so To illustrate, we have included in the appendix a staff memorandum received by us following a staff member's observation of one such hearing [5] We have removed the staff member's editorial comment from one case, since the questioning used is so astonishing that we think it stands by itself

To overcome these weaknesses, we have developed a series of substantive recommendations to the Legislature for insuring fairness and objectivity These include a suggestion that a full-time executive secretary and clerical position be provided for the Committee of Credentials to give it some staff expertise (which it obviously lacks at present) and to provide a contact point in Sacramento for accused teachers and their attorneys The addition of these persons will formalize the committee's procedures, and this should assist in guiding the body into proper areas of endeavor

We also recommend that the Legislature require the committee to prepare and maintain formal minutes of all proceedings, and that a tape be made of all hearings at which teachers are present The tape should then be made available to the teacher or his legal counsel, upon request, if that person wishes to have a formal transcript made at his personal expense Such a proposal will not involve a large state expense such as state preparation of transcripts would require, but will allow the accused to have one developed if he wishes it. It should also be noted that we suspect that the presence of recording equipment and the consequent knowledge on the part of committee members that their questions are being recorded should help to insure that members' questions are objective and to the point

The minutes that are prepared pursuant to our recommendation above should be transmitted to the accused teacher within a reasonable time after his appearance, preferably within one month

[5] See Appendix D

Probably the major fault with the five-member Committee of Credentials is that it is no permanent body at all. During the 12 months in which we observed the body in operation, at least 20 different individuals served on it. Its membership constantly shifts, for the statutory section cited earlier (Ed Code Sec 13102) merely requires that there be four persons plus the Superintendent of Public Instruction on the committee, not that they be the *same* four each time the committee meets Consequently, staff members of the Department of Education serve on the Committee of Credentials only if they cannot avoid it; the duty is considered onerous, and most department staffers seek to avoid it.

The chief deputy superintendent admitted to this subcommittee at its San Diego hearing that new letters of appointment to the Committee of Credentials are signed by the Director of Education prior to almost every committee meeting Indeed, at all the committee meetings which we attended, the Superintendent of Public Instruction was never personally present, but was represented by his deputy. The fact that committee members are rarely the same means that old cases must be reexplained time and time again, that rules of precedent are impossible to follow and that persons serve who are not necessarily even remotely interested in what thay are doing Further, if the committee followed generally accepted rules of fair play, proper procedure and objective questioning (which it does not), it would be impossible for a shifting membership to live up to these ideals, since thay would be unfamiliar with the group's operations.

The problem of shifting membership is a serious one, but additional difficulties grow from the fact that although perhaps 90 percent of the personnel cases handled by the committee consist of charges against classroom teachers, *not one of the committee members is an active classroom teacher*. This is intolerable, since much of the substance of the allegations of misconduct which arise at these hearings deal with teacher classroom conduct.

Further, we note that it is significant that teaching seems to be the only non-self-policing profession in our society. Our recommendations will not place the profession in a position where it may police itself, since in the absence of agreement among teachers themselves this subcommittee would not attempt such a great step But our proposal will at least give classroom teachers a voice in these proceedings, a voice which is completely absent now.

Our recommendation also solves a major difficulty by removing departmental employees, with one exception, from the committee We have noted that the Superintendent's appointees on the committee are largely division chiefs and assistant division chiefs These are among the busiest men in the Department of Education, and their workload is a major reason why there is a rotating membership on the committee By drawing the committee members from outside the department—but continuing to give the department some representation—we believe that a more permanent body will result.

Our proposal is that the present Committee of Credentials be abolished in favor of a committee drawn from the following elements of the education profession:

A Two full-time elementary classroom teachers with tenure, presently employed in teaching in a California school district, and selected every two years by the State Board of Education.
B Two full-time secondary classroom teachers with tenure, presently employed in teaching in a California school district, and selected every two years by the State Board of Education.
C One certificated person working full-time in an administrative or supervisory role in a California school district, selected every two years by the State Board of Education.
D One past or present member of a local school district governing board in California, selected every two years by the State Board of Education.
E One staff member of the Department of Education, selected every two years by the State Board of Education
F. The Superintendent of Public Instruction

We propose that the committee's executive secretary be an *ex officio* member of the new committee, with the right to vote only in the event of a tie among the eight members

We think that such a body as we propose is clearly representative of all the interests involved in education, and its composition represents an improvement over the present committee's organization on several fronts For the first time under our recommendation the Committee of Credentials will include:

1 A representative of the public, in the school board trustee;
2. Representatives of the teaching profession;
3 A representative of certificated nonteaching professionals in education.

We include one final comment in our recommendation concerning committee composition. This subcommittee was shocked to hear in testimony under oath from a Department of Education staff member that the Committee of Credentials often operates without a quorum. In fact, according to this testimony, decisions relative to which teachers should be asked to come to Sacramento to appear before the committee—and hence fully investigated—are made by a "subcommittee of one," consisting of the committee chairman and a staff investigator. This illegal and immoral practice must stop, and we consequently propose legislation which will prohibit the Committee of Credentials from operating without a quorum at any time We recognize the immense workload facing the committee and the Department of Education in general, but even such work pressures cannot and must not be used to explain one-man rule on this committee

Our final series of recommendations relative to the operation of the Committee of Credentials covers a broad area of teacher rights relative to the committee's dealing with them The misconducts, not of teachers but of the committee itself, in this area are numerous. We shall state a few of them Investigations are conducted by the committee for an indefinite time period, and teachers under investigation in prior years—even if that investigation has in fact been closed and the teacher cleared of the charges—are rarely informed of this action. In one case of which we were informed, a teacher's attorney stated

that he was still representing a teacher in a case which had been initiated more than four years previously. The department, he contended, refused to tell him definitely whether the investigation was or was not still in progress.

Often the committee refuses to allow a teacher or his attorney to see the nature of the written allegations made against the teacher. This has been substantiated by oral and written communications by attorneys directed to the subcommittee It would appear that this very small intrusion of the right of discovery into Committee of Credentials' files might be well justified

Far more serious, however, we understand that the committee occasionally refuses to notify the teacher as to the nature of the charges against him. Certainly, the form letter which the committee sends to teachers accused of some offense, inviting them to come to Sacramento, is not at all clear in this regard One of the most fundamental rules of fair play in such a proceeding as this is notification to an accused of the charge It makes no sense at all to virtually require a teacher to come to Sacramento for a hearing "just to see what he is like." This is the "whole man" theory run wild Teachers are entitled to know why they are being investigated by an agent of the state

Lastly, we have noted that unhappily and for reasons which are known best to certain members of the Committee of Credentials, this body has made it a practice in recent years to "invite" teachers accused of sensational-type offenses to a Sacramento hearing, *even though if all the allegations against the teacher are true there are no legal grounds to revoke the teacher's credential* Although this fact was denied by witnesses from the Department of Education at our hearings, it is clear and indisputable from the facts of the cases.

It is indeed unfortunate when an administrative department of state government feels it must take upon itself the obligation of spanking the hands of professional people under its aegis who, in the opinion of the department or members of the department, engage in perfectly legal but "undesirable" conduct The portents of Orwell's *1984* seem very real when pressure from a few confused people in a local community can "convince" such an agency of government that it ought to conduct a public kangaroo court—not to make findings of fact and to apply the appropriate punishment, if it is warranted—but to put on a show for the misguided persons who originally brought the complaints We can agree that it is too easy to persecute school teachers; we cannot agree that such persecution is right in either a legal or a moral sense.

To overcome this gross misuse of Committee of Credentials' power, we include in our final list of recommendations a proposal which should foreclose these possibilities to future committees Our proposals follow:

1. Teachers shall have the right to be notified of the specific charges made against them, at the time a letter is sent to them requesting their appearance before the Committee of Credentials

2 Teachers shall have the right to see, or to have their attorney see, copies of any written charges which have been made against them This right should not, however, extend to other items in the investigator's file.

3. Teachers shall have the right to be notified by the committee if and when that body's investigations have uncovered additional evidence which lead to the filing of new and possibly more serious charges against them.

4 Teachers shall be notified of the final disposition of their cases by the Committee of Credentials within one month following their appearance before the committee, and they shall also be informed of their appeal rights if an adverse decision is returned

5 Investigations of public school personnel shall be dropped within 12 months of their initiation and of initial notification of investigation by the committee to the teacher This recommendation will act as a statute of limitations on Committee of Credentials' proceedings, but the time limit will not start to run until the teacher is told he is under investigation and at least a partial field investigation has been conducted.

6. The Committee of Credentials shall be required to state, in its letter to the teacher telling him he is being investigated, that if the charges that have been made against him are true, that legal grounds exist to revoke his teaching license This requirement will negate the useless type of committee proceeding which we alluded to above and will further protect the teacher's legitimate rights

This subcommittee has attempted to deal with the Committee of Credentials with a substantial measure of restraint It would have been far easier simply to recommend complete abolition of the agency. Such a course might have been more attractive to teachers, and this subcommittee itself might have attracted more notoriety, but this would not have served the public school system of California. There *is* a genuine need for an agency such as the Committee of Credentials to screen allegations of offenses by teachers, in order to weed out those very few teachers who are unfit As legislators, we support the legitimate and proper functions of the committee

But we just as strongly reject misuse of that committee's power by anyone who seeks to make a name for himself, or is too weak to stand up to small groups of people who exist in any community and seek to impose their thought processes upon the majority of members of the community. The Committee of Credentials—which by its very definition must find and hold to that fine line which protects equally the rights of society and the rights of individual teachers—must not be allowed again to become a forum for those persons within its membership who wish to gain a wider audience for their own peculiar views of the American scene in general and education in particular. We believe that our recommendations preserve this committee's proper functions; indeed, they should strengthen them We earnestly commend these recommendations to the 1967 Legislature.

A STUDY OF METHODS OF UPGRADING AND IMPROVING THE TEACHING PROFESSION[1]

FINDINGS

The Subcommittee finds that:

1. Education does not have the teaching quality it has had in the past in California This is true largely because of the well-documented and ever-increasing flight of the excellent teachers into nonteaching positions in education

2 As public school costs have climbed, the quality of classroom instruction has decreased, as documented by the increasing proliferation of special educational programs for various categories of underachieving children.

3. This proliferation of such special programs (compensatory education, remedial help, etc.) leads to one of two possible conclusions, or a combination of both of them Either (1) education is simply too costly for the public to continue to bear in a relative sense, or (2) education, and its administrative and special services, are growing out of control

In economic terms, the benefits bought by such special programs should nearly equal their cost to the taxpayer if economic justification for them is to be achieved The subcommittee has seen no compelling evidence that this is the case.

4 The trend toward more and more proliferation of special programs and nonclassroom personnel in education has reached the fiscal ceiling and must be reversed, not to the point where the basic principles of public education are harmed, but so that needless "fat" may be cut out of the school program The subcommittee has heard no contention that this cannot be done without fatally harming the education program.

5. The flight of excellent teachers into nonteaching occupations is caused largely by the low salary level available for this highly talented professional minority that remains in the classroom longer than 10 years. Traditional step-by-step teacher salary schedules—wherein the best teachers are paid the same as the worst—are a major reason for the frustration which leads the excellent ones to leave teaching

6. Little evidence is available to show that local school districts (or the education profession itself) are interested in, or capable of, slowing the exodus of excellent teachers from the profession

[1] Assemblyman Elliott dissents from this portion of the report He states "I disagree with [this portion of the report] in two respects (1) the criticism of those currently teaching appears to me to be unduly severe, (2) I disagree with the premium pay proposal because it appears to me to be another form of the discredited merit pay proposal"

7. All proposals for pay based on the excellence of the individual teacher, rather than mere lock-step advancement along a "time-in-grade" schedule, are opposed by teachers' organizations, who fear favoritism and/or nepotism if such pay is determined by school administrators Some methods of "premium pay" have been suggested to overcome these serious objections Some system must be adopted so that the geometric increase of nonteaching personnel will be slowed and the present huge teacher-pupil ratios can be reduced.

8 There is a movement designed to cast the teacher in the mold of a performer in the center of a three-ring educational circus in which the classroom is caught in a magnificent juggling act. The brochure announcing the NEA's "Year of the Nonconference," wherein statements are made to the effect that the teacher's job is "unmanageable" without a myriad of specialists, consultants, coordinators, supervisors, and other supernumeraries with Gilbert-and-Sullivan-sounding titles, presents amazing but frightening testimony to this statement.

RECOMMENDATIONS

1. Teaching pay must be made attractive, so that the truly competent are drawn into the profession, and drawn in to stay—not to be recruited into nonteaching educational positions The subcommittee again endorses the concept of a minimum statewide salary schedule—which will require substantial increases in state aid to the schools—which will provide more than the present minimum base salary presently in the law. A fully qualified teacher with 10 years of experience and the training represented by a master's degree should be guaranteed an annual income of at least $9,000

2 All honestly done and statistically valid studies have shown that reductions in class size have an enormous impact on the quality of education available to children in California The subcommittee endorses future state-funded reductions in the too-high sizes of California classes, possibly through the use of the class size reduction formula presently in the law for grades one, two and three

3. The committee pointedly notes that there is a great difference between "merit pay" for teachers—which is administered *within* the educational system, by admministrators, and is hence open to favoritism, and which leads to district patronage in the worst sense—and "premium pay" for excellent teaching skill The committee opposes "merit pay" because of its obvious weaknesses, but we endorse the concept of "premium pay"—governed by a commission of teachers and thus administered from *without* the system, without the dangers of favoritism.

4. The subcommittee stops short of endorsing a specific bill to provide state-supplied "premium pay" for the teaching profession, but we *demand* that the proliferation of nonteachers and the supposed "services" which they allegedly provide come to an end! We recommend that to overcome this glaring weakness in this state's educational system, the 1967 Legislature consider enactment of a premium pay program for the excellent school teachers of California which will—we believe—serve to protect the taxpayers of this state from further encroachment on their economic solvency by the bureaucracy of the school system while insuring to their children an excellent education This should occur because the child will again receive the individual instruction which is his right, the parent will regain lost confidence in the responsibility of the school system, and the taxpayer finally achieves what he has already paid for—the highest quality education in the nation He is already paying the highest price

5. Recognizing the difficulties which the Legislature will face in 1967 in developing specific legislation to enact a premium pay program, we recommend the adoption of a statute which declares the Legislature's intent to encourage such teacher remuneration plans, but which also establishes an advisory commission charged with the duty of formulating an acceptable premium pay plan for presentation to the 1968 Regular Session of the Legislature The teaching profession, school administrators, school board members, the general public and members of the Legislature should be represented on this commission, whose work should be overseen by a joint legislative committee comprised of the standing Committees on Education of the Assembly and Senate.

A STUDY OF METHODS OF UPGRADING AND IMPROVING THE TEACHING PROFESSION

This is now the fourth year that the personnel subcommittee of the Assembly Education Committee has devoted to studying the quality of a profession In 1965, we recommended that the term "unprofessional conduct" be strictly defined to mean exactly what it implies—behavior directly related to the practice of one's employment, not a catch-all phrase covering any item of personal activity

We are pleased that the Legislature saw fit in 1965 to reaffirm, through the passage of AB 2710 (Petris), the essence of an opinion of the Third District Court of Appeals (206 Cal App 2nd, 147) whereby a classroom teacher was upheld in his right to write a letter to the editor of his local newspaper That such an act could ever be labeled "unprofessional" by anyone illustrates, we think, the heavy fog which surrounds the concept of teaching as a profession

This committee has consistently supported excellence in the classroom with more than platitudes We do not take the word "profession" lightly. We are striving to find an acceptable way to raise the public status of a career teacher to its proper position

We should note that the 1965 Legislature—along with restricting the misuse of "unprofessional conduct"—enacted two measures which incidentally highlight the paucity of true professionalism in teaching.

We do not wish to be misconstrued—we support the authority of local school boards to administer their affairs within the framework of the Constitution and the Education Code—but we must point out that in a precise sense of the phrase, the professional rights of teachers number two.

Two serious and relatively recent developments were brought to our attention, and the Legislature acted to provide statutory relief, where heretofore, these matters were traditionally accepted.

Does the teacher have a professional right to suspend an unruly student from school? The previous version of the Education Code had contained a provision to that effect for years. Nonetheless, this section had been locally interpreted to mean that the teacher must obtain administrative permission, and where this was not granted, the provisions of the Education Code became meaningless It is difficult to believe that some of those in authority would treat the law in such a cavalier manner.

As a result of legislative information, the code section was amended in 1965 to spell out clearly and unmistakably the fact that each individual credentialed teacher had an absolute professional right to suspend an unruly student, regardless of whether the nonclassroom administrators agreed or not (AB 2083, Winton).

Yet, this was not sufficient. A local school district immediately interpreted the word "school" to mean "class" and attempted to rein-

state the usual administrative procedures which had the practical effect of prohibiting suspension, making a mockery of the teacher in the eyes of the students, and generally undermining confidence in teachers as professionals, as well as dignified persons.

Fortunately, one brave teacher went to court, and, quite obviously, the court held that the law was "clear and unambiguous" The teacher *does* have a right to suspend, as most of us always thought. Yet now, this right must be codified and supported by judicial opinion

Who took away the traditional right? Certainly not the general public, for the 1965 bill to enact the right would surely not have been passed had there been any substantial public opposition. No, the public expects the teacher to exercise a professional responsibility to the students who wish to learn, and we expect that the vast majority of parents were unaware that traditional teacher authority had been so eroded.

The right was taken away by those who speak loudly for education as a profession, but deny the exercise of the most fundamental professional rights to teachers. These are the administrators and supervisors and coordinators and directors, and a myriad of other titled personages, who have multiplied so vastly in the past generation

The testimony before this subcommittee indicated that the non-teaching professionals have increased from 4 per 100 classroom teachers to more than 14 at latest count, and there is no end in sight (see Table I) This year of 1966–67 is supposed to be the "Year of the Nonconference" according to the National Education Association, and the purpose is to bring educators together around television sets to talk of further increasing the "services to teachers"

It would appear that the calendar may be off by some 17 years. Rather than 1967 for education, may it not be 1984 already? The NEA speaks of the "teacher's staff" which all of us would interpret to mean people who act under the supervision *and control* of the teacher. But it turns out that the teacher's "staff" is largely composed of non-classroom personnel, higher on the scholastic ladder, superordinate in authority, and paid much higher too. With this definition, all leaders may seek to resign and become staff members.

This committee adamantly rejects the implication that classroom teachers are inherently incapable of providing adequate, even excellent, education to children. The NEA says the teacher's job has become "unmanageable" We ask—who made it that way?

For one-thing, the people who took the teacher's right to maintain discipline in his own classroom away from him by administrative fiat are responsible.

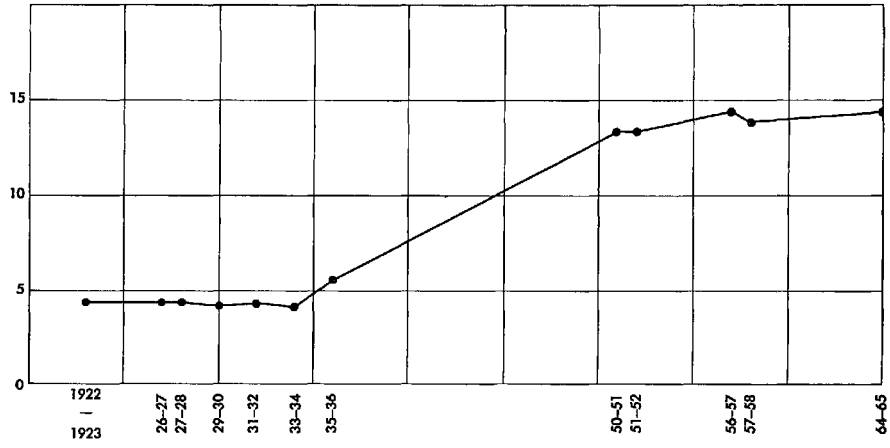
A tangible result of a teacher's work is the grade a student receives at the end of a course For generations, teachers have considered the fundamental judgment about a student's relative success to be the province of their own determination Whether it is "A" or "B," pass or fail, good teachers have always tried to be fair—to give the student a fair evaluation of what he has learned—and not to mask his ignorance in fraud.

It does not profit a child to think unrealistically of himself as an "A" student, when life and society and the world of business will render a more accurate verdict, if that be the case. The true profes-

Table I

NUMBER OF CERTIFICATED NONTEACHERS PER 100 CLASSROOM TEACHERS

1922–23 through 1964–65



Sources 1922–23 through 1957–58— REPORT OF THE SENATE FACT-FINDING COMMITTEE ON GOVERNMENTAL ADMINISTRATION 1959
1964–65 — RANKINGS OF THE STATES, National Education Association 1965

sional teacher has always known that honesty in grading is in the student's best interest in the long run But there are those whose grasp of time is very short—those attending the next PTA meeting, for example.

In 1965, the Legislature was forced again to take a step that seems Orwellian With information that numerous school officials were altering the grades that teachers gave to students, the Legislature enacted the second right of teaching (AB 2074, Garrigus)—that in the absence of fraud, etc, the teacher's grades are final.

Did the public ever suspect that they were not final? We do not believe they did.

We ask how anyone can ~~seriously~~ pretend to upgrade the teaching profession when he declares the teacher to be effectively incompetent, takes away whatever traditional rights the teacher enjoyed, and proposes that our schools be saddled with ever more expensive nonteaching personnel.

In the past few years, the Legislature has had to prop up ineffective school programs with specific, program-oriented legislation Most prominent are the Miller-Unruh Basic Reading Act, the McAteer Compensatory Education Act and the preschool program—all enacted in the 1965 session.

For ~~decades, the~~ Legislature has underwr~~itten the~~ excess costs of special educational programs for the physically handicapped, mentally retarded, and now, the educationally handicapped, the inexplicably underachieving student

We ask ourselves why local school districts—supposedly close to, concerned with, and able to resolve local problems—require a plethora of special state aids in order to attack their problems The disparity in local tax bases is far from the complete answer There are many individual districts without adequate local revenues which seem able to cope with their problems. Other districts with virtually identical financial and human resources do not

As local educators have moved toward total immersion of their operations under a proliferating tent of "education," the Legislature has seemingly moved to identify individual objectives more specifically. "Good education" is a meaningless concoction if specific successes in reading, or arithmetic, or vocational skills cannot be easily adduced

Is public education actually too costly for the taxpayers to bear any more? This does not seem likely in view of the fact that Californians spend more on each child than any state except New York (We doubt New York would spend as much if the private and parochial schools did not educate over a quarter of the state's students separately)

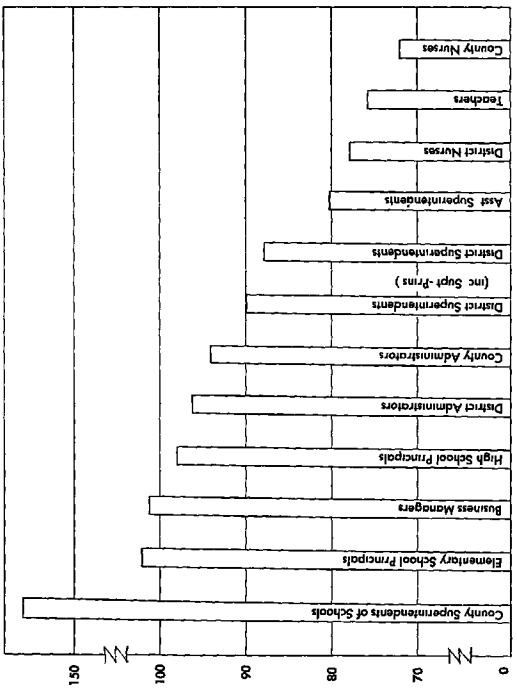
Or rather, is the vast enterprise of public education getting out of hand? We know that teachers have become less and less important. While administrative ranks multiplied, class size remained virtually static until the Legislature financed and mandated a significant reduction in class size in the primary grades

We *can* statistically demonstrate that smaller classes mean higher achievement, and thereby justify the added expense per child We have the testimony of thousands of California teachers, as well as research evidence But when class size reduction is requested locally, the cost is often termed prohibitive.

Table II

PERCENTAGE INCREASES IN SALARIES—1952–53 TO 1964–65

Source Bureau of Education Research, Department of Education



The evidence presented to us shows that in the past 10 years, every other category of professional educator (except teachers) has received greater salary increases than those who actually work with children daily—teachers, and also school nurses (see Table II) In most school districts, higher officials are automatically geared to the teachers' schedule by a multipher Teachers often take the public censure for an increase in local taxes, while 20 percent and more of the raise goes to nonteachers

In most districts, all teachers—good, bad and indifferent—are on the single schedule, and they progress in lock-step fashion through the years, while collecting miscellaneous college credits The lack of local concern about valid professional advancement is evidenced by the fact that many districts do not require a valid master's degree for salary advancement. Any sort of credit will do

It seems to us that if administrators and boards were serious about directing teachers toward increased professional stature, they would limit salary credits to courses that apply to a specific degree program, and one concerned with the subjects being taught

Instead, the lure of promotion out of the classroom is offered We cannot say that this lures only the best teachers away from the classroom, but many—particularly men with family responsibilities—certainly are removed from teaching in this manner.

In a few districts, a system of "merit pay" has been established ostensibly to reward superior teaching However, the testimony before our committee from every teachers' group—especially those who represent only classroom teachers—is adamantly opposed to it. The committee finds that a deep and pervasive lack of trust exists between career classroom teachers and their local superiors who make the merit decisions

Thus, we have proposed that a premium pay system, effectively free of local favoritism or nepotism, be established with state support The committee has been most favorably impressed by the individual teachers —all of long experience and all, oddly enough, men—who testified in favor of this proposal.

It would be an understatement to say that all committee members present were deeply touched by the sincerity and obvious scholarship of these men These were clearly "professionals" in the best sense of the word, and we are at a loss to explain why each of them recounted some experience with bureaucratic interference in their demonstrably successful teaching practices

Yet, they are in a minority The employment practices of school districts virtually ensure they will be outvoted by the transient individuals passing through the classroom on the way to the maternity ward or the district office.

By simple head count, women outnumber men, and the committee believes that there has been an even more significant change in the professional attitude of women "Miss Dove" has been replaced in the classroom by "Betty Coed" and "Mrs Alumna " In terms of professional attitude, "Miss Dove" was a "Pro " As the symbol of a past generation of teachers, she was a spinster whose only interest was her work

We do not have many "Miss Doves" today, and to that extent, the professional caliber of teachers has been diminished To some degree, the slowly increasing proportion of men in teaching is helping to fill the gap, but the total of career teachers, male and female, is outweighed by those with other interests

Indeed, the committee is informed that at a recent meeting of the California School Boards Association, the (male) head of teacher education at one of the University of California campuses declared flatly that "teaching is a woman's profession " We suspect that the headmasters of our leading private schools, e g. Exeter, Andover, San Rafael Military, would violently disagree with this statement

We believe that the issue of professionalism in teaching is intimately bound up with the system of compensation for teachers We acknowledge the fact that great disagreement exists on the mechanics of in-

stituting some kind of system to recognize and reward superior teachers, *but we have heard no testimony against the concept.*

Hence, our major legislative recommendation is a proposal to establish a statewide commission with the express duty of formulating a workable plan

We think that this commission of professionals and laymen should be a sounding board and should help to develop a permanent public attitude toward the largest public enterprise in California. For too long, we have been content with slogans, with platitudes, with meaningless phrases that disappear when school financing issues become involved. We urgently need a broad-based public commitment, and while we would not forecast the views such a commission might take, we must finally decide what our future course will be

For our part, we concur with Henry Adams that "A teacher affects eternity . . " We believe that the long-range stability of the American republic, its democratic institutions and representative government, depends on a mature citizenry, educated by highly respected teachers

Regardless of our acts, the teacher *will* affect eternity, one way or the other The only question is, which way?

APPENDICES

8. William D. Plosser, Executive Secretary, California Federation of Teachers

   "In line with this policy, we, of course, supported the Fisher bill in 1961 We opposed various efforts in the '63 session and in the '65 session to water down the requirements for academic preparation."

9. Mr Glen Harrington, California School Boards Association

   "I think I can best serve your interests by simply stating that the School Boards Association supports the Fisher Act as it stands"

10. Mr. Lester G Wahrenbrock, Director of Certificated Employment, San Diego City Unified School District

    "We would agree with the basic provisions of the Fisher bill. We have no major suggestion or revision to suggest"

September 12, 1966—Garden Grove:

1. Dr Arthur Corey, Executive Secretary, California Teachers Association

   "I think in general our committees, both our committee and commission in the C T A, would say that the trouble with the Fisher bill was not that the standard was too high, but that it wasn't high enough"

2. Mr Donald E Fitzgerald, President, California Junior College Faculty Association

   "As our position paper, the following five pages, indicates, we support the Fisher bill"

3. Mr Alvar Yelvington, California School Boards Association

   "The school boards of this state supported the Fisher bill when it was before the Legislature, and they still support the principles of the Fisher bill including the concept of the diversified major as modified by the Rodda Act"

4. Mrs Sally R Williams California School Nurses Association

   "We agree with the Fisher bill, as it does spell out the preparation of the school nurse, and we think it is a fine piece of legislation."

APPENDIX B

STATE OF CALIFORNIA
DEPARTMENT OF EDUCATION
721 CAPITOL MALL, SACRAMENTO 95814

In Replying Refer to FILE NO ___DATE

REPORT OF EVALUATION FOR THE STANDARD TEACHING CREDENTIAL WITH A SPECIALIZATION IN ELEMENTARY TEACHING Items checked below show requirements which must be completed

___ 1 An acceptable bachelor's degree

√ 2 Postgraduate course work. *21* additional semester hours in upper division or graduate level courses to complete a fifth year

___ 3 General education ____ additional semester hours including work in all areas checked in this section

___ (a) course work in ____ areas selected from those checked ☐ humanities ☐ social sciences ☐ natural sciences ☐ mathematics ☐ fine arts ☐ foreign language

___ (b) ____ additional semester(s) (____ quarter(s) of course work in English

___ (c) a course in English composition or the passing of a special examination in English composition administered by a college or university

√ 4 A major in *social sciences* requires *2* additional semester hours on the upper division or graduate level

A diversified major requires _____

___ 5. A minor in _____requires _____ additional semester hours including _____ on the upper division or graduate level

An interdepartmental minor in _____ requires _____ additional semester hours including _____ on the upper division or graduate level in _____, the subject to be named on your credential as the minor.

___ You will have completed a minor in the specialized area of_____ when requirements shown on the enclosed letter FZ _____ have been completed.

√ 6 Professional preparation

√ (a) student teaching *90* additional clock hours (*4* semester hours) including *90* clock hours (*4* semester hours) in grades kindergarten through 8 or verification of *7* year(s) of full-time teaching experience in the public schools or in private schools of equivalent status including *1* year(s) in grades kindergarten through 8 Experience needs to be verified by letters giving dates of service and grade level, signed by a principal or superintendent.

√ (b) ____ additional semester hours of course work, or more if needed, to include all requirements checked below

___ (1) sociological or historical or philosophical foundations of education

___ (2) psychological foundations of education or

☐ educational psychology and

☐ growth and development

√ (3) √ elementary school curriculum

___ general elementary methods *OR* basic methods selected from any ____ of the following areas arithmetic, science, reading, language arts, social sciences, and foreign languages

√ 7. Three semester hours of course work in the theory of the structure, arithmetic, and algebra of the real number system or three semester hours of course work in calculus

___ 8 Official verification of the completion of the requirement on the United States Constitution It is necessary to verify the completion of two semester hours in course work, or an examination given by any approved institution, on the provisions and principles of the United States Constitution. This requirement must be completed before the credential will be issued.

√ You are not at present eligible for a credential on partial fulfillment [(1) and (6) (a) above required]

___ You meet course requirements for issuance of this credential on a partial fulfillment of requirements To apply for a credential on this basis, you must submit the following ☐ a new application form, ☐ a $10 00 fee, ☐ fingerprint cards, ☐ health form dated within a year if not already on file, ☐ your statement of intent to complete all requirements for the life credential, ☐ a statement of employment for the service ☐ as a librarian *OR* ☐ as a teacher of exceptional children.

Sincerely,

Encl: ___ Forms _____

___ Fingerprint cards

√ Leaflets

Rev. 8-66 8M MU-1169 [FZ-1]

APPENDIX C

SAN DIEGO CITY SCHOOLS
EDUCATION CENTER
Park and El Cajon Boulevards

PERSONNEL DIVISION

January 28, 1966

The Honorable Leo J. Ryan, Chairman
Subcommittee on School Personnel
and Teacher Qualifications
California State Legislature
State Capitol Building, Room 5128
Sacramento, California 95814

Dear Assemblyman Ryan:

In compliance with your request of January 24, I am submitting the following statement with reference to the Geri Davis case, in lieu of my personal appearance at the hearing of February 1, 1966, directed in the subpoena served upon me on January 21, 1966.

For many years this school district has enjoyed a national reputation for seeking out, attracting, and motivating teachers of superior professional accomplishment and of equivalent moral character

The Board of Education, the administration, and representative teacher organizations have worked well together to provide a professional environment, responsive to community interests and needs, which will enhance the welfare of teachers and students alike.

This includes the continuing review and insistence upon standards of personal conduct traditionally required and practiced within the teaching profession. This school system has concerned itself as vitally with the performance and character of its employees following their placement on the job as it has with their original selection

Preserving the right of the teacher to lead his life as a private citizen, and requiring that he conduct himself in a manner that is consistent with his professional obligation to the public, presumes a delicate balance between the teacher's privileges and his responsibilities. We fully appreciate the obligation of the school district to assist in maintaining this balance.

We believe that the local professional leadership of a large, well-organized school district such as our own, responsible to the elected representatives of the community, is in the best position to interpret and carry out the legal and professional requirements applicable to its employee group We believe that this was exemplified by the recommendation of the administration in the recent Geri Davis incident.

APPENDIX C—Continued

The recommendation made by the superintendent that no action be taken to discharge Mrs Davis was based upon thorough and complete review of official records of the professional performance and personal conduct of Mrs. Davis related to her assigned duties as a member of the teaching staff. This recommendation was made upon the advice and counsel of our district legal adviser The Board of Education accepted the recommendation of the superintendent.

The Personnel Division of our school district has worked cooperatively with the Division of Credentials of the State Department of Education for many years On numerous occasions it has sought out the investigative services of the State Department in determining the fitness of certain individuals to continue in their teaching posts, based upon issues that were clearly related to the legal and professional responsibilities of the assigned task

Within the limits of its small and overburdened staff, the investigative staff of the State Department of Education has been of significant help to this district.

It seems unfortunate to us that a situation which evidenced no greater factual basis for review than did the Geri Davis case received what appears to us to be an undue amount of attention and notoriety, possibly depriving the investigators of the State Department of needed time to review other and perhaps more deserving cases.

Enlightened and forward-looking school districts exercise continuing vigilance in monitoring the personal and professional qualifications of their staffs They welcome and solicit help from competent official and legal resources, both at the local and state levels They depend upon a close working relationship with these agencies built upon mutual trust and constructive results.

These results should enhance rather than detract from the image of education. *I can only feel that the apparently unilateral pursuit of the Geri Davis case has served to damage the image of this school district nationally, at a time when we are embarking upon a local and national recruitment program to obtain several hundred employees needed during the next school year.*

The personnel and operational practices of this school district are continually open to public review, and qualified constructive help is always welcome from any source If it is desirable to highlight certain incidents in education to demonstrate certain issues, these incidents should portray principles and practices of broad dimension Certainly, they should be based upon truth and relevant fact

The Personnel Division at this time has no evidence that the Geri Davis case qualifies in this regard.

APPENDIX C—Continued

We are, however, looking forward to continuing our work with the State Department of Education on matters that have meaning and significance not only for the San Diego Unified School District, but for California and for the teachers of the nation at large We would like very much to get back to this job.

In further compliance with your request, I am asking that Mr. Fred Foster, director of employer-employee relations for the Personnel Division, be present on February 1, 1966, to present this statement.

Thank you for your cooperation in making allowances for this arrangement.

Sincerely yours,

HOWARD CROFTS
Assistant Superintendent

HC.sr

NOTE: *Emphasis ours.*

(Transcribed copy of closing statement of Dr Everett Calvert for the Committee of Credentials at a hearing on Mrs Davis' case January 18, 1966, Sacramento, California.)

Mrs Davis, the Credentials Committee has reached a unanimous decision and would like me to preface the decision with a statement of its feelings on two or three issues It has been impressed with the testimony on both sides. It is not a one-sided case by any means, but we have also been very impressed with the testimony of your students and the teachers that know you best, as well as the administrators who know you.

From an educational standpoint, we deplore the use of the cheap and vulgar language, and firmly believe that this tends to perpetuate the negative aspects of racial relations, and recommend a more positive approach to them.

It is the feeling of the committee that such language tends to stir up racial tensions and not alleviate and quiet such tensions, and that another type of approach would be better.

We do not condone the play and our action we do not want interpreted as condoning it in any way There are many people who have even more sordid lives than the characters in the play which you wrote which you might also justify on the same grounds, such as some of the types of cases which we have in this committee from time to time, as sex perverts and prostitutes, and so on, or the mad ravings of the insane, you might equally justify in the same manner.

We are convinced, however, that there is no adequate legal grounds in the testimony involved for any punitive action as far as you or your credential is concerned, and we are also convinced that if you did need to learn a lesson and that you have legitimate regrets for any reflection that has resulted on the profession and others involved in the case

As a result we have voted unanimously *to close the case with this admonition to you please, we hope, avoid such an event in the future.* Thank you very much. (Emphasis ours.)

APPENDIX C—Continued

(Transcribed copy of interview between reporter and Dr. Everett Calvert immediately after the Committee of Credentials hearing on Mrs. Davis' case January 18, 1966, Sacramento, California)

Reporter: Dr Calvert, could your give me a comment on your reaction to the committee's final decision?

Calvert: The Committee of Credentials, as usual, has performed in a completely professional and objective manner as it always does and it was totally uninfluenced by any political influences or attacks regardless of their source There has been no pressure either for or against Mrs Davis on the Committee within the Department of Education. I think it is just typical of the very fine work that the committee does and the reason that the committee of the State Board of Education a couple of years ago commended the very fine work and the caliber of the people involved.

Reporter: You have a great number of cases each month, as you indicated during the meeting, and this one no doubt from the basic facts and points that you were considering, was small in comparison to the legal points in these other ones. Do you feel that the publicity and furor that was raised over this was justified?

Calvert: No, I don't. I think that the furor over Mrs Davis' case was very much to be regretted. I think that the people who attacked the committee and tried to bring pressure on the committee to come to any given decision (and this occurred on both sides) was completely unjustified and to be regretted.

Reporter: Do you feel that in the committee's decision that you are still maintaining that a teacher can have an avocation as well as a vocation of teaching?

Calvert: By all means. There is no question about that at all. There is certainly no intention or effort on the part of the Credentials Committee to in any way curb those activities as long as they are on a professional and moral basis.

Reporter: Do you think basically that Mrs. Davis does have the professional qualifications and the items, of course, in the play was not the issue really, but a lot of people wanted to make it

Calvert: Well, as I said in the closing statement that the committee asked me to make, they very much deplore and regret the wording in this play and the impact that it has had on the San Diego City schools, and the community. We feel that this is not something that is conducive to good racial relations. It is the kind of play and the language that tends to increase racial tensions rather than decrease them. We do not feel that when students see the kind of language used in this play by their own teacher that this is a good influence on them

Reporter: Are you aware that educational television itself, just within the last few days, had a play which did not have the racial overtones but had the tremendously severe moral overtones to it called *The Iceman Cometh?*

Calvert: I don't know about the overtones, but I wonder if they used as severe language I doubt very much if you can put over the air some of the language that was used in this play.

APPENDIX C—Continued

Reporter: They used "bastard" and they talked about "he got a case of the ____" and the whole thing right on . . it was a soliloquy.

Calvert: Do you think that the wording in there about "tying a 20-pound weight to a _____ cat's ____ and throwing it in the river" you could put over television?

Reporter: It was put over television

Calvert: That was?

Reporter: ____ and damn and bastard and ____, and these were

Calvert: Well, I would say, if that is true, it is very much to be regretted and it is about time the people woke up to the fact that there should be a higher moral standard for the people of this country

Reporter: This was educational television—Channel 6 in Sacramento

Calvert: Regardless of what channel it was and regardless of whether it was so-called education or not, I think it is very much to be regretted It is not in good taste

Reporter: Thank you, Doctor

STATE OF CALIFORNIA

DEPARTMENT OF EDUCATION

721 CAPITOL MALL, SACRAMENTO 95814

December 14, 1965

Mrs F Geraldine Davis
3284 Bayside Walk
San Diego, California 92109

Our File No. 2099-64

Dear Mrs. Davis:

The Committee of Credentials, acting for the State Board of Education, has reviewed your play entitled *A Cat Called Jesus,* which raises serious question as to your qualifications to continue as a member of the teaching profession. At its meeting on November 24, 1965, the Committee concluded that these circumstances may warrant the initiation of proceedings to revoke your California teaching credential.

Several possible courses of action which you may wish to consider are described on the attached sheet.

If a reply is not received within 30 days of the date of this letter, it will be necessary to commence the proceedings referred to in paragraph (2) of the attachment.

For the Committee of Credentials
Eli Obradovich, *Secretary*

EO
io
Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CALIFORNIA COMMITTEE OF CREDENTIALS
721 Capitol Mall
SACRAMENTO, CALIFORNIA

Possible Courses Of Action Relative To Your Credential

(1) If you believe that the Committee of Credentials has been misinformed or inadequately informed, you may request its Secretary for an opportunity to appear before the Committee. At such an informal appearance, you will be invited to give any pertinent information. Members may ask questions As the Committee is not composed of attorneys it cannot entertain legal arguments and relies on the advice of its counsel on questions of law. However, there is no objection to your being accompanied by an attorney or by friends or associates who wish to speak in your behalf Because of the great number of cases which must be considered you will be asked to limit your presentation to a reasonable time

(2) If you do not avail yourself of the opportunity to appear before the Committee, or, if after your appearance the Committee determines that proceedings against your credential are to be initiated, our legal staff will prepare, file, and serve upon you a "pleading" called an Accusation If you request a hearing, a formal hearing will be scheduled pursuant to the California Administrative Procedure Act (Government Code Sections 11500 et seq) You will be notified of the time and place of the hearing At the hearing, you may appear either with or without an attorney Hearings are conducted before an independent hearing officer appointed by the Office of Administrative Procedure Witnesses are under oath and are subject to cross-examination Rules of evidence are enforced Upon conclusion of the hearing, a proposed decision is submitted by the hearing officer to the State Board of Education. The State Board may adopt the proposed decision of the hearing officer or call for the record and argument and make its own decision A person dissatisfied with the action of the State Board may petition the courts for a writ of mandate

(3) Should you wish neither to appear before the Committee of Credentials nor to contest an action under the Administrative Procedure Act to revoke your credentials, you may avail yourself of Education Code Section 13205 which provides that the holder of a teaching credential may request the State Board of Education, in writing, to revoke his credentials If you decide on this course of action, you may complete and return the enclosed form.

If this form is used, please return to:

Eli Obradovich, Secretary
Committee of Credentials
721 Capitol Mall
Sacramento, California 95814

_____
Name (print or type)

_____
Street Address

_____
City and State

_____
Date

THE SECRETARY
State Board of Education
721 Capitol Mall
Sacramento, California

Attention: Eli Obradovich, Committee of Credentials

I hereby request that each life diploma or other teacher's credential or document heretofore issued to me by the State Board of Education be revoked, as of the date hereof, in accordance with the provisions of Education Code Section 13205, which provides as follows:

> "Whenever the holder of any life diploma or other teacher's credential or document issued by the State Board of Education requests in writing that the diploma, credential or document held by him be revoked, the State Board of Education shall revoke such credential."

_____
Signature

_____

_____
Witness

APPENDIX D

MEMORANDUM

To: Assemblyman Leo J. Ryan; Mike Manley

From. Walt Howald

Re: Committee of Credentials hearings, Wednesday, February 16 (9·30–11 a.m.), and Thursday, February 17 (10–12 noon), 1966, Room 517, Department of Education.

February 16:

Dr Frank Doyle was chairman of the committee with Kitch, Klotz, and Church in attendance Except for Assemblyman Leo Ryan and myself, no other persons were present in the audience. The committee recognized Mr Ryan's presence and were, perhaps, overzealous in their attempts to "welcome" him Chairman Doyle explained to Mr. Ryan he had not sat on this committee for over three years and, consequently, was not particularly aware of its current operations—in my opinion Dr Doyle understated his position as it was quite apparent he had little knowledge of the committee's operations or of the cases before him.

Case 1 involved a Mr ____'s application for a standard teaching credential specializing at the J.C level; the question was whether his college credits and master's degree satisfied Education Code Section 6211(a). This matter was not specifically decided by the committee, though Mr. ____ has had correspondence with and appearances before the committee on several previous occasions

Comment: This case, involving a rather technical point, needed a yes or no decision but the committee could, or would, not make this decision The members and staff of the committee appeared unwilling and unable to reach a conclusion, thus leaving Mr. ____ in a tenuous dilemma To act efficiently and meet its responsibilities, each member must be familiar with such a case and the questions it raises *before* an informal hearing is scheduled or such a hearing is fruitless This hearing cast the committee as an inefficient, indecisive, incompetent group of people unwilling to take the responsibility of a decision

Case 2 involved a Mr ____, holder of a general elementary credential, who was applying for an exceptional child credential but who was accused by the school district on 10 allegations of unprofessional conduct concerning certain actions toward some of his fifth grade (?) girls. The committee deferred any action on the case until receipt of certain depositions and transcripts from a pending court action against Mr. ____. On March 23, 1966, after receipt of the above transcripts, the committee decided to take action to deny Mr. ____'s application and to revoke his general elementary credential. Mr. ____ did not appear at this March 23 meeting—it is the policy of the committee to allow only one appearance before the committee in order to keep down the number of informal hearings

Comment: Mr ____ was the only one to appear, thus the committee did not hear from his accusers other than by a letter from the district stating the 10 allegations Mr ____ was asked to simply confess, deny or explain each allegation This process places the committee in a position of either deciding Mr ____ was a fine teacher—as he said he was—or that he was perverted and without discretion as the district said he was. In addition, it's noteworthy that this case appeared as a question of whether to deny ____'s application, however, the committee later decided (at its March 23 meeting) to revoke his general credential I am not sure Mr. ____ was aware that his general credential was being questioned at his February 17 appearance—his only appearance. In conclusion, this case illustrates a total lack of preparation before the informal hearing, an absence of organization as to what specifically will be considered and what possible action will be taken and, in general, an avoidance of the basic responsibility of determining whether this teacher should be in the classroom I do not see the value of dragging a teacher before the committee when there is a pending court action if the committee is going to delay its decision until the court has rendered its opinion

February 17:

Case 1 involved a Mr ____'s application for a standard designated subjects (Spanish) credential Dr Kitch was chairman with Dr. Church, Dr. Klotz and Harry Skelly in attendance, though I had seen Dr. Lawrence downstairs in the hall and Dr. Calvert was in his office. A staff attorney and O'Bradovich and Shipp were also in attendance. Mr. ____ was arrested for resisting arrest and disturbing the peace in conjunction with the "student riots" at the HUAC hearings in San Francisco on May 17, 1960 The court dismissed all charges on May 27, 1960, and the federal immigration authorities subsequently approved Mr. ____'s application for citizenship Dr Kitch read the charges before the members (not in front of Mr ____) and the members discussed the charges and some of the above facts Then Mr ____ was brought before the committee (he appeared without counsel) and Dr. Kitch told him "This is your opportunity to say anything you have to say." Mr. ____ proceeded with much hesitation as to what the committee was interested in hearing. After a few questions, Mr. ____ did point out he had been arrested and was present at the HUAC hearings but not for the purpose of demonstrating—he was in the building to see immigration authorities but got "involved" when he saw police using water and hitting a number of students in the hallway Dr. Calvert then entered, stopped to say hello to me and stated in a clear voice "I'm glad to see you guys (the Assembly committee staff) taking a personal interest rather than just a publicity interest." Upon taking a seat on the committee, Calvert then pointed out to Mr. ____ that the issue in this case was that "teachers should be on the side of police." When Mr. ____ would try to talk, Calvert would interrupt and force the question back to whether ____ felt he had "supported the police by his action." ____ was then allowed to speak of his background in Italy where his parents has been in German concentration camps and where he had had a number of conflicts with Communist movements—during all of this Calvert was talking with Dr Kitch Then Calvert asked Mr

____ ". . . if the police were on one side and another group was in some conflict with them, would you take up the side of the people against the police?" ____ asked what group and what kind of conflict? Calvert said that did not make any difference— ____ replied he doubted very much he would go against the police Calvert asked "What do you mean, you doubt it very much?" Calvert then stated "to agree with law and order, you have to support our democratic institutions, especially the police" Dr. Kitch stated "I think we've asked all the questions we want" Dr Klotz read the loyalty oath and asked "Would you in good conscience be willing to sign this oath?" ____ answered yes. Calvert then stated "To agree with law and order you have to support our democratic institutions Breaking the law is obviously not supporting these institutions, etc" Mr ____ was then excused, motion to grant the credential was made and received unanimous support from the committee

Comment: (Omitted)

Case 2: Mr Manley arrived—he and I were the only persons in the audience Dr Kitch moved from the chairman's chair giving way to Dr Calvert who humorously commented, "Of course we don't have to have an election do we?" No reply This case involved a Mrs. ____'s application for an elementary credential Mrs ____ was arrested in Illinois in early 1963 and convicted of conspiracy to commit burglary in conjunction with the arrest of her husband for burglary Dr Calvert read a probation report which itemized various things such as a 1962 arrest for vagrancy, living with a man in Georgia, running away with a patient from an Illinois state hospital, etc This report indicated Mrs ____ (now about 25) had been taken off her five-year probation and appeared rehabilitated from her former life since moving to California in late 1963 Calvert read this material to the committee, since none of the members had previously read it Mrs ____ was invited in, took her seat, and Dr. Calvert stated: "We have four primary responsibilities—to the welfare of children, the citizens of California, the teaching profession, and fairness to you—the teacher concerned" Calvert then explained the appeal procedures up to the State Board of Education, noted that he had read her probation officer's report and then stated, "Now, if there's anything you care to explain, etc., this is your opportunity" Mrs ____ naturally said, "I don't know where to begin," and the committee started asking her questions. During the ensuing conversation it became obvious Mrs. ____ regretted her former activities, felt she had been very confused, believed she was now on the right road—during these statements Mrs ____ broke into tears several times Dr Calvert then said "Thank you for coming. You didn't have to come, but we like to give you a chance to tell your story." After Mrs ____ left the room, the committee voted to grant the application

Comment: Though most of us believe in "rehabilitation," I wonder if, in this case, the committee goes too far in its reliance on the probation officer's report I would not question, on the basis of this report, Mrs. ____'s ability to assimilate into the society, but is this the same as saying she'll be fine in the classroom? Mrs. ____ has not taught for

some time, she also indicated a tendency to "break down" (tears, etc.) Wouldn't the committee have been doing a greater service to all by recommending a conditional type of teaching experience for Mrs. ____, rather than placing her in a strenuous teaching position before she has had a full opportunity to gain confidence and emotional stability? I also disagree with the committee's "tell your story" policy—this unnecessarily places the person concerned in an awkward position. Surely the committee did not call this person to Sacramento for fun. Doesn't the committee have specific questions and areas of inquiry or are the members so uninformed that these hearings are really opportunities for the committee to read the facts for the first time?

Filed with this report: Copies of the minutes of previous meetings of the Committee of Credentials.

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ASSEMBLY INTERIM COMMITTEE REPORTS
1965–1967
Volume 10 Number 24

BUILDING EXCELLENCE IN THE CLASSROOM

A Study of State Textbook Programs, Diploma Standards, Testing Programs, and Programs for Gifted Children

by the

SUBCOMMITTEE ON SCHOOL CURRICULUM AND PUPIL ACHIEVEMENT

Assembly Interim Committee on Education

MEMBERS OF THE SUBCOMMITTEE

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E. RICHARD BARNES
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HOUSTON I FLOURNOY
CHARLES B. GARRIGUS
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JANUARY 1967

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OF THE STATE OF CALIFORNIA

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LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE ON EDUCATION
January 1, 1967

HON. JESSE M. UNRUH
Speaker of the Assembly, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen:

Pursuant to House Resolution 710, of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith the final report of its Subcommittee on School Curriculum and Pupil Achievement

This report was considered and adopted by the subcommittee listed below and appears in subcommittee report form.

I respectfully commend these recommendations to you for your consideration

CHARLES B. GARRIGUS,
Chairman
Assembly Interim Committee on Education

WINFIELD A. SHOEMAKER,
Chairman
Subcommittee on School Curriculum and Pupil Achievement

Subcommittee on School Curriculum and Pupil Achievement

Shoemaker, *Chairman*

Barnes	Flournoy
Brown	Garrigus
Casey	Veysey

TABLE OF CONTENTS

I. State Textbook Selection Procedures — Page

Findings — 9
Recommendations — 11
Introduction — 13
The Curriculum Commission — 14
Conflicts of Interest — 17
The State Printing Plant — 18
The Adoption System — 19
The Adoption Period — 25
Extension of the Program — 25

II. High School Diploma and State Testing Program

Findings — 27
Recommendations — 29
Introduction — 30
High School Diploma — 31
The California Statewide Testing Program — 39

III. Programs for Mentally Gifted Minors

Findings — 42
Recommendations — 43
Introduction — 45
State Support for the Mentally Gifted Program — 48
Types of Local Programs — 48
State Support — 49
Teachers of Mentally Gifted Minors — 52
A Council on Talent Development — 56

Appendices

Appendix A — 60
Appendix B — 63
Appendix C — 63

FINAL REPORT OF THE

SUBCOMMITTEE ON SCHOOL CURRICULUM AND PUPIL ACHIEVEMENT

of the

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

MEMBERS OF THE SUBCOMMITTEE

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E. RICHARD BARNES *
WILLIE L. BROWN, JR.
JACK T. CASEY
HOUSTON I. FLOURNOY †
CHARLES B. GARRIGUS
VICTOR V. VEYSEY

JANUARY 1967

* Assemblyman Barnes concurs in parts one and two, but does not concur in part three of the report
† Assemblyman Flournoy concurs in the report with reservations

STATE TEXTBOOK SELECTION PROCEDURES

FINDINGS

1 We find that the textbook evaluation and selection procedures of the State Curriculum Commission are not sufficiently open and systematic to avoid confusion and dispute over particular textbooks that are adopted The public at large and professional educators are not given a proper opportunity to voice their opinions about the quality of textbooks under consideration for state adoption The textbooks under consideration are not made available in a sufficient number of locations or during an adequate length of time to allow inspection by interested persons.

2 We conclude that it is inadvisable for Curriculum Commission members, who are in a position to influence state adoptions and thereby affect the sales and potential profits of publishing companies, to own stock or have other financial interests in any publishing company that submits bids on state textbooks.

3 The committee finds that the textbook needs of local school districts are not adequately fulfilled under a restrictive definition of "a uniform series of textbooks" that permits only one textbook to be made available to children throughout the state who have approximately equal abilities in the same subject. Local textbook needs would be met more completely by the state if school districts were allowed a choice of high-caliber books approved by the state

A multiple listing would increase the opportunity of school districts and teachers to design an educational program that emphasizes local strengths without any sacrifice in quality.

We find that the numerous adoptions of supplementary books have become unreasonably large and burdensome, and we view this proliferation of textbook titles with concern We believe that the creation of more flexibility in the adoption of basic textbooks will substantially reduce or eliminate the need for most of the supplementary titles now under adoption What better proof can be given of the need for greater variation in the textbook program than the present system which has sought, however imperfectly, to accomplish multiple adoption in substance but not in name?

5 We are aware that there are significant financial advantages to the present state textbook program, but we refuse to endorse the continuation of a program that so profoundly affects the education of children solely on the basis of monetary considerations In our opinion, the primary consideration is, and always shall be, the quality of education of children Any other factor must remain secondary.

6 We conclude that the financial and educational rationale for free state textbooks is not logically limited to elementary schools If the arguments in favor of state-supplied textbooks are as convincing as they appear to be, then the question of extending the program to include textbooks for junior and senior high schools should be examined.

7. The committee finds that the State Printing Plant is doing an efficient and economical job of printing state textbooks and should be commended However, the task of coordinating the printing of state textbooks is complicated by the adoption process that places heavy demands on the printing facility during one year and much lighter loads at other times

RECOMMENDATIONS

1 We recommend that the State Curriculum Commission members be appointed to represent not less than six geographical areas of the state with due consideration given to workload, distance, community of interest, and population served, and that said districts be represented by not more than two Curriculum Commission members

2. Commission members should be made responsible for consulting the citizens within their districts, holding public hearings upon the demonstration of significant interest in particular textbooks under consideration, and insuring adequate public notice of such hearings Commission members should make provisions for public display of textbooks under consideration for a period of not less than 60 days in locations easily accessible to citizens of their district and should provide adequate public notice of the content and location of such displays

3 Commission members should be required, where possible, to nominate a fair proportion of teachers, administrators, and subject matter specialists from each county in their district for evaluation committees, and should be guided in their textbook recommendations by any clearly demonstrated dominance of opinion by the advisory committees as to the merit of particular textbooks

4. The Curriculum Commission should nominate and the State Board of Education appoint one member of the commission to serve as chairman for a period not to exceed four years The Curriculum Commission should be provided with one executive assistant and one secretarial position which would be appointed by and under the supervision of the chairman but would be available to assist all commission members

5. We recommend that a statute be enacted that restricts the right of members of the Curriculum Commission to holding stocks, bonds, or other financial interest in publishing companies that bid on state textbooks or lease plates to the state

6 We recommend that the state board study methods of adoption that would allow greater flexibility in the scheduling of printing state textbooks at the State Printing Plant

7 We recommend that the State Board of Education be allowed to adopt no more than five basic textbooks for each subject and grade level to be provided free of cost to local elementary school districts, so long as the total number of textbooks so supplied does not exceed the average daily attendance of the school district The school district should be required to use the textbooks furnished by the state for the full period of adoption established by the State Board of Education It should be made clear that an adoption of five basic textbooks for each subject and grade level is only a limitation, and that the State Board of Education should adopt only those textbooks that are considered to be superior in quality even if the number of books adopted totals less than five per subject and grade

8 When a list of state textbooks has been adopted by the State Board of Education, written notice shall be sent to all elementary and unified school districts, and within a reasonable period of time the district superintendent will transmit to the Superintendent of Public Instruction a request for the number of each of the textbooks needed by the school district.

9 The State Board of Education may adopt a series of reference books, pamphlets, or other teaching aids which would be supplied free of charge to the libraries of low wealth elementary and unified districts provided that the total cost of the program does not exceed 10 percent of the average expenditure over the previous three years for the basic textbook program Except for the above materials and books that are necessary to supplement the basic textbooks, such as teachers' editions, workbooks, and supplements that update the text, supplementary textbooks shall not be adopted by the State Board of Education.

10. We recommend that the four-year minimum period of adoption that is required by the State Constitution be amended out of the Constitution and that a minimum period of adoption be set by statute.

11 We recommend that a legislative study be made of the textbook needs of junior and senior high schools to ascertain the feasibility of extending the program of free state textbooks to include grades 9 through 12.

STATE TEXTBOOK SELECTION PROCEDURES

INTRODUCTION

It is the task of the Legislature to constantly reevaluate and reassess any operation that receives a grant of state authority plus large annual state appropriations. Only with continued observation and review can the Legislature perform its function of representing the people of California.

It is especially important to review programs of long duration, such as the textbook program, to see if the original legislative intent is being fulfilled and to discover any problems that need statutory adjustment. This subcommittee study has revealed the satisfactory operation of the existing textbook program for the purposes for which it was originally intended. However, a program that was designed to meet conditions at one point in time may be, with the alterations of those first circumstances, inadequate to fulfill present needs

California has had a state-supported uniform basic textbook policy now for over half a century. Despite our unfortunate predilection to place such detailed, legislative matters in our State Constitution, the present program has served the state well California has undergone significant change since 1884 when the Constitution was amended to provide for free state textbooks and this subcommittee took upon itself the task of determining whether this time-tested program still fits and meets the needs of modern California education.

Citizens from across the state have been expressing a growing concern with the present levels of local property taxes Since a large proportion of these taxes are used for the support of public schools, it is only natural that the citizens demand the utmost economy in the expenditure of school funds But school economy should be carried only to the point of efficiency, and not to the point of interfering with quality education.

The recognized need for relief from the burden of high property taxes must not be answered with short-range solutions that simply pass the problem to future children, voters, taxpayers, school boards and legislators. Our problems remain ours to solve, however difficult the choices may seem at the time. Therefore, we should not look to easy solutions for vexing problems.

Financial considerations were not the sole focus of our inquiry. We also looked at the textbook program in terms of overall educational objectives, policy, and division of responsibility between the state and local units of government.

The goal of the Legislature is to insure the highest quality education at the lowest reasonable cost Our task is to balance the greater financial capacities of the state with local initiative and control. It is almost beyond question that the state saves a considerable amount of money on the textbook program. However, while local school districts benefit monetarily from free textbooks, it is incumbent upon

the state to design its program to fit local needs A book is of little value if it is not used, or if it does not provide meaningful material. We believe that we have found a way to make the textbook program more flexible and still save scarce tax dollars

THE CURRICULUM COMMISSION

The State Curriculum Commission was established in 1927 to provide assistance to the State Board of Education in the performance of its constitutionally mandated duty to adopt "a uniform series of textbooks" to be provided to the "day and evening elementary schools throughout the state . . free of cost or any charge whatever . . ." Sections 7509 and 9303 of the Education Code define the function of the Curriculum Commission as follows·

> "The Curriculum Commission shall study problems of courses of study in the schools of the State and may recommend to the State Board of Education the adoption of minimum standards for courses of study in the kindergarten, elementary, and secondary schools
>
> "The State Curriculum Commission shall recommend to the State Board of Education, specifications for textbooks for uniform use in the schools of the State so that the textbooks adopted shall conform to the minimum standard for courses of study."

While the Curriculum Commission is charged with the duty of recommending minimum standards for courses of study, its main function has been to recommend specifications for textbooks, the ratio of books to pupils for distribution, and the length of adoption periods

Twelve of the members of the Curriculum Commission are appointed by the State Board of Education for a term of four years Several members of the commission have been reappointed to successive terms The Education Code provides that the State Superintendent of Public Instruction shall serve as a member and chairman of the Curriculum Commission In his absence, the Chief of the Division of Instruction of the State Department of Education is to serve as acting chairman The members of the commission serve without compensation but are allowed reimbursement for travel expenses while attending regular and special commission and committee meetings

At least one-half (7) of the members of the commission must be persons who are recognized authorities in academic or vocational fields Besides the Superintendent of Public Instruction, the membership of the commission is now composed of five university or college instructors, five full- or part-time nonclassroom educational personnel, and two full-time teachers. The geographical areas represented by appointed members of the commission are Los Angeles County, three; Orange County, two; San Bernardino County, one, Fresno County, one, Monterey County, one. San Mateo County, one; San Francisco City and County, one; Napa County, one; and Sacramento County, one All six of the members from southern California live within a radius of 75 miles of each other, and the members from northern California range no farther than from Sacramento to Fresno to Carmel to San Francisco.

While ordinarily a statewide commission would not be examined very closely for its representative nature, the nature and operation of the Curriculum Commission makes it an unusual case In testimony before this subcommittee, one member of the commission described the final evaluation process.

> "*Local* committees for evaluation are organized by each commission member in such a fashion as seems desirable by him Typically commission members endeavor to obtain wide participation *in their own and adjacent areas* " (Emphasis ours)

While commission members claim that "thousands" of individuals from "across" the state are involved in the evaluation and selection of state textbook adoptions, it is quite clear from the testimony presented to the committee that it is the practice of the commission members to seek out *local* committees and obtain participation in their *own* and *adjacent areas* Therefore, the geographical representation of Curriculum Commission members is of continuing importance If the primary method of consultation with the public and local school authorities is based on the residence of a commission member, then appointments should be made in such a manner as to ensure that all areas of the state have effective representation

It should be noted that the present membership of the Curriculum Commission is composed of only two full-time classroom teachers It would seem to be particularly appropriate to have a larger number of teachers on the commission that selects materials to be used in the classrooms While it is easier for administrators to get released time to pursue the duties of the Curriculum Commission than it would be for a teacher, the added insight of daily use of state textbooks should weigh more heavily in the standards for appointment to membership than a slight difference in local district expense Professional judgments cannot be assumed to be better among administrators than among teachers

State law requires that at least one-half of the membership be composed of recognized authorities in subject matter or vocational fields Since the law also specifically states that the Superintendent of Public Instruction is a member of the commission as well as its chairman, the number of authorities should be at least seven Even if "authority" is not well defined, the state board should make every effort to appoint highly qualified individuals to serve on the commission

Commission members should be required, where possible, to nominate a fair proportion of teachers, administrators, and subject matter specialists from each county in their district for evaluation committees, and should be guided in their textbook recommendations by any clearly demonstrated dominance of opinion by the advisory committees as to the merits of particular textbooks Commission members are not obligated in any way, at the present time, to take the advice of their advisory committees.

If anything was clearly demonstrated at the public hearings on state textbook selection procedures it was that the operation of the Curriculum Commission was too obscure, informal, and variable to insure

that the public interest was protected. An outline of the steps from evaluation to adoption of state textbooks gives a hint of the looseness of the system.

1. The State Curriculum Commission prepares a "Calendar of Adoption Periods" for a 10-year period.

2. The Curriculum Commission suggests personnel to serve on state advisory committees in specific areas such as social studies, mathematics, English, and foreign languages to recommend a framework statement in their specific area, and assist in preparing criteria for that subject.

3. One commission member is appointed to act as chairman in a particular subject field.

4. The criteria are approved by the whole commission and submitted to the state board for approval

5. The criteria are included in calls for bids sent to the publishers

6 Each commissioner appoints a seven-member committee of experts in each subject field to provide preliminary screening of the books to be considered.

7. Each commission member organizes local committees for the final evaluation of textbooks

8. Before the final adoption of a textbook, it is put on display for 30 days in not less than 10 public libraries.

9. Recommendations of textbooks to be adopted are made by the commission to the state board.

10. Public hearing held by the state board before the final decision is made.

11. State board adopts the textbook.

12. Correction and ~~revisions are made~~.

Private evaluations dominate the process until the commission makes its recommendation to the board The public is not consulted until the final stage of the process when, for all practical purposes, the adoption is already decided.

At present, state law requires only one public hearing by the State Board of Education for the Curriculum Commission However, all meetings of the Curriculum Commission are open to the public The Superintendent of Public Instruction may call other meetings of the commission when he deems it necessary In addition, it is required that the state board shall give the commission a public hearing before making decisions concerning adoption of textbooks.

Most of the work of the commission is done in committees that are well screened from public view Sometimes the commission will make controversial decisions, such as the recent selection of the eighth grade history textbook *Land of the Free,* without attempts to measure public opinion. Even if the public were granted the opportunity to present their views, the lack of sufficient examination copies in strategic locations severely limits the ability of anyone except selected screening committees to influence the choice of textbooks for adoption Commission members select libraries of their choice to display textbooks under consideration and the books remain on display for a period of only 30 days The public does not have adequate protection under the present system to prevent undesirable books from being required for use in the public schools.

Commission members should be made responsible for consulting the citizens within their districts, holding public hearings upon the demonstration of significant interest in particular textbooks under consideration, and insuring adequate public notice of such hearings Commission members should make provisions for public display of textbooks under consideration for a period of not less than 60 days in locations easily accessible to citizens of their district and adequate public notice of the content and location of such displays should be required

It is recognized that not all of the textbook selections will be of a controversial nature or that the public will always want to express its opinion on particular books However, when there is a significant interest there should be mechanisms to provide public hearings It is hoped that by having district representatives on the commission it will be possible to stimulate an interest in gaining public acceptance and understanding of the work of the Curriculum Commission.

Testimony was presented to the committee on the need for some administrative assistance for the Curriculum Commission Given the magnitude of the work assigned to the members, who serve without compensation, it would seem reasonable that some staff be provided to assist them in their work Therefore, it is proposed that the commission be provided with one executive director and one full-time secretarial position

CONFLICTS OF INTEREST

During the hearing it was disclosed that a member of the Curriculum Commission owned stock in publishing companies, some of which were possible customers of the state This particular member did not believe that there was anything wrong with owning stock in publishing companies and at the same time making evaluation of textbooks for distribution by the state The following dialogue will indicate the member's attitude·

Q. Do you think that any member of the commission should own stock in any publishing company from whom they may be publishing or buying books?

A if this is on the public market, if you have been building a portfolio of stocks for 35 or 40 years you are probably bound to have a little if you have diversified stocks, you are going to have some of these stocks . Now my answer to you would be that I do not think it is unethical or I would have sold that little 100 shares that I have in about four different companies or whatever it is, but I don't think those little 25 shares in each of these companies is going to make or break it

The committee is not assuming that this particular commission member was influenced by owning stock in publishing companies Nor can the committee assume that other members of the commission would be influenced in a similar fashion However, the committee can assume that a public commission which has significant and far-reaching power and influence over the expenditure of large amounts of public money should not be subject to suspicion or doubt The committee concludes

that every member of the Curriculum Commission should be willing, and indeed eager, to dispel any doubts about the motives behind their decisions.

Therefore, we have recommended that the 1967 Legislature enact a statute which requires full public disclosure by a member of the Curriculum Commission—upon his appointment to the commission—of the fact that he owns stocks, bonds or other financial interest in any textbook publishing company commonly doing business with the State of California. If, during the later tenure of the commission member on that body, any company in which he holds a financial interest submits a bid to the commission, the statute should require that the member refrain from any participation in the decision-making process of the Curriculum Commission relative to the particular publisher's book

THE STATE PRINTING PLANT

The committee assumed the task of reviewing the role of the State Printing Plant in the production of state textbooks Without exception, the witnesses praised the work of the State Printer in performing a difficult and demanding task at a very competitive cost The state has saved millions of tax dollars by having most of the free textbooks printed by the state plant The table below gives some idea of the magnitude of the savings.

ACTUAL DOLLAR SAVING ON TEXTBOOKS PRINTED IN THE OFFICE OF STATE PRINTING OVER COMPLETED BOOK PURCHASE

Year	*Number of copies*	*Savings*
1962	4,497,874	$1,752,188 89
1961	6,665,191	3 411 308 81
1960	12,187,208	6,393,411 50
1959	14,475,838	5,838,267 15
1958	6,280,485	2,905,430 53
1957	7,137,373	3,401,854 39
1956	6,764,695	3,518,806 68
1955	7,722,283	3,085,331 79
1954	5 989,396	2,153,069 85
1953	4,333,657	1,743,804 78
1952	3,813,101	1,540,003 61
1951	3,798,307	1,551,145 14
1950	3,674,834	1,943,708 48
1949	2,614,511	1,220,227 71
Total saving over 14-year period	89,954,753	$40,488,557 31

As the table shows, over the 14-year period the state has realized a saving of about $40,500,000 because of the existence and operation of the State Printing Plant For the current fiscal year the saving will be more than nine million dollars When there are increasing demands on the public tax dollars it is refreshing to note an area of saving to the state's taxpayers

While the State Printing Plant has been doing an efficient and economical job of printing state textbooks, its task is complicated by the adoption process that places heavy demands on the printing facility during one year and much lighter loads other years.

COMPARATIVE COST OF NEWLY ADOPTED TEXTBOOKS

1. Publishers bid vs. Office of State Printing, including royalty:

Subject area	*Publishers' price including tax*	*OSP to manufacture*	*Publishers' royalty*	*OSP manufacture and royalty or purchase (whichever is less)*
Science, grades 1–8	$15,534,694	$5,988,975	$4,466,643	$10,409,213
Health, grades 1–8	4,739,072	1,610,456	920,320	2,530,776
Social sciences, grades 2–3	3,014,809	1,237,971	1,383,401	2,613,399
Social sciences, grade 5	1,456,941	676,109	571,122	1,247,231
Social sciences, grade 8	3,745,087	1,248,015	1,380,344	2,574,158
Total	$28,490,603	$10,761,526	$8,721,830	$19,374,777

2 Publisher's bid, completed book only.

Hold, Rinehart & Winston $131,539

3 Publishers' bid, royalty only·

The Fideler Company	$549,787	$475,200	$1,024,987
Parnassus Press	25,136	37,800	62,936
California Information Almanac, Inc	21,962	45,843	67,805
Total	$596,885	$558,843	$1,155,728

The State Printer made this pertinent comment during testimony before the committee·

> " we would have a more economical textbook printing operation if we had approximately the same number of books to print each year This doesn't happen under the present adoption schedule For instance, there were no newly adopted books for printing during the past fiscal year This year there are about 16.5 million However, I know that consideration is being given to this situation, and I'm aware that the makeup of adoption periods for books in all the subjects amounts to a jigsaw puzzle that is difficult to put together in another way "

It would appear to the committee that the Curriculum Commission and the State Board of Education have sufficient authority and flexibility in the scheduling of adoption periods and the ordering of printing to allow for a more even flow of printing production We would commend the attention of the state board to any efforts to ease the burden on the State Printer and recommend that constant attention be given to this problem.

THE ADOPTION SYSTEM

Textbooks were not always adopted or financed at the state level. When the California Constitution of 1879 was ratified it contained the following language:

> "Article IX, Section 7 The local Boards of Education and the Boards of Supervisors and the County Superintendents of the several counties which may not have County Boards of Education, shall adopt a series of textbooks for the use of the common schools within their respective jurisdictions; the textbooks so adopted shall continue in use for not less than four years."

Five years later, in 1884, this section was repealed and replaced with the following text:

> "Article IX, Section 7· The Governor, Superintendent of Public Instruction and the principals of the State normal schools shall constitute the State Board of Education, and shall compile, or cause to be compiled and adopt a uniform series of textbooks for use in the common schools throughout the State."

In 1912 Article IX, Section 7 was amended to its present form.

> "The Legislature shall provide for the appointment or election of a State Board of Education, and said board shall provide, compile, or cause to be compiled, and adopt, a uniform series of textbooks for use in the day and evening elementary schools throughout the State The State board may cause such textbooks, when adopted, to be printed and published by the Superintendent of State Printing, at the State Printing Office; and wherever and however such textbooks may be printed and published, they shall be furnished and distributed by the State free of cost or any charge whatever, to all children attending the day or evening elementary schools of the State, under such conditions as the Legislature shall prescribe . . ."

Thus, although some legal changes have been made, the system of state-adopted textbooks, originally established in 1884, has remained essentially intact to the present time.

A single adoption system involves the selection of one basic textbook in a given subject area for the use of all students in the state A "tract" adoption in which several books are selected for students of differing learning abilities is also included within the definition of a single adoption. A multiple adoption occurs when a list of textbooks is offered from which school districts choose those desired The method that has been used by the state since 1884 is the single adoption.

The textbook selection process begins with the State Curriculum Commission making a recommendation to the State Board of Education that a call for bids be issued for new textbooks in specified grade and subject areas. This recommendation is made on the basis of a finding by the commission that materials presently in use are insufficient to meet current educational needs. If the board agrees with the recommendation, a call for bids is issued with a detailed list of specifications that the books must meet before they may be adopted by the board.

All materials submitted by publishers are accepted by the State Curriculum Commission for intensive review in which opinions are solicited from classroom teachers, school principals, librarians, university and college faculty members, curriculum coordinators and many others During the review for the most recent adoption, opinions were obtained from 25,321 persons on 761 screening committees meeting throughout the state.

When the review process is completed, the commission formulates its recommendations and presents them formally to the State Board of Education at a joint public hearing held over a two-day period At the end of this meeting, the board makes the adoptions and specifies

distribution ratios and any corrections that must be made in the subject matter of the adopted textbook.

The board may adopt both basic and supplementary textbooks in ratios between 1·1 and 1:30, i e, one book per pupil and one book per 30 pupils respectively. In each subject area for which basic books are provided, with one exception, only one basic book may be adopted per pupil The exception to this rule occurs when the board makes a "tract" adoption with different basic books being adopted for students of differing learning abilities.

In the area of supplementary textbooks, the board may adopt any number for each subject area and grade and at any ratio of distribution In practice, however, no supplementary textbooks have ever been adopted at a ratio higher than 1 2 with most being specified for distribution at ratios of 1·10, 1:15 and 1:30.

It is clear that both the amount and diversity of available materials are increasing When the textbooks adopted this year are placed in the schools, each pupil will have access to the following numbers of books:

Grade	*Basic textbooks*	*Supplementary textbooks*	*Total*
1	22	14	36
2	12	44	56
3	14	47	61
4	16	48	64
5	18	72	90
6	14	64	78
7	14	74	88
8	17	82	99
	127	445	572

These figures should be qualified in several ways First, many of the textbooks are pamphlets issued in sets and should not properly be classified as separate textbooks. Second, there are not 572 separate titles currently in adoption A portion of this number is composed of books adopted for more than one grade. Thus, if one textbook were adopted for grades 4–8, it would be considered as five books in the table Third, only the basic textbooks are issued to the students The supplementary books are available for use and generally are only issued for special assignments They usually constitute the classroom library. The table is intended to show only the total number of textbooks provided by the state that are available for the use of each pupil.

Two basic questions should be raised regarding the large number of books available for use by students in the first eight grades and the increased cost associated with this policy. First, is the increasing number of supplementary textbooks actually providing local districts with a de facto multiple adoption system. Second, are students able to benefit from the available textbooks or are there too many? In other words, is the program of supplementary textbooks too extensive?

The first question is not easily answered The Constitution states that the State Board of Education "shall provide, compile, or cause to be *compiled*, and adopt, a *uniform* series of textbooks for use in the day and evening elementary schools throughout the state" (emphasis added) The term "uniform" is crucial and has been the subject of an opinion of the Attorney General in which a "multiple adoption" was

declared to be illegal because it conflicts with the requirements of uniform textbook usage * However, while it has been made clear that the State Board of Education may not presently adopt a list of basic textbooks from which school districts could select those desired, there is no opinion on the legality of adopting large numbers of supplementary textbooks in sufficient quantities to permit school districts to avoid using the basic textbook

The second question is similarly difficult to answer and is most likely unanswerable until a thorough utilization study is completed For example, the average eighth grade student is benefiting from the availability of some 99 textbooks We believe that it is probable that there is some point beyond which very little benefit is gained by adding additional supplementary textbooks The money might more properly be spent in purchasing additional library books rather than classroom books adopted at ratios of 1 10, 1 15 or 1 30 Where the cutoff point lies is, of course, debatable and will most likely not be established until more information becomes available

The idea of changing from the present system of single adoptions to a system of multiple adoptions has been discussed frequently in the past In 1965 a bill and a constitutional amendment were introduced in the Legislature by Assemblyman Veysey (AB 2534 and ACA 56) calling for a change to a multiple adoption system In addition, a bill, a constitutional amendment, and a resolution were introduced in the Senate in the same year authorizing a change to a system of local adoptions None of these amendments or bills was approved by the Legislature

Some of the relative advantages and disadvantages of a multiple adoption system are listed below

Advantages

1 School districts are given a choice as to which books they believe best complement their educational programs.
2 School districts may be able to achieve greater program flexibility.
3. School districts may feel that the basic textbook in a particular subject does not fit their program and may, therefore, place heavier emphasis on supplementary textbooks provided by the state or on additional textbooks purchased with district funds A multiple adoption system could decrease the need for large numbers of state-adopted supplementary textbooks Financial savings could be realized if the local districts did not have to purchase books that they felt were necessary for their own educational program but were not part of the state textbook program

Disadvantages

1. A multiple adoption system would be more expensive Presently, the state is able to secure significant economies by making purchases in large quantities and by manufacturing textbooks in the State Printing Plant from leased plates Inasmuch as a multiple adoption system requires a greater number of titles in reduced

* See Appendix A for an opinion by the Legislative Counsel on this question

quantities per title, costs of acquisition must rise The excess could amount to several million dollars per year

2 A multiple adoption system could result in shipping delays. Before purchases or manufacture of textbooks could begin, districts would have to submit orders to the state It is possible that these might result in order delays because the districts would have to review the adopted books and estimate which books they wanted and in what quantities

3 A multiple adoption system would reduce uniformity in textbook usage. One of the original purposes of the single adoption system was to insure that all students of a particular grade and ability use the same basic textbook If different basic textbooks were used by districts, a student moving from one school to another might have to change textbooks, which could retard his educational progress.

Any attempt to formulate an estimate for the cost to the state of a multiple adoption is necessarily complicated by several problems. Some of these problems are outlined below

1 *Number of Books Adopted* There were 242 textbooks selected by the State Board of Education for the 1966 adoption. This was under the system of adopting only one basic book per subject area (some were "tract" adoptions in which several books were adopted for pupils of different learning abilities) and several supplementary textbooks With a multiple adoption, this number could be tripled or quadrupled.

2 *Type of Books Used* If three, four or five basic textbooks are offered to school districts, they may have widely differing costs, possibly as much as $1 per copy Because of this fact, it is not possible to make accurate estimates as to the costs applicable to a particular subject area and grade

3 *Differing Acquisition Costs* Inasmuch as the state would not know which books school districts would prefer, it would be difficult to enter into contracts with publishers for the manufacture or purchase of specified numbers of certain textbooks The result could be overstocking of some books and shortages of others The costs of these intangibles are similarly difficult to predict.

It is possible to come to only one conclusion about the financial effect of a multiple adoption system, and that is that it is more expensive. The one inescapable fact is that a multiple adoption system presupposes textbook acquisitions in reduced quantities for each title which invariably leads to higher costs However, financial calculations must also include an examination of the total textbook costs. The table below indicates that elementary districts are now spending large sums of their own money on textbooks that are not provided by the state. If it were possible to include textbook expenditures for elementary grades in unified districts, the figures would be even higher A more flexible state textbook program could save the local school districts more than one million dollars in additional book purchases.

ELEMENTARY SCHOOL DISTRICT EXPENDITURES FOR TEXTBOOKS

1958–59	$1,147,276
1959–60	1,210,199
1960–61	1,017,105
1961–62	628,309
1962–63	606,293
1963–64	712,921
1964–65	714,477
Total	$6,036,580

Source Department of Education

Basically, then, the argument of a single versus a multiple adoption system boils down to one of educational value versus financial advantage It cannot be assumed that one argument has an inherent advantage over the other If the educational advantages are important and the additional cost is relatively minor, especially when viewed from the perspective of the total cost of education in the state, then the education of children must be of paramount consideration Textbooks that are not wanted and are used simply because the law requires that they *shall* be used cannot be seen as saving the state money, no matter how efficiently or economically they are produced

The subcommittee finds that the textbook needs of local school districts are not adequately fulfilled under a restrictive definition of a "uniform series of textbooks" that permits only one textbook to be made available to children throughout the state who have approximately equal abilities in the same subject Local textbook needs would be met more completely by the state if school districts were allowed a choice of high-caliber books approved by the state A multiple listing would increase the opportunity of school districts and teachers to design an educational program that emphasizes local strengths without any sacrifice in quality.

The numerous adoptions of supplementary books have become unreasonably large and burdensome, and this development is a cause for concern. The creation of more flexibility in the adoption of basic textbooks should substantially reduce or eliminate the need for most of the supplementary titles now under adoption What better proof can be given of the need for greater variation in the textbook program than the present system which has sought, however imperfectly, to accomplish multiple adoption in substance but not in name?

The subcommitte recommends that the State Board of Education be allowed to adopt no more than five basic textbooks for each subject and grade level to be provided free of cost to local elementary school districts, so long as the total number of textbooks so supplied does not exceed the average daily attendance of the school district The school district should be required to use the textbooks furnished by the state for the *full* period of adoption established by the State Board of Education It should be made clear that an adoption of five basic textbooks for each subject and grade level is only a limitation, and that the state board should adopt only those textbooks that are considered to be superior in quality, even if the number of books adopted totals less than five per subject and grade.

When a list of state textbooks has been adopted by the state board, written notice shall be sent to all elementary school districts, and within a reasonable period of time (to be set by the state board) the district superintendent will transmit to the Superintendent of Public Instruction a request for the number of each of the textbooks needed by the school district.

The State Board of Education may adopt a series of reference books, pamphlets, or other teaching aids which would be supplied free of charge to the libraries of low wealth elementary districts provided that the total cost of the program does not exceed 10 percent of the average expenditure over the previous three years for the basic textbook program. Except for the above materials and books that are necessary to supplement the basic textbooks, such as teachers' editions, workbooks, and supplements that update the text, supplementary textbooks shall *not* be adopted by the State Board of Education

THE ADOPTION PERIOD

Article IX, Section 7 of the State Constitution provides that "The textbooks, so adopted, shall continue in use not less than four years, without any change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils . . ." Section 9302 of the Education Code sets the adoption period at ". . . not less than four years nor more than eight years "

There would seem to be a virtue in having the most flexible system possible in deciding the "proper" period of an adoption A book may easily become dated in a four-year period, or for that matter in two years We believe that it would be more desirable to have limitations on the period of adoption set by statute so that administrative and practical alterations can be more easily accomplished An alternate proposal would be to lower the minimum period of adoption set by the Constitution to at least two years The second proposal would give the State Board of Education greater flexibility in scheduling and adopting textbooks.

EXTENSION OF THE PROGRAM

The California Labor Federation, AFL-CIO, passed a resolution in San Diego, August 12, 1966, which proposed among other things that legislation be enacted. ". . . to provide for the uniform adoption of textbooks by the State Board of Education in all grades, kindergarten through 12, and be provided free in grades kindergarten through 8 and that in grades 9 through 12 such uniformly adopted textbooks shall be purchased by the local school boards from the State of California at the cost of manufacture and shipping "

Among the arguments presented in favor of extending the program were the following:

1 Assurance of high-quality textbooks for all school districts in the state.

2. Provisions for editorial modifications of textbooks so as to meet the specialized needs of California schools (Such processing is not possible for textbooks purchased in small quantities for individual school district adoption.)

3 Great saving of time, money, and duplication of effort currently expended by the 132 high school districts and the 228 unified school districts, in the 360 separate programs of textbook adoption

4. The careful review and approval by the State Board of Education with ample provisions for public hearings, as well as designated places for reading of the textbooks by interested citizens

5 More adequate provision for effective continuity of learning from one grade level to another, kindergarten through 12, in the several subject fields

One of the most convincing proofs of merit for the adoption of textbooks is the success of the program currently in effect An even stronger recommendation is the estimated savings for local school districts. In a period of high property taxes, any aid that the local school districts could obtain would be welcomed If in addition to financial savings the extension of the program would add to the quality of educational offering in the secondary schools of the state, it would seem to be a sound program

We conclude that the financial and educational rationale for free state textbooks is not logically limited to elementary schools If the arguments in favor of state-supplied textbooks are as convincing as they appear to be, then the question of extending the program to include textbooks for junior and senior high schools should be examined

It is our belief that not enough information is available to enable the construction of a sound legislative program that would embody these proposals Too little is known about the uniformity of the present local selection system or about the educational advantage that might result if the state extended the program of free state textbooks to grades 9 to 12 However, it is an idea that we frankly find intriguing Therefore, we recommend that a legislative study be made of the textbook needs of junior and senior high schools to ascertain the feasibility of extending the program of free state textbooks to include grades 9 through 12.

HIGH SCHOOL DIPLOMA AND STATE TESTING PROGRAM

FINDINGS

1 We find that there are no uniform statewide practices regarding academic requirements for high school diplomas, measuring pupil achievement, or rewarding exceptionally high academic performance The state does not have a comprehensive program of measurement and evaluation of achievement levels after the completion of the senior year of high school, and staff research has indicated that local high schools do not uniformly require comprehensive testing, nor do they require uniform tests

2 The State of California only sets graduation requirements for the subjects to be included in the curriculum and the minimum amount of school time to be spent on these subjects, but does not require a minimum level of achievement to be attained in the required courses Issuance of a high school diploma is not required by state law, but in practice it is almost synonymous with graduation from high school

3 It is generally agreed that a high school diploma is not evidence of a minimum standard of academic achievement, occupational competency, or general ability We find that frequently a student with below average grades will receive the same diploma as the student who achieves high academic distinction We are forced to conclude that a high school diploma is virtually meaningless as a legal document or as a personal symbol of honor

4 We find that State curriculum requirements are a patchwork of demands which restrict innovation and experimentation by local school districts While the purpose of mandated subject offerings was to guarantee a certain minimum exposure to "necessary" courses, there is not any method of accomplishing the desired end

5 While there are public complaints about the quality of a high school graduate's education, the diploma as such, is not used to evaluate a high school student Most of the business community use their own methods of evaluating job applicants and do not even ask for certification of high school graduation Universities and colleges do not always require a high school diploma but do ask for high school transcripts

6 We find that the original legislative intent of mandatory uniform statewide testing has not been completely fulfilled by State Board of Education policy which provides for the testing of only reading skills in the sixth and tenth grades While the Legislature and the people have a demonstrated interest in development of children's reading ability, their interest in this particular skill is not intended to exclude concern for educational achievement in other areas, especially basic knowledge of mathematics and English We believe that the purposes of the statewide testing program and testing required by the Miller-Unruh Basic Reading Act are not necessarily comparable The Basic Reading Act tests for a limited and specific purpose, diagnosis

and prevention of reading difficulties in primary grades. The purpose of statewide testing of basic skills is to provide a measure of student achievement for individual guidance and a key to curriculum and instructional planning by public school officials.

7. We believe that local school district costs would be reduced if the State Board of Education required a more comprehensive battery of achievement tests so that existing local testing programs could be better coordinated with state examination requirements.

8. We are in accord with state board policy changes that eliminate mandatory testing in grades 5, 8, and 11 and substitute the required testing in the 6th and 10th grades insofar as the administration of the program is simplified. However, these changes were based on the policy of testing only one skill during a three-year cycle. We believe that a more comprehensive test package will demand alteration of the grade levels selected for examination. We conclude that the statewide testing program would be more meaningful and useful if school districts were required to test at least one grade level in elementary schools besides the sixth grade. A child's ultimate school success may hinge on the quality of his elementary school education; therefore, the results of tests should be made available to the school's teachers and administrators early enough in a child's education to allow for correction of deficiencies in the level of achievement.

RECOMMENDATIONS

1. We recommend that the governing boards of high school districts be required to adopt a district policy outlining minimum academic standards for graduation from the twelfth grade The board policy should take into account different courses of study and clearly indicate the goal of any particular curriculum pattern Furthermore, once a policy standard for high school graduation has been adopted, the school board should take appropriate action to make the policy guidelines available to the public The State Board of Education should be directed to draw up a sample set of minimum academic standards for high school graduation which would be distributed to local school districts to assist them in their policy adoptions

2. We believe that the problem of measuring the achievement level of public school children is basic to designing effective legislation and public policy that would improve the educational system It is long past the day when the public is willing to give a *carte blanche* to school officials and not expect an evaluation of the educational product. Parents make an individual evaluation based on their own children's success or failure which constitutes a collective judgment of a school. We believe that these evaluations should be based on accurate information Therefore, we recommend that a legislative study be made of the feasibility of a state and/or local testing program for high school seniors that would provide comprehensive and comparable data on the quality of our public system of education

3. We believe that any legislative action on high school diplomas would be unwise without a complete study of curriculum, organization, and educational goals We recommend that the State Board of Education be authorized to make a study of the curriculum requirements established in the Education Code The state board should explore methods of increasing the flexibility of curriculum planning and class scheduling without sacrifice to the basic education offered to the students. They should examine the educational requirements for high school graduation, whether it involves college preparation or occupational training, and establish guidelines which maintain a balance between the basic education necessary for all graduates and the objectives of particular curriculum sequences The study should be presented to the 1969 Legislature for consideration and possible action

4. We recommend that legislation be enacted which makes it clear that the Legislature intends to have a uniform statewide testing program for *all* basic skills The State Board of Education should be required to implement the intent of the statewide testing program by immediately making provisions for testing of student achievement in reading, English, and mathematics The administration of the tests should remain under the control of local school district officials and conform to appropriate regulations established by the state board.

5. We recommend that the state board be required to review its policies on statewide testing and make changes that would coordinate both mandatory testing programs and establish examinations at grade levels which are appropriate to measure achievement and allow the opportunity to correct deficiencies in a student's educational background Specifically, we recommend that achievement tests of all basic skills be given to students before the fifth grade level, and that this examination should not necessarily be considered as excluding testing at a higher grade in elementary schools.

HIGH SCHOOL DIPLOMA AND STATE TESTING PROGRAM

INTRODUCTION

During the early months of the 1965 General Session of the Legislature, the State Board of Education made an important reform proposal to the state's lawmakers The board suggested that many of the rigid curriculum requirements existing in the current law, relating to the numbers of days, minutes and hours during which pupils are presently mandated to attend classes in certain subjects in the public schools, be considerably relaxed

The proposal of the Board of Education was based upon several beliefs First and foremost was general agreement with the thesis expressed by Dr James B Conant in his most recent book which contends that among the states California stands out as one in which the public school curriculum is controlled to absurdity by statutes While praising California for its vision in planning and coordinating an unmatched system of public higher education, Dr Conant believes that California is equally at fault in attempting to mandate too many strict and rigid curriculum requirements into its state law Such restrictive controls, argue Dr Conant and the board, make educational experimentation difficult if not impossible In addition, the imposition of these requirements seem to imply that a student's physical presence in a classroom is the best obtainable proof that a quality education is being offered and received

The California State Board of Education was motivated by other concerns Professional educators, individually and through their formal associations, had pressed for many years for relaxation of curriculum requirements, contending that such planning "should be left in the hands of trained professionals " As a consequence of school district consolidations designed to eliminate many of the small districts which lacked the trained staff which was capable of pursuing large-scale revisions in existing curriculum requirements, the state board could more successfully argue that districts of sufficient size would be able to do their own curriculum planning, organization and experimentation

In response to the board's proposal, Senator George Miller, Jr , introduced Senate Bill 832 which would have achieved the board's desires The measure immediately ran into heavy opposition, basically from the physical education and driver training teachers and interests Very little debate was spent upon the substance of the bill or its rationale during extensive Senate Education Committee hearings, which were almost completely devoted to hearing the opposition complain that the enactment of SB 832 would mean further physical decay of American youth, or increased auto accidents on the state's freeways Senate Bill 832 eventually passed the Senate, but only after the portions of the bill relating to changes in the state's physical education requirements had been deleted.

In the Assembly Education Committee, testimony on the bill was devoted almost entirely to the driver education opponents to SB 832,

Nevertheless, the measure was given a "do pass" recommendation by that committee, and was sent to the Committee on Ways and Means. The driver training people succeeded in making their point to the Ways and Means Committee and portions of the measure which made changes in state law relative to this part of the curriculum were amended from the bill On the last night of the 1965 session, SB 832 passed the Assembly on the Consent Calendar

The bill was not enacted by the Legislature, however. According to one story, in the closing minutes of the session, an Assembly clerk carrying Senate measures back to the upper house for concurrence in Assembly amendments tripped and bills were spread throughout the corridor Before SB 832 and numerous other bills could be gathered together and transmitted to the Senate clerk, the Legislature had adjourned. Perhaps no greater testimony is available to support the people's recent passage of Proposition 1-a, the constitutional revision measure

The clerk's unfortunate slip may have been a fortuitous one for public education in California The subject matter of SB 832 had never been before an interim committee of either house, nor was it discussed thoroughly in terms of its basic curriculum implications before the standing education committees of Assembly or Senate The basic question was never asked as to what pupil achievement safeguards the state would have if it made substantial changes in its existing school requirements. This subcommittee has addressed its study to a portion of that issue.

HIGH SCHOOL DIPLOMA

The educational value of the high school diploma is highly related to the question of insuring minimum standards of student achievement in the public schools Much has been said by lay persons to the effect that the high school diploma today is no longer a measure of anything more than an endurance test for the pupil to sit through four years of high school It is said that a diploma is awarded to almost any student who is able to maintain a "D" average in the course required for graduation. While the opinion of many individuals in the public are well known, rarely have the opinions of professional educators been tapped on this question

In an effort to bring professional educational administrators into a study of the problem, the committee staff mailed a questionnaire in July 1965 to the superintendents of 70 selected unified and high school districts in California The districts were chosen to represent all geographical areas of the state as well as to equably reflect both unified and high school districts Included in the sample were 220 large and 48 small to medium-size school districts. Of the 70 questionnaires mailed out, 62 were returned to the committee, a response percentage of 89 percent, excellent by any standards

The average daily attendance in the districts of the superintendents who responded to the survey totaled 549,604 in the spring of 1965 The state's total high school ADA was 1,152,405 at the same time, so the respondents represented 48 9 percent of the total ADA. A copy of some selected questionnaire items may be found in Appendix C.

In addition to the survey of professional administrators, the subcommittee held a public hearing in Monterey during the fall, 1965. Testimony was presented by public school officials, state college representatives, businessmen and even some high school students. The net effect of these different sources of information was to confirm the following observations:

1. All available evidence, and the majority of the opinions that were offered, upholds the popular belief that the present method of awarding high school diplomas has almost no meaning educationally. Undoubtedly, in former years when relatively few young people attended secondary schools, this was not the case, but the nearly 100 percent attendance of the 14 through 16 age group which exists in California today has meant that the diploma has come to be merely the symbol of high school attendance and not of achievement.

2. A significantly large number of educators regularly hear complaints from the business community regarding the usefulness of the diploma as an indicator of competence. Obviously, many of these complaints are not directed toward the diploma but involve fundamental criticisms of the standard for high school graduation.

3. Professional educators are split over the question of whether the diploma-granting process should be improved and/or whether more systematic and difficult achievement standards should be established for students. A few educators feel that the establishment of such standards definitely would not be desirable. Many other professionals feel that the public does not understand the meaning that an educator attaches to a diploma, and that the schools should either change the public conception of the diploma or change the diploma. Most professionals in the secondary schools and colleges feel that the grades which students receive in high school are the best indicators of their level of achievement.

4 There are no uniform statewide practices relative to the issuance of diplomas, measuring pupil achievement, or rewarding exceptionally high academic performance. The State of California has not instituted any such independent program of measurement and reward, nor does it appear that any pattern of such activity exists in the school districts.

It is generally agreed that a high school diploma is not evidence of a minimum level of academic achievement, occupational competency, or general ability. We find that frequently a student with below-average grades will receive the same diploma as the student who achieves high academic distinction. We are forced to conclude that a high school diploma is virtually meaningless as a legal document or as a personal symbol of honor.

In a survey of a sample of superintendents of selected high school and unified school districts, the respondents were asked to comment on the high school diploma as a useful evaluative tool in determining the ability of a graduated student. The superintendents overwhelmingly concluded that the diploma did not measure student achievement and in the words of one of the respondent's, "all the diploma means is that the student has been present in class for the minimum of time." The following comment from the superintendent of a small central valley high school was chosen from among many submitted to the committee:

"A high school diploma merely indicates completion of courses according to student's ability and does *not* measure ability. I would prefer, and our entire faculty would prefer, to grant a 'certificate of completion' to low ability students instead of a 'high school diploma,' or, in other words, two types of recognition one for the average or better and one for below average students. Honor students (already) have special seals placed on their diplomas."

Testimony presented at a hearing by the subcommittee confirmed the opinions expressed by the staff survey. One witness included his own sample comments of public school administrators which were typified by a high school principal who said:

"An informal survey of our faculty seems to indicate that most educators understand that a high school diploma is, in most cases, simply a certificate of attendance Unfortunately, those who are not professional educators think of the high school diploma as a certificate of achievement It appears that either we must reeducate the public to the true meaning of the diploma, or revise our requirements for the earning of such a diploma according to some standard which can be agreed upon by the public."

Professional educators were not the only ones to agree that a diploma is of little value as an indicator of academic success. Three students from Pacific Grove High School were invited to the subcommittee's hearing to get the views of those most intimately involved with the problem An excerpt from the transcript will let the students speak for themselves.

Q. What does a high school diploma mean to you?
Student: Well, it means that I have passed the requirements needed for high school and that now I am able to go to college. Actually, it does not mean too much because you can get straight "D's" and still get a diploma—that's nothing spectacular . . .

Q. In some testimony presented yesterday, it was said that a high school diploma really does not mean very much, that it is pretty much a wall decoration, and that it is important only on the day of graduation. Do you think that is true?
Student: Yes, I do. We all agree to that.
Other students: Yes.

Q. What do you think is important about a diploma?
Student: Well, I think the important thing is your further education beyond high school, because . . . the diploma just says you graduated. It doesn't mean a lot—it doesn't mean you are an exceptional student or anything—just says you graduated. *The important thing it how you graduated—the grades upon which you graduated . . .*

Q Do you think that all high school students who complete their work satisfactorily should get the same diploma?
Student. No. They should differentiate between the exceptional students and nonexceptional students.

Another student: Well, I kinda agree with that, because a lot of the students have not worked quite as hard getting a diploma . . . and they just gave them the same thing as the other ones. *You know, you feel like it is not really worth it.* (Emphasis ours.)

The students showed some frustration as to the ease of obtaining a high school diploma. Their observations were confirmed by the responses to the staff survey questions related to senior year enrollment and graduate figures. Among the school districts surveyed, approximately 92 6 percent of all students who enroll in the senior high school grade at the beginning of the year eventually graduate This confirms data from previous studies which showed that dropouts do not, in large part, occur in the 12th grade, but occur much earlier—usually during the 10th-grade year.

On the other hand, the phrase in the question "with diplomas" was inserted to determine whether the diploma was made a difficult goal to attain in many districts It appears clear from an examination of the very high diploma granting rate in the surveyed districts during 1964–1965, that the diploma's standards are not high, and may be well below the average achievement level

The superintendents were also asked if any high school seniors graduated, or were "promoted out" of the 12th grade, without receiving a regular diploma. They replied that only a total of 388 students in six districts out of 100,586 12th-grade pupils enrolled were promoted without the diploma Of course, some students obviously failed to receive the diploma and were required to remain in the 12th grade for another year. However, this group was not large It appears from the survey information that in California high schools, reception of the diploma is almost synonymous with promotion from the 12th grade, and does not represent any special level of student achievement.

Since the diploma seems to be issued to any student who fulfills the course requirements with at least passing grades or better, the staff inquired into the type of high school diplomas, or certificates of completion, which were granted by the high school districts in the survey. One diploma is given in 53 of the districts, two diplomas in eight districts and five diplomas are given in one district

Samples submitted by survey respondents of the districts that issue only one diploma show that this document merely states that the recipient had "satisfactorily completed the course of study at _____ High School, as prescribed by the State Board of Education" and by the local board of trustees In the case of the eight districts issuing two types of diplomas, it appears that the districts grant a different kind of diploma to mentally retarded children This practice, according to AB 231 (1965) by Assemblyman Burgener, is no longer lawful. The one district which grants five different diplomas uses the following method of describing its practice:

Diploma A	Diploma with academic distinction
Diploma B	Diploma with California Scholarship Federation seal (grade point average of 3 5 on 4 0 scale at least)
Diploma C	Regular diploma, awarded to all students with a grade point average of 1.50 or better
Diploma D	Certificate of completion (grade point average of less than 1.50)
Diploma E	Certificate of special training for mentally retarded children.

This district notes that diplomas A through D allow the names of the recipients to appear on the graduation list with no differentiation, although different diplomas are granted and this is noted on the student's high school transcript It is obvious from a study of the responses to the survey that this district's practice is highly unusual.

The practice of issuing only one diploma in California high schools is comparable to the same tendency throughout the nation A National Education Association Research Memo (1959) disclosed that about 80 percent of the high schools that responded to a survey give only one type of recognition of graduation to all students One diploma plus a certificate of attendance is given by 13 percent of the high schools. So when the certificate of attendance is ignored as a different type of diploma, 93 3 percent of the high schools reported that they gave only one diploma to all students.

With the attempt of public high schools to offer a wide variety of courses that is suited to many different ability groupings, it seems abundantly clear that one diploma cannot and does not reflect different levels of achievement or variations in the type of curriculum that was followed by the student If the diploma does nothing more than certify that a student has maintained a minimum physical presence in the classroom, does it serve as an evaluative tool for individuals outside the schools who require high school graduation as a prerequisite to other activities?

The superintendents were asked in the survey if they could recall any complaints or comments from businessmen in their community about the usefulness of a graduate's diploma as an evaluation of his competence as an employee Most of those individuals who answered this question said no (40) and about a third said yes (21). The large majority of negative answers to this question may indicate one of two possibilities, or both: Either the employer is satisfied with the job the school is doing in sending him prospective employees together with some evaluation of their competence, or the employer has his own methods of measuring employee competency and does not rely on possession of a diploma.

Some of the respondents answering "yes" to this question had interesting comments·

> (We receive comments from) . . "the military and oil companies who state students cannot fill out an application, etc "
>
> "The personnel director of a major local light assembly plant has frequently commented on the unreliability of the diploma as a measure of 'competence.' "
>
> "They tend to assume that all persons with diplomas have equal preparation, skills and ability They are perturbed to find that this is not true "
>
> "We have made a strong campaign of educating our employers and the public in general that the transcript is the best available evaluator of student achievement and that the diploma is a certificate of minimum requirements.
>
> "We issue only one diploma which includes students who have completed one course of study in E M R. classes

"If money were available, we would like to issue a photostatic copy (wallet size) of the student's transcript that would indicate the level of achievement At the present time, one diploma for all levels is not an adequate answer to the problem."

And finally, the following insight, offered by an administrator with obvious historical perspective:

"The usual complaint, found in the literature of a hundred or more years ago: 'The students of today can't spell A diploma doesn't mean a thing, etc.' "

The survey results were again confirmed by the witnesses who presented testimony at the public hearing. One of the witnesses made the following representative comment about the use of a diploma in the business community:

"Private employers do not as a rule require high school graduation before a person will be considered for employment Test scores usually determine whether or not a person will be hired. If they are interested in an applicant's high school record, prospective employers usually contact the school concerned and ask specific questions depending upon the circumstances, rather than request a complete copy of the transcript. One personnel officer of a large corporation commented that grades do not indicate how well a person will apply himself in a job situation. Larger organizations then usually utilize a testing program, while smaller organizations seem to have the flexibility to test performance on the job."

Even if the high school diploma indicated a minimum level of achievement, many of the large businesses would, in all probability still require job applicants to undergo a testing program However, many of the potential employers in the state are not so large as to have more than one personnel officer to say nothing of a testing program. It is also very doubtful that these employers ever ask for a high school transcript of grades. Therefore, graduation (and almost automatic reception of a diploma) will be the only screening device available to many employers. When a diploma has almost no evaluation of achievement or ability built into it, then it will indicate little or nothing about its recipient.

Colleges and universities do not ask their students for proof of high school graduation in the form of a diploma. While high school graduation is usually required for admission to California's institutions of higher learning, the schools use transcripts of high school grades in order to evaluate the potential of a student Under certain circumstances, it is possible to be admitted to the University of California or state colleges without graduation from high school

The crux of the dispute over the meaning of a high school diploma involves the requirements for graduation from high school since a diploma is issued to almost every student who graduates The superintendents were asked if final examinations in all subjects, or in academic subjects are given to high school seniors. Almost 92 percent said that final examinations were required in their districts but only 29 percent

reported that passing scores on such examinations are a prerequisite to graduation. One superintendent noted that in his district the final examination was administered and the student's score on it was used *only* if the student needed credit to graduate. If the examination score was poor, then, it was not entered upon the student's record for the particular course of study.

The answers to this question raises doubts about the utility of comprehensive final examinations in California high schools. If the tests are not used to measure a minimum level of achievement in the required curriculum, then why are they given? It is possible, of course, that such examinations are primarily used as a method of assisting the teacher in improving the level of instruction in a particular subject

The subcommittee has received many comments about the reliability of high school grades as an indicator of potential success as a college student If school officials have such extreme confidence in grades as a system of evaluation, why don't they want to provide a systematic verification of the accepted facts by making the successful completion of final examinations a prerequisite to graduation?

The superintendents were asked if they had any other method of measuring the achievement level of graduating high school seniors A majority of the respondents reported that they did not have any other means of evaluation except transcript of grades and fulfillment of graduation requirements. Among those superintendents answering this question in the affirmative, the most often used device of measuring achievement were standardized tests.

One superintendent commented that his method of measuring pupil achievement was to personally follow many of his students and to watch their success or lack of it on the job or in college Unfortunately, such personal observation is rarely available to most school administrators and is inapplicable for outside use.

To aid the subcommittee in its study of the high school diploma, the staff reviewed the Education Code to determine what legal requirements presently exist in order for the diploma to be granted. We have found no actual definition of the *high school* diploma; however, we summarize below the requirements for high school *graduation* in California, which assumes the granting of a diploma:

The course of study for grades 7 through 12 shall include the following:

A In grades seven through eight, instruction in one foreign language, as contained in Section 7604 (the Casey Bill of 1961). (Note: This requirement did not become effective with respect to grade seven until September 1966 and will become effective on September 1967 with respect to grade eight, according to an amendment adopted by the 1965 Legislature)

B Five years of English (a semester course in each of 10 semesters).

C Five years of history, to include:

1 Twenty semester periods of American and California history.
2 Twenty semester periods of world history and geography.
3 Ten semester periods of American and California government or civics. (Education Code Section 7700.)

Although many additional courses are allowed, only the above are actually required, along with the expected physical education and driver education courses. No achievement levels in any subjects are required by state law.

The subcommittee finds that there are no uniform statewide practices regarding academic requirements for high school diplomas, measuring pupil achievement, or rewarding exceptionally high academic performance. The state does not have a comprehensive program of measurement and evaluation of achievement levels after the completion of the senior year of high school, and staff research has indicated that local high schools do not uniformly require comprehensive testing nor do they require uniform tests.

The State of California only sets graduation requirements for the subjects to be included in the curriculum and the minimum amount of school time to be spent on these subjects, but does not require a minimum level of achievement to be attained in the required courses. Issuance of a high school diploma is not required by state law, but in practice it is almost synonymous with graduation from high school.

It is generally agreed that a high school diploma is not evidence of a minimum standard of academic achievement, occupational competency, or general ability. It was found that frequently a student with below average grades will receive the same diploma as the student who achieves high academic distinction. The inescapable conclusion is that a high school diploma is virtually meaningless as a legal document or as a personal symbol of honor.

State curriculum requirements were found to be a patchwork of demands which restrict innovation and experimentation by local school districts. While the purpose of mandated subject offerings was to guarantee a certain minimum exposure to "necessary" courses, there is not any method of accomplishing the desired end

The subcommittee recommends that the governing boards of high school districts be required to adopt a district policy outlining minimum academic standards for graduation from the 12th grade. The board policy should take into account different courses of study and clearly indicate the goal of any particular curriculum pattern. Furthermore, once a policy standard for high school graduation has been adopted, the school board should take appropriate action to make the policy guidelines available to the public. The State Board of Education should be directed to draw up a sample set of minimum academic standards for high school graduation which would be distributed to local school districts to assist them in their policy adoptions.

Any legislative action on high school diplomas would be unwise without a complete study of curriculum, organization, and educational goals. The State Board of Education should be authorized to make a study of the curriculum requirements established in the Education Code. The state board should explore methods of increasing the flexibility of curriculum planning and class scheduling without sacrifice to the basic education offered to the students They should examine the educational requirements for high school graduation, whether it involves college preparation or occupational training, and establish guidelines which maintain a balance between the basic education necessary

for all graduates and the objectives of particular curriculum sequences. The study should be presented to the 1969 Legislature for consideration and possible action.

THE CALIFORNIA STATEWIDE TESTING PROGRAM

In 1961, the Legislature passed a bill by Assemblyman Gordon H. Winton, Jr., which established a statewide testing program in the public schools. The legislation was in response to a recommendation by the Citizens Advisory Committee on the Public Education System which reported to the Legislature in 1961.

> "As a matter of principle, the commission approves of mandatory statewide testing of public schools. The commission believes that in order to properly and effectively evaluate the education program of the public school system in California a level of instruction must be set by the Legislature through the State Board of Education. The commission recommends to the Legislature that mandatory statewide examinations be utilized to establish this standard."[1]

The commission then proceeded to recommend more specifically that:

> ". . . the State Board of Education shall institute a program of periodic testing to include reading, spelling and arithmetic in the elementary schools, and in such other subjects in the elementary and secondary schools as the State Board of Education may determine."[2]

The 1961 testing law delegated to the State Board of Education the authority to designate the specific grade levels for mandatory examinations but did not require a uniform testing instrument. The state board established regulations which required that standardized ability and achievement tests be administered at the 5th, 8th, and 11th grades on an annual basis.

An amendment to the statewide testing law was made in 1965 which required a single uniform achievement test to be given by the school districts. It should also be noted that the 1965 bill prohibits the public reporting of test results in individual school districts by the Superintendent of Public Instruction without the written consent of the school board of that district.

Section 12821 of the Education Code now reads in part:

> "The State Board of Education shall require a minimum testing program in all school districts and shall adopt rules and regulations governing the frequency and methods of administration of the testing programs.
>
> "The State Board of Education shall annually designate or redesignate the achievement, the physical performance test, and the intelligence test, which shall be used during the ensuing school year in any grade of this testing program . . ."

[1] Joint Interim Committee on the Public Education System, California Legislature, 1961, p. 38.
[2] *Ibid.*

The state board amended its regulations in December 1965 to change the required grade levels for testing purposes from grades 5, 8, and 11 to grades 6 and 10. The board indicated its intention to test for the next three years in the subject of reading only, and thereafter to test for three-year cycles in only one subject at a time.

The State Board of Education's policy clearly does not go as far in the direction of providing uniform statewide achievement standards as the Citizens' Commission recommended. Equally obvious is the fact that this policy on statewide testing has not fully implemented the intent of the original legislative enactment.

The board indicated that it was requiring only reading tests because it concluded that the Legislature had expressed an interest in reading achievement by the passage of the Miller-Unruh Basic Reading Act (1965), and therefore the state mandatory testing program would examine reading skills at grade levels other than those required for the reading program. It is very difficult to understand how the state board could assume that legislative interest in reading achievement in California's public schools would preclude an interest in comprehensive testing of achievement in all basic skills.

The Basic Reading Act requires that tests be administered for a specific and limited purpose: diagnosis and prevention of reading difficulties in primary grades. This fact is made perfectly clear in Section 7771 of the Education Code:

> "It is the intent and purpose of the Legislature that the elementary school reading instruction program provided for by this chapter *shall be directed to the prevention of reading disabilities, and the correction of reading disabilities at the earliest possible time in the educational career of the pupil* . . . It is the further intent of the Legislature that the reading program in the public schools be of high quality, and that the program be designed to permit early development of reading skills, and the early correction of reading disabilities. The Legislature recognizes that early development of reading ability enhances the opportunity of each pupil for success in school and for success in a career upon leaving school." (Emphasis ours.)

State law requires uniform statewide achievement, intelligence, and physical performance tests The Joint Interim Committee on the Public School System recommended "periodic testing to include reading, spelling and arithmetic." The subcommittee believes that it is a misinterpretation of the intent and the clear statutory meaning to provide only for reading tests and label them a statewide testing program

The subcommittee recommends that legislation be enacted which makes it clear that the Legislature intends to have a uniform statewide testing program for all basic skills.

The State Board of Education should be required to implement the intent of the statewide testing program by immediately making provisions for testing of student achievement in reading, English, and mathematics. Such provisions would be a start toward statewide testing that was envisioned in the original law.

State board policy changes which eliminate mandatory testing in grades 5, 8, and 11 and substitute the required testing in the 6th and 10th grades are valid insofar as the administration of the program is simplified. However, these changes were based on the policy of testing only one skill during a three-year cycle. A more comprehensive test package would necessitate alteration of the grade levels selected for examination.

The subcommittee concludes that the statewide testing program would be more meaningful and useful if school districts were required to test at least one grade level in elementary schools besides the sixth grade. A child's ultimate school success may hinge on the quality of his elementary school education, therefore, the results of tests should be made available to the school's teachers and administrators early enough in the child's education to allow for correction of deficiencies in the level of achievement.

If a reading test is required at the third grade for the purposes of the Basic Reading Act, the state board could require that a comprehensive test be administered that would include the reading achievement examination. Another comprehensive achievement test would then be given at the sixth grade level which would also include a section on reading skills.

It is the subcommittee's recommendation that the state board be required to review its policies on statewide testing and make changes that would coordinate both mandatory testing programs and establish examinations at grade levels which are appropriate to measure achievement and allow the opportunity to correct deficiencies in a student's educational background. Specifically, achievement tests of all basic skills should be given to students before the fifth grade, and these examinations should not necessarily be considered as excluding testing at a higher grade level in elementary schools.

PROGRAMS FOR MENTALLY GIFTED MINORS

FINDINGS

1. We conclude that programs for mentally gifted minors constitute a vital part of the educational system in California, and should be redesigned and reorganized to stimulate the development of the maximum potential of both students and programs. Talent development is an important part of any growing and productive state. Without the intellectual and creative skills to meet the unknown problems of tomorrow, any society will begin a process of stagnation and decay.

2 We find that citizens, teachers, and administrators are confused about the objectives of state involvement in programs for mentally gifted minors. Legislative intent is not clearly enough understood to permit long-range planning of operating or capital expenditures. We believe that confusion about the nature, extent, and duration of state involvement in the MGM program has stifled local initiative and innovation in developing a meaningful educational experience for academically talented children.

3. It is the committee's conclusion that the level and method of state financing for mentally gifted minors does not meet the monetary needs of local school districts or fulfill the intent of stimulating novel change in the evaluation of gifted children. In far too many cases, we find that what is being passed off as a gifted program is no more than is given in ordinary classes with just a few more books for the children to read. The state has not made an attempt to assess the financial accuracy of district expenditures, therefore it is difficult to evaluate the effectiveness of "enrichment" programs in regular classroom instruction. The school districts that have made a good faith attempt to establish quality education for the gifted are encouraged to cut back their efforts, partly because of a low level of state aid in this area.

4. We conclude that academically talented students demand equally talented teachers, teachers who have the proper training to respond to advanced subject matter interests, inspire high achievement, and handle special problems created by the uniqueness of the children served. While there are many excellent teachers in the MGM program, it is important that the best qualified teachers continue to serve in this area. Teachers of unique children should have unique combinations of training and experience so that talent development for children does not become teacher training and development.

5. The committee believes that many state laws, particularly those that mandate curriculum content and minutes of instruction, require the use of state adopted and supplied textbooks, and limit teacher credentials to specified grade levels, unnecessarily restrict instruction of gifted students.

6. We find that the results, innovations, and instructional improvements of the MGM program have not been adequately circulated to the public schools and members of the interested public throughout the state. As a consequence of the lack of publicity, the MGM program has not realized its full potential benefit to the educational system as a whole.

RECOMMENDATIONS

1. Special programs for mentally gifted minors should be viewed as a part of the task of educating all children Extraordinary children require extraordinary school experiences just to have equality of treatment with average children who are exposed to an average program Such aims are in sympathy with a long-standing principle that education should proceed from the starting point of individual need We recommend that *legislation more clearly establish the objectives in existing or altered MGM programs,* and that the education of gifted children be given a more prominent place within the efforts of public schools

2 The present rate of state support for mentally gifted minors ($40 per gifted student) covers the cost of identification but not the local school district program School districts have been encouraged to institute programs of regular classroom enrichment which appear inexpensive on paper, but are of dubious educational value Therefore, we *recommend that the state increase its support to a maximum of $40 for identification and $200 for programs The method of state aid should be project oriented and the ratio of state-local financing should be equalized by the wealth of the school district.* School districts should be required to report the *total* cost of all MGM programs so that planning and study at the state level may be more complete and useful We recommend that a sample of the existing school district programs for mentally gifted minors be audited by the Office of the Auditor General to investigate the validity of expenditures that have been claimed for excess cost reimbursement

3. *We recommend that the state establish a system of scholarships for teachers of academically talented students* to provide them with advanced training in subject matter specialties or in methods of teaching gifted children. Teachers should be encouraged to participate in federally supported programs, such as the National Science Foundation summer grants for science and foreign language teachers

4 We recommend that school districts be encouraged to seek the best qualified teachers, both in subject matter training and demonstrated competence in teaching ability, and that some of the additional salary cost be offset by state aid The districts should be required to make full utilization of these special teachers in planning, supervision, and development of programs for MGM, and released time for these activities should be included in budgetary estimates

5 *We recommend that state teaching credential restrictions on the grade level that can be taught be suspended for MGM programs,* if it is certified that a teacher who is not ordinarily authorized to teach a particular grade level is the best available teacher for the gifted program and if the State Board of Education so approves.

6 Because of the gifted child's unique ability to learn, qualitative and quantitative variations in school curriculum and methods of instruction must be made available in order to promote the maximum growth of the child's mental powers *We recommend that provisions of the Education Code which specify certain subject matter and hours of instruction for public schools be suspended, upon approval of the State Board of Education,* for authorized programs of instruction for men-

tally gifted minors Any alteration of required instruction would have to be made on the basis of improvement and enrichment of the program for the academically talented. Proper attention should be given to teaching basic skills where it is necessary for the educational development of these children.

7. *We recommend the creation of a "Statewide Council on Talent Development,"* composed of lay and professional persons from all areas of public and private life, which would serve to study methods to improve the education of mentally gifted minors, transmit innovations in curriculum and instructional techniques to the public school authorities of the state, and stimulate improvements in the quality of education offered to all of the school children The statewide council would be charged with the responsibility of presenting to the Legislature specific and periodic proposals for the improvement in public education for the academically talented and school children as a whole.

MENTALLY GIFTED MINORS

INTRODUCTION

The fundamental premise which underlines the work of this subcommittee is that an educational establishment is effective only insofar as it is able and willing to provide a significant learning experience that is reasonably related to the individual child that it serves This assumption, while receiving constant reiteration, is too often lost among the trends toward standardization Standardization can be laudable when the objective is to provide a minimum level of quality, standardization can be damaging when the resulting floor also becomes the ceiling on quality.

The public has demonstrated a concern with quality in education The Legislature has responded with many programs and countless proposals to improve the educational offering in the state Most of the programs have been directed at improvement of the minimum level of education that California children receive Such goals are laudatory, but should not cloud the need for improving the maximum that can be offered by an educational system One legislative effort that does aim at the question of overall quality of education is the mentally gifted minor program.

Intellectually superior students, contrary to some popular notions, are often the neglected children in the classroom Because these children require an inordinate proportion of the teachers' time, time that is already taxed by a sea of faces in our overcrowded classes, mentally gifted pupils are too often forced into a program designed for the average student Moments of excitement and challenge for most of the children may be dull and repetitious for the brighter few.

The objective of education in a democracy, such as the United States, is to make education available to the greatest number of children in order to have the most highly trained and enlightened citizenry possible While this goal is ambitious and desirable, care must be taken to avoid making mass education mediocre education

In the process of reaching every child, those individuals who demonstrate more than ordinary abilities must not be overlooked A wise public will realize that educational opportunities vary with differences in individual ability Therefore, mass public education should include the flexibility to foster maximum growth in all children, whether they are handicapped or gifted.

While public education has had a long and honored history in the United States, the implications of assuming such an enormous responsibility have not always been widely understood What is full education to one child may be an inadequate training for another. We owe it to ourselves and to our children to have a fully educated generation which is able to assume the burdens of tomorrow.

It is argued that separation of talented students will create elitist notions among the select few and resentment among the many. The argument might be better framed in terms of total development of leadership for society. If the public schools are unable or unwilling to

fully train talented individuals, then only those children who have the combination of superior intelligence and parents with accumulated wealth will have the opportunity to develop, and probably develop in private not public schools Can it realistically be argued that superior students who are trained in private institutions and segregated by the wealth of their parents will have fewer elitist tendencies than will those students trained in the public schools, regardless of parental income? That idea by itself should sober the thought of any democrat.

The Subcommittee on School Curriculum and Pupil Achievement attempted to examine some questions about the practical operation of the mentally gifted minor program and looked at its place within the total objectives of education The subcommittee was interested in the development of this program since its original inception in AB 362, passed by the California Legislature in 1961.

Besides the usual staff studies, the subcommittee held a public hearing in Santa Barbara to receive testimony from interested citizens, and then went to the Lompoc Unified School District to view the operations of their gifted program and talk to the teachers of the gifted children The subcommittee was favorably impressed with the efforts of the Lompoc Unified School District to provide a unique education for gifted students in order to encourage the development of the maximum potential of each child.

California researchers, educators, and legislators have earned a reputation of leadership in studying and providing special educational programs for gifted students. Since 1925, the year in which Lewis M. Terman published volume one of *Genetic Studies of Genius: Mental and Physical Traits of 1000 Gifted Children*, national attention has focused on the educational programs our schools have designed for gifted children. Unfortunately, public opinion has not always maintained a concern for the needs of the gifted. In spite of different degrees of public concern, certain California school districts, such as San Diego Unified, have consistently offered and innovated high quality special educational programs for their gifted students

In times of national crisis or embarrassment, the link between academically trained minds and national strength becomes more obvious. The year of the first sputnik was also the year the Legislature authorized the first study of 17 different programs for the mentally gifted in California The Martinson study[1] summarized characteristics of the gifted, costs of programs, and the differential validity of various program prototypes such as special groupings, acceleration and enrichment in the regular class This well-designed research study included 929 participating mentally gifted boys and girls at all grade levels The report concluded·

> "All phases of the evaluation made of programs for gifted pupils included in the state study showed conclusively that the special provisions made in these programs were beneficial Preliminary study of the pupils revealed them to be a population of extremely high ability, with desirable personal and social characteristics Evaluations made through various tests and through judgments

[1] Ruth A Martinson, *Educational Programs for Gifted Pupils A Report to the California Legislature Pursuant to Section 2, Chapter 2885, Statutes of 1957*. Sacramento· California State Department of Education, 1961

of parents, teachers, and pupils proved that the participating pupils made striking gains in achievement with accompanying personal and social benefits."[2]

The state study reinforced findings from many previous research studies which collectively demonstrate that special educational programs for mentally gifted pupils enable these children to make meaningful gains in their level of academic achievement and a widening of attitude and interest patterns.

In 1961, Sections 6421–6434 were added to the Education Code authorizing state reimbursement to school districts offering special educational programs for mentally gifted minors. This legislation and subsequently adopted rules and regulations contained in the California Administrative Code, Title 5, Education, Sections 199.10–199 13, define mentally gifted minors as "primary or secondary students of this state who demonstrate such general intellectual capacity as to place him within the top 2 percent of all students having achieved his school grade throughout the state," and established minimum standards for identifying pupils and conducting educational programs

The Legislature also authorized the establishment of state level consultant services in order to· (1) promote, develop and improve educational programs for gifted children and youth, (2) supervise and coordinate programs, and (3) evaluate programs, conduct research and disseminate information describing trends and providing suggestions for educational program innovation and improvement.

The Department of Education applied for and obtained a Cooperative Research Program grant from federal funds to establish demonstration and dissemination centers in school districts The Los Angeles Unified, Pasadena Unified, Lompoc Unifed, Davis Unified, San Juan Unified, and Ravenswood Elementary School Districts were chosen as demonstration centers and helped to develop and export unique program guidelines including· (1) enrichment programs for use in the regular classroom with guidelines in critical appreciation of the fine arts, scientific methodology, and creative expression through the use of literary materials; (2) a summer school acceleration program which accomplishes the advanced placement of elementary school pupils without skipping of crucial units of work; (3) a special counseling program which enables junior high school students to probe deeply into their own value orientation as well as the ethical and moral content in their curriculum; and (4) special classes for the gifted which design, refine and utilize uniquely designed curriculum content in all areas of study.

Presently, the state authorizes expense allowances for school districts maintaining approved programs for mentally gifted elementary and secondary pupils. In 1965–66 approximately 88,949 elementary and secondary pupils enrolled in school districts participated in programs for the mentally gifted.

[2] *Ibid*, p. 1.

STATE SUPPORT FOR THE MENTALLY GIFTED PROGRAM

State support for the Mentally Gifted Program is apportioned on an "excess expense" basis for three categories of allowable expenditures: current expense of instruction, pupil transportation, and fixed charges. State support for the program is presently set at a maximum of $40 per pupil enrolled in approved programs To qualify for state excess cost reimbursements, a school district must maintain any one or a combination of six basic programs which include: enrichment in regular classes, tutoring, advanced placement, placement of high school students in college classes, special counseling, and special classes. Reimbursements may be claimed for these services and also for the identification of pupils, the cost of materials, and other services specifically approved by the Superintendent of Public Instruction. An appendix to this report shows the current expenses of providing programs for the mentally gifted in 1964–65, the last actual fiscal year for which information is available.

TYPES OF LOCAL PROGRAMS

The types of school district programs for mentally gifted children differ among school districts and among grade levels Table I below depicts the most common programs maintained by school districts in 1964–65, as well as the number of mentally gifted students enrolled in each.

Type of program	*Pupils*
Enrichment in regular classroom	46,619
Special classes for gifted pupils	21,277
Advanced classes (acceleration)	10,967
Special counseling	9,353
Total pupils	77,316

Programs offered at the elementary level differ considerably from programs for high school students. At the elementary level the predominate program is the enrichment of the regular curriculum. Counseling, tutoring and grade acceleration are infrequently used.

At the high school level, special classes are the most common programs maintained for gifted pupils. Although special counseling programs and advanced placement are more common at the high school level, they still account for less than 25 percent of the total gifted pupil enrollment.

In unified districts the most common types of programs are enrichment programs and special classes Unified districts place more emphasis on advance placement and counseling programs than either elementary or high school districts.

Talent development is an important part of any growing and productive state. Without the intellectual and creative skills to meet the unknown problems of tomorrow, any society will begin a process of stagnation and decay.

Special programs for mentally gifted minors should be viewed as a part of the task of educating all children Extraordinary children require extraordinary school experiences just to have equality of treatment with average children who are exposed to an average program. Such aims are in sympathy with a long standing principle that educa-

tion should proceed from the starting point of individual need The public has preempted the field of education to such a significant degree that unless parents are extremely wealthy a child has no alternative but to accept what is offered If that offering is inadequate there are few practical recourses for most individuals. Therefore, the public has the responsibility to make every reasonable effort to mold its educational system into a stimulant rather than a depressant.

Programs for academically talented children are not and cannot be considered a luxury expense for the public Many of the arguments for or against inclusion of *X* or *Y* subject, facility, or program within the regular or special school curriculum, are couched in terms of practicality and philosophy. Can this program be more suitably taught elsewhere? In the competition for scarce dollars, which item has the greatest priority? What kind of subjects would be more appropriately taught at home or church or anywhere except the schools?

STATE SUPPORT

It is the committee's conclusion that the level and method of state financing for mentally gifted minors does not meet the monetary needs of local school districts or fulfill the intent of stimulating novel change in the education of gifted children The school districts that have made a good faith attempt to establish quality education for the gifted are encouraged to cut back their efforts because of a low level of state aid in this area.

This present method of state aid to local school districts for mentally gifted minor programs is excess cost reimbursement at the rate of $40 per gifted pupil. Total state expenditures for the last three years are as follows:

Actual 1964–65	*Estimated 1965–66*	*Estimated 1966–67*
$2,662,505	$3,515,030	$3,680,000

Source Governor's Budget, Support and Local Assistance Budget for Fiscal Year July 1, 1966, to June 30, 1967, p 1060

According to the Martinson study,[3] identification costs alone amounted to $39 63 per pupil in rural counties and $47 63 in urban counties. Testimony given at the committee's hearing indicated that identification costs have remained at an approximate level of $40 per student. Thus, the total state contribution to programs for mentally gifted minors is equivalent of the costs of identification However, this analysis is somewhat misleading The cost of testing a child is usually a one-time expense Therefore, identification costs are only for children who are not already in the program or who have not had an individual test score. For instance, if a child is identified as gifted in the first grade and the school maintains a program for mentally gifted minors in each of the six grades, then the cost of identification would be $40 for the first year and none for the next five years

[3] Educational Programs for Gifted Pupils, p 218

Six years of excess cost reimbursement	$240 00
Initial identification	40 00
Total for program costs for six years	200 00
Average yearly identification costs	$6.67
Average yearly program costs	33 33
Total average yearly cost of identification and program for a gifted pupil in elementary school	$40 00
Unit costs per pupil in elementary districts report for 1964–65	$55 85

If the additional assumption is made that the initial identification is valid for 12 years of public education, then the per year cost of identification would be $3 33 a year (If the child is accelerated in school, then the total years of district expense would be less, but the school district would "save" on the total cost of education. If it is assumed that the district spends $500 a year per pupil, that acceleration would save the $500 for each acceleration.) Over a 12-year period a unified district would receive $480 in excess cost reimbursement of which $440 could be used for program costs at an average of $36 67 per pupil per year Unified districts reported a per unit cost per pupil in 1964–65 of $46 51. Even if the child was not enrolled in a unified district, his records, including test scores, would go with him to the new district, therefore the initial identification expense would not have to be duplicated The difference between the expense estimate based on 12 years of schooling and the reported unit cost for each pupil for unified school districts could easily be reflected in identification costs that result from a new program that does not have many identified gifted children prior to entering school Thus, the unified district had the initial expense of testing in all 12 grades, and at least half of the children's testing expenses will be spread out over part of their total education.

There were 88,949 pupils in approved gifted programs in the 1964–65 fiscal year at a state cost of $3,515,030 in the 1965–66 budget estimates Each of these identified pupils can therefore benefit from district programs that cost the full $40 a year Identification costs will be incurred for only those pupils who have not previously been identified

What are the conclusions that can be reached from this analysis?

1. Identification costs definitely should be a separate item for state assistance The burden of the initial cost of identification should not be assumed by only one school district and the benefit of that cost passed on to another district without having the initial expense Any subsequent testing that is required, such as transfer students, would be an additional burden to a high school district because it could not spread the cost over a long period of schooling and the pupil would receive less actual benefit per dollar spent by the state and the school district.

2 The present rate of state excess cost reimbursement is not fairly compared to the cost of identification. The state reimburses at $40 per pupil per year and the cost of identification is only a one year expense of $40. To make the greatest use of state money for identification purposes, the districts would be wise to test the children as early in their schooling as possible.

3. California has a public school population of roughly 3,500,000 and a gifted student population at the 2- to 3-percent level of approximately 70,000 to 105,000. Almost 90,000 students have now been identified. Thus, the cost of identification would be for *new* students, either entering the first grade or entering as transfer students. The number of new students that need to be tested should not total over 10,000 first graders and maybe 5,000 transfer students. Annual testing costs should run around $600,000 per year (one-sixth the present total state expenditure) when the program is fully stabilized. Larger future enrollments would, of course, increase the total costs.

4. By not having a separate reimbursement for testing and for program costs, it is almost impossible to assess how much of the state money is going to actual instructional benefits for the gifted children. Under either the existing system or a new approach to financing of the gifted program, it is obvious that an audit should be made of the expenditure claims of the school districts.

The committee received various estimates of the ideal level of state support for mentally gifted minor programs, ranging from about $100 to $200 per pupil in actual program costs. The Martinson study reported widely ranging program costs in the school districts which participated in the research project. (Range $41.73 to $230.01 per pupil.) The cost of a "high quality" gifted program was estimated by Department of Education officials to be at $200 for program and $40 for identification A "high-quality" program for every presently identified gifted student would cost the state close to $18 million a year. (This would be much less than the present state expenditure for mentally and physically handicapped children.) The "ideal" expenditure is not a foreseeable reality.

All school districts may not need or desire a full $200 per pupil per year. There may be a considerable gap between a sound and adequate program and an ideal program. School districts should be allowed to decide what they want to spend within the framework of their own educational policies. (See next section.)

Difficulty in determining an "ideal" level of state support should not prevent analysis of another gap — the difference between the present level of reimbursement and the "ideal" level. The total cost per pupil is now about $40 a year, including testing and program expenses Even conservative estimates would place expenditures for programs at not more than $30 to $35 per pupil. This much money would be equal to one day's salary for a well qualified teacher, or a few extra books or supplies, or for a small amount of special counseling. The committee thinks that it is unfair to assume that an adequate program, ignoring the problem of the ideal, can be purchased at a cost of $30 to $35 a year. The average program cost in the Martinson study was approximately $129 for 16 school districts.

The committee believes that even a minimum program for mentally gifted minors should be at least $100 per child. If the state were willing to pay up to 80 percent of the program cost, its aid would have to double in size. In order to have the benefit of a quality program in the school districts that desire it, but not encourage wasteful expenditure of money in districts that do not want the additional programs, a different method of state aid should be employed.

The present method of financing the gifted program by reimbursements to school districts for excess cost is an unsatisfactory system. The school districts are encouraged to spend only the amount of money that the state is willing to contribute without regard of the need of gifted students There is no incentive in the present system to encourage the districts to add some of their own funds to the program. As was outlined in the statement of state-local responsibility, we do not think that there is any jusification for the state to assume the total cost of a program if the local district is able but not willing to put money into their policies. The appeal for more local control is a two way street. Local control also means local responsibility to provide an acceptable education to the children within a school district. The state does not intend to delegate its ultimate responsibility to the people of California and then let the school districts avoid their obligations.

State aid to local school districts for mentally gifted minors should be put on a project basis The districts should be able to receive up to $200 for program costs and $40 for identification costs if they care to submit a quality proposal and if they cannot afford to pay for their expenses Districts that have very high financial resources should not receive the same level of state support as the low wealth districts. The state could support wealthy districts at a 10- or 20-percent level, or enough to provide some incentive for participation, but not enough to add more to the wealth of the district.

By placing the mentally gifted minor program on a project basis, the state would be rewarding those districts that were truly interested in having meaningful programs, and putting its money where it would do the most good The Legislature could put a maximum limit on the cost of the whole mentally gifted minor program so that a reasonable budgetary estimate could be made. The money would be spent on a first come, first served basis for those programs that showed the best planning, organization, and efficiency. The total amount of appropriations could be based on an estimated cost of a minimum program multiplied by the number of gifted students.

Districts should be required to submit the total cost of all MGM programs so that future planning and evaluation will be based on accurate figures.

TEACHERS OF THE MENTALLY GIFTED MINORS

It is the committee's belief that academically talented students demand equally talented teachers; teachers who have the proper training to respond to advanced subject matter interests, inspire high achievement, and handle special problems created by the uniqueness of the children served. While there are many excellent teachers in the MGM program, it is important that the best qualified teachers continue to serve in this area. Teachers of unique children should have unique combinations of training and experience so that talent development for children does not become teacher training and development.

The problem of teacher qualification may be put in the clearest focus by identifying the characteristics of gifted children and then seeking the teacher that would best serve those needs.

> What are the traits needed in the teacher of children who have high powers of abstraction, who are able to independently syn-

thesize great ideas, and develop generalizations? Who should teach children who are original and inventive, who are inquisitive and enjoy independent inquiry? What teacher can best capitalize upon the versatile and intense interests of the gifted, and foster their complex talents? What are the qualities of the teacher who can encourage critical thought and inquiry, persistent and concentrated research, and high-level verbal facility?[4]

These questions point to an individual who is truly unique among adults and even among teachers. They must have the maturity and ability to find themselves constantly challenged and not react defensively. They must have an unusual depth of subject matter training and scholarly interest. The teacher who is interested in new ideas and committed to learning will be in a better position to understand children who thirst for knowledge Inordinate interest is not always a substitute for intellectual virtuosity. The natural desire to be identified with the best students and novel programs should not influence the choice of teachers for the gifted program.

The committee recognized that "ideal" teachers cannot be found for every program that a school offers. Many excellent teachers can be found that would not fulfill an ideal Therefore, we recommend that the state establish a system of scholarships for teachers of academically talented students to provide them with advance training in subject matter specialties or in methods of teaching gifted children. Teachers should be encouraged to participate in federally supported programs, such as the National Science Foundation summer grants for science and foreign language teachers. The best available teachers can almost always be made better, especially if they are themselves interested in learning.

Any program can be made meaningless if it is not properly executed. The public could spend millions of dollars and still not have an adequate system of education for the gifted While there are many important factors that make up a workable and useful whole, the key to the educational system is the teacher who translates the objectives into concrete action. All of the materials, facilities, class sizes and guidance would be of little importance if the instructor could not translate educational objectives into educational realities

In order to accomplish the grand goal of total talent development, it will be necessary to train and utilize qualified, intelligent and scholarly teachers. Currently, many well-motivated school districts cannot implement meaningful programs for mentally gifted minors simply because they do not have the teaching staff to do so. Many districts compensate for this by organizing community resources and specialists in such a way that classroom instruction can benefit from the subject matter competency of parents, businessmen, scientists and professionals in the community at large.

Local resource people can enrich and improve a classroom program, but the use of these people would be even better if the teachers had enough background in the subject areas to follow up the resource person.

[4] Education, State Department of, *Special Programs for Gifted Pupils*, p 86.

The subcommittee recommends the school districts be encouraged to seek the best qualified teachers, both in subject matter training and demonstrated competence in teaching ability, and that some of the additional salary cost be offset by state aid. The districts should be required to make full utilization of these special teachers in planning, supervision, and development of programs for MGM, and released time for these activities should be included in budgetary estimates.

All of the subcommittee's findings have indicated a need for greater flexibility in requirements that were intended for the general school population and are inappropriate for instruction of gifted children. General regulations hamper the full utilization of available resources because they prevent improvement and discourage innovation General standards may be useful to set minimum levels, but MGM programs are dealing with the opposite problem—a way to lift the ceiling and roll back the walls that set the dimensions of educational planning

In line with the general finding of inflexibility, the committee heard recommendations to liberalize the restrictions placed on the grade level for which credentials could be utilized The elementary gifted program may need a part-time or full-time teacher in chemistry, physics, aerodynamics, biology, geology, economics, history, sociology, political science or a multitude of other specialized subject areas If the best available teacher holds a high school credential the district should be allowed to employ this person, or if they are already employed in the same district at the high school level the district should be allowed to transfer them to the MGM program We recommend that state teaching credential restrictions on the grade level that can be taught be suspended for MGM programs, if it is certified that a teacher who is not ordinarily authorized to teach a particular level is the best available one for the gifted program and if the State Board of Education so approves.

The committee believes that many state laws, particularly those that mandate curriculum content and minutes of instruction, require the use of state-adopted and state-supplied textbooks, and limit teacher credentials to specified grade levels, unnecessarily restrict instruction of gifted students.

Many parts of state law and district policies specify what teachers are to be offering in the classroom, what materials they must use, and sometimes even the rate of progress that must be followed. Undoubtedly, there are arguments in favor of such restrictions, but this is not the place to review or evaluate those arguments One thing, however, is pertinent to this discussion, and that is the relevance that curriculum restrictions have for academically talented students.

The mentally gifted require curriculum which is both quantitatively and qualitatively more advanced. Such curriculum benefits the whole school population by pointing the way toward highly innovative teaching techniques and content The teaching of such contents as anthropology, economics, chemistry, mathematical logic and a whole array of other contents for use in the elementary school were initiated for the gifted and spread in their usefulness to other types of students.

The Education Code and Title 5 of the Administrative Code need to be studied to identify contradictory policy which obstructs full scale

development and implementation of programs for mentally gifted minors For example, the rather rigid requirements spelled out in Section 7604 of the Education Code describing the course of study in elementary schools has dubious value for gifted pupils and next to no value for highly gifted pupils The highly gifted pupil arrives in the elementary school usually literate, advanced five or more grade levels and mature and sophisticated well beyond his chronological age. It is simply silly to insist that he requires elementary reading, writing, spelling and basic arithmetic Even such subject areas as geography may be clearly inappropriate since he has already assimilated the basic knowledge necessary for rudimentary geographical understandings. What he really requires is an advanced curriculum in literature and creative writing as opposed to basic reading or writing and spelling; advanced studies in mathematics and logic as opposed to basic arithmetic, advanced studies in various scientific disciplines as opposed to health or natural science; formal introduction to the advanced disciplines of the social science including economics as opposed to basic history or geography.

By the time a gifted student reaches high school, or even junior high school, his mental maturity and scholastic achievement may have already passed the limits of ordinary programs for high school seniors. The table given below indicates the difficulty of categorizing gifted children into regular school programs

MENTAL AGE EQUIVALENTS OF VARIOUS CHRONOLOGICAL AGES AND IQ LEVELS

Actual chronological age	Corresponding grade	Mental age at 130 IQ level	Corresponding grade	Mental age at 150 IQ level	Corresponding grade	Mental age at 170 IQ level	Corresponding grade
6	1	7 8	2	9 0	4	10 2	5
8	3	10 4	5	12 0	7	13 6	8
10	5	13 0	9	15 0	10	17 0	12
12	7	15 6	10	18 0	13	20 4	*
14	9	18 2	13	21 0	*	23 8	*
16	11	20 8	*	24 0	*	27.2	*

* Beyond normal school range
SOURCE Education, California State Department of, *Educational Programs for Gifted Pupils A Report to the California Legislature*, p 34

A seventh-grade child at a 130 IQ level has the equivalent mental age of a high school sophomore; at 150 IQ he has the same mental age as an 18-year-old; at 170 IQ he has the mental age of a college sophomore or junior.

Because of the gifted child's unique ability to learn, quantitative and qualitative variations in school curriculum and methods of instruction must be made available in order to promote the maximum growth of the child's mental powers We recommend that provisions of the Education Code which specify certain subject matter and hours of instruction for public schools be suspended, upon approval of the State Board of Education, for authorized programs of instruction for mentally gifted minors.

One of the first requests made by teachers of gifted children in Lompoc Unified School District was to exempt the gifted classes from

the required use of state textbooks. The teachers felt that the state was wasting its money sending even the advanced books for use by gifted children.

It would be logically absurd and financially unreasonable for the state to try to print and to distribute books that would be of sufficient difficulty for most gifted students. The state could save from $100,000 to $200,000 each year by not distributing the standard textbooks for use by gifted children in the public schools.

A COUNCIL ON TALENT DEVELOPMENT

We believe that the results, innovations, and instructional improvements of the MGM program have not been adequately circulated to the public schools and members of the interested public throughout the state. As a consequence of the lack of publicity, the MGM program has not realized its full potential benefit to the educational system as a whole.

There are an infinite number of approaches that can be taken in the improvement of educational systems Programs that are assumed to be improvements can be mandated throughout the state. The state can provide financial aid or assistance to school districts that pursue innovative programs. School districts can use their own resources and authority to develop the kind of educational system that will be creative and effective. It is difficult to make any definitive value judgment on the creative role that either the state or local authorities should take. Legally, the local school districts are created by state authority and function only to the extent allowed by state statutory and constitutional law. It is a policy question as to which level of government can most effectively perform a general public task, such as education. However, since the money that is used to support public education is supplied by both state and local sources each level of government has the responsibility to assess its expenditure of tax money. Either level of government has the option of spending public money on programs that go beyond providing basic education However, the resources of the state are much greater and more flexible than those of the local school districts and therefore it seems logical that much of the movement for innovation in education should come from the state level of government. Appropriately, state money is often earmarked for specific purposes that the Legislature has deemed to be in need of improvement.

Mentally gifted minor programs provide an excellent example of state-local cooperation and innovation Many local school districts, such as San Diego Unified, have maintained special instruction for academically talented students over the course of many years State interest had its first major thrust when the 1957 Legislature directed a study of educational programs of gifted pupils, which resulted in a financial interest developing out of AB 362 (1961) that established state aid to local school districts for mentally gifted minor programs At the present time, the state is spending about $3.5 million in reimbursement of excess cost for MGM programs. Thus the state has taken what had been previously a local program and made it a state policy that MGM education is a desirable task for all of the public schools, and has backed up its policy with financial aid.

The Legislature, even though taking a permissive approach to MGM development, thought enough of the project to provide financial assistance, thereby making it a state policy. If that policy is to have a significant impact on the administration and design of public schools, it must be publicized and actively promoted If the creative lead is to be enhanced and strengthened, then a program's progress and achievement must be made available to the public and to the public school authorities.

Programs for mentally gifted minors has a potential for demonstrating new ideas and techniques in the field of education. Because of the unusual nature of gifted children educational status quo is challenged and old patterns must be reassessed· ordinary education is unsatisfactory for more than ordinary children. Therefore, it is our conclusion that MGM programs can teach all of the responsible individuals by example what might not be believed without demonstration. The Legislature should make sure that its policy decisions receive adequate circulation, and more importantly, that the fruits of its creative effort be transmitted to those agencies, whether state or local, that are assigned the task of framing the educational system

The committee recommends the creation of a Statewide Council on Talent Development, composed of lay and professional persons from all areas of public and private life The council would serve to study methods to improve the education of mentally gifted minors, transmit innovations in curriculum and instructional techniques to the public school authorities of the state, and stimulate improvements in the quality of education offered to all of the school children. The statewide council would be charged with the responsibility of presenting to the Legislature specific and periodic proposals for the improvement of public education for the academically talented and school children as a whole.

APPENDICES

Appendix A

LEGISLATIVE COUNSEL'S OPINION ON THE UNIFORM USE AND ADOPTION OF STATE TEXTBOOKS

Los Angeles, California
November 3, 1966

HONORABLE CHARLES B. GARRIGUS
18588 East Adams Street
Reedley, California 93654

ELEMENTARY SCHOOLS TEXTBOOKS—NO. 8445

Dear Mr. Garrigus:

QUESTION

You have asked whether, under Section 7 of Article IX of the State Constitution, the State Board of Education can adopt multiple lists of textbooks for use in the public elementary schools from which school district governing boards could select different textbooks for use by children of approximately equal abilities and of the same grade level.

OPINION

It is our opinion that the State Board of Education is not authorized under Section 7 of Article IX* to adopt multiple lists of textbooks for use in the public elementary schools from which school district governing boards could select different books for use by pupils of approximately equal abilities and of the same grade level.

ANALYSIS

Section 7 of Article IX presently provides that the State Board of Education shall provide, compile and adopt a "*uniform series of textbooks for use*" in the elementary schools.

In construing this section, the California Supreme Court, in *State Board of Education v Levit* (1959), 52 Cal. 2d 441, at 464, held:

> "The phrase 'uniform series of textbooks for use' in the schools not only connotes the uniform use of the series adopted (Ed. Code; Sec 11273) *but the use of a uniform or coordinated series of textbooks.*" (Emphasis ours)

Since Section 7 of Article IX requires the use of a uniform or coordinated series of textbooks, we think that the State Board of Education is not authorized to adopt multiple lists of textbooks for use in the public elementary schools from which school district governing boards could select different textbooks for use by pupils of approximately equal abilities and of the same grade level. To construe Section 7 of Article IX otherwise would be a marked departure from the administrative and legislative interpretation heretofore placed upon the language of the constitutional provision, an interpretation that is en-

* All section references are to sections of the State Constitution

titled to great weight in construing the meaning of the provision (see *Reuter v Board of Supervisors*, 220 Cal. 314, 323; *Woodcock v. Dick*, 36 Cal. 2d 146, 148).

It may be observed that the Attorney General of California has reached an opinion consistent with the one expressed herein (see 41 Ops. Cal Atty. Gen. 140, 150–151).

Very truly yours,

GEORGE H. MURPHY
Legislative Counsel
By Edward F. Nowak
Deputy Legislative Counsel

Appendix B

CURRENT EXPENSES FOR PROVIDING SPECIAL PROGRAMS FOR MENTALLY GIFTED PUPILS, 1964–65 FOR 1965–66 APPORTIONMENT EXPENSE AND PUPILS

Level	In regular classes	Courses by mail or special tutoring	In advanced classes	High school pupils attending special classes	Special counseling or instruction outside of regular classes	Special classes organized for gifted pupils	Other programs	Totals	Total participating pupils: 1 semester	Total participating pupils: 1 year	Unit cost per pupil
Elementary											
Expenses, etc	$765,364 83	$309 66	$46,207 27	--	$162,829 75	$433,119 01	$14,116 40	$1,422,436 92	2,442	24,249 *25,470	$55 85
Pupils											
1 semester	1,565	8	76	--	560	801	160	3,152			
1 year	16,788	--	1,365	--	2,017	5,533	361	25,064			
Cost per pupil	$43 57	$202 42	$33 00	--	$70 89	$72 99	$32 01	$51 46			
High school											
Expenses	$88,879 72	$145 80	$28,036 38	$935 34	$29,939 97	$123,703 85	$173 00	$271,868 66	565	8,442 *8,725	31 16
Pupils											
1 semester	382	--	30	4	163	203	--	782			
1 year	3,350	9	1,407	133	1,403	3,150	321	9,873			
Cost per pupil	$25 83	$16 18	$19 72	$7 30	$20 16	$38 94	$0 54	$27 01			
Unified											
Expenses	$988,470 26	$273 39	$358,359 86	$14,053 93	$260,246 46	$747,550 37	$19,956 68	$2,288,910 95	8,077	45,174 *49,213	48 51
Pupils											
1 semester	6,456	27	1,026	180	2,136	3,753	131	13,609			
1 year	26,581	156	5,295	264	5,933	11,594	123	49,946			
Cost per pupil	$33 16	$1.61	$44 48	$40 85	$37 17	$55 53	$105 59	$40 31			
Summary all levels											
Expenses	$1,842,614 81	$1,228 65	$333,603 51	$15,039 27	$453,016 13	$1,304,378 03	$34,246 03	$3,983,216 53	11,034	77,865 *83,407	47 76
Pupils											
1 semester	8,393	35	1,132	164	2,859	4,737	291	17,603			
1 year	46,619	165	8,067	397	9,353	20,277	805	85,683			
Cost per pupil	$36 26	$6 71	$38 54	$31 40	$42 01	$57 60	$36 01	$42 18			

*Participating pupils used as divisor to compute cost per pupil and unit allowance accumulated by taking the total of one-year pupils and adding one-half of one-semester pupils.
Source Department of Education

Appendix C

SURVEY OF SCHOOL DISTRICT SUPERINTENDENTS ON THE EDUCATIONAL VALUE OF HIGH SCHOOL DIPLOMAS

Selected Questions and Summary of Responses

Survey Question No. 1: During the school year 1964–65, how many students were enrolled in the senior or 12th grade classes in all high schools in your district? *100,586**

Survey Question No. 2: During the school year 1964–65, how many high school seniors were graduated with diplomas from school? *93,080.**

Survey Question No. 3: Were any high school seniors graduated, or "promoted out" of the 12th grade, without receiving a regular diploma? *YES—6, NO—56.* If so, how many? *388 students in 6 districts*

Survey Question No. 4: How many types of high school diplomas, or certificates of completion, are granted by the high schools in your district? *None—53, two—8, five—1*

Survey Question No. 6: Are final examinations in all subjects, or in academic subjects, given to high school seniors in your district? *YES—56, NO—4, OPTIONAL—1.* If the answer is yes, are passing scores on such examinations prerequisite to graduation? *YES—16, NO—35, PARTLY—4.* Are students "promoted out" of the 12th grade without diplomas in the district if they do not receive passing scores on such examinations? *YES—5, NO—22.*†

Survey Question No. 7: Does your district have any other method or system of measuring the achievement level of graduating high school seniors? *YES—27, NO—32.*

Survey Question No. 8: In your professional judgment, do you regard the high school diploma as a useful evaluative tool in determining the ability of a graduated student? *YES—12, NO—47, LIMITED USE—3.*

Survey Question No 9: If the answer to question No. 8 is "no," does your district employ any other method of identifying graduating students according to their achievement level, or their level of competence? *YES—24, NO—24.*

Survey Question No 10: Can you recall any complaints or comments from businessmen in your community with regard to the usefulness of a graduate's diploma as an evaluation of his competence as an employee? *YES—21, NO—40.*

* Several responses to this question, obviously incorrect, were eliminated from the tabulations of this question

† Absence of answers totaling the number of responses received here indicate that the respondent did not choose to answer the question

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ASSEMBLY INTERIM COMMITTEE REPORTS
1965–1967

Volume 10 Number 25

THE TANGLED WEB

A Study of State and County Educational Administration in California

by the

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

Members of the Committee

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GORDON H. WINTON, JR.

January 1965

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TABLE OF CONTENTS

	Page
Letter of Transmittal	4
Report of the Assembly Interim Committee on Education	5
I. Selection of the State Board of Education and the Superintendent of Public Instruction	6
Findings	6
Recommendations	8
Introduction to the Report	9
The Present System	11
Who Sets Policy?	12
Alternatives to the Present Structure	15
The Proposal	17
Conclusions	18
II. Relationships Between County and State-Level Educational Administration	19
Findings	19
Recommendations	21
The Report	23
III. Statements of Individual Members	26
Additional Views of Assemblyman Edward E Elliott	26
Dissenting Statement of Assemblyman James E. Whetmore, relative to Part I of the Report	27
Statement of Assemblymen Hinckley and Veysey	29
Statement of Assemblyman Barnes	30

LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE ON EDUCATION
January 1, 1967

HON JESSE M UNRUH
Speaker of the Assembly, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen.

Pursuant to House Resolution 710, of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith its final report covering the areas of selection of state education officials and county-state education administrative structures.

All other subject matter assigned to this committee was considered by subcommittees, and appears in the final reports of those subcommittees.

I respectfully commend these recommendations to you for your consideration

CHARLES B. GARRIGUS, Chairman
Assembly Interim Committee
on Education

FINAL REPORT OF THE

ASSEMBLY INTERIM COMMITTEE ON EDUCATION

Charles B. Garrigus, *Chairman*

MEMBERS OF THE COMMITTEE

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GORDON H WINTON, JR.[5]

CHARLES B GARRIGUS, *Chairman*
WINFIELD A SHOEMAKER, *Vice Chairman*

January 1967

[1] Assemblyman Barnes does not concur in the report. His statement appears at the conclusion of the report
[2] Assemblymen Gonsalves, Whetmore, Monagan and Collier do not concur in Part I of this report
[3] Assemblyman Elliott has signed the full report, but has submitted additional views which appear with the report
[4] Assemblymen Hinckley and Veysey concur generally in the report, but append a statement at the conclusion of the report
[5] Assemblyman Winton concurs generally in the report, but wishes to abstain on specific proposals

Other subject matter assigned to this committee was studied by subcommittees and appears in those reports.

I. SELECTION OF THE STATE BOARD OF EDUCATION AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION

FINDINGS

The committee finds that:

1. The present system of state-level educational administration in California is uncoordinated and chaotic Lines of responsibility between State Board of Education, State Superintendent of Public Instruction and State Department of Education are unclear, with the result that legislators, local school boards and administrators, and the public are confused as to what agency or officer is responsible, in the last analysis, for the efficient operation of the state's public school system

2 The present administrative structure creates a system which renders it unclear to legislative committees and to the executive department of government who speaks for the State Superintendent on policy matters and who speaks for the State Board of Education.

3 The existing structure requires the Superintendent of Public Instruction to neglect proper administration of the Department of Education in favor of time spent in making statements on educational policies over which he has no legal authority

4 State-level educational administration in California offers the only example the committee can find where an appointed policymaking board is unable to exercise control over its executive officer, who is popularly elected

5 The State Constitution creates the office of State Superintendent as an elective office, but gives that office no policymaking duties. The same Constitution, together with state law, gives most policymaking authority to the State Board of Education

6 Local education suffers from the lack of coordinated state educational administration, and suffers even more so from highly publicized and sensationalized reports of conflicts between the elected State Superintendent and the appointed State Board of Education. The administrative system described encourages such conflicts

7 The people of California desire a substantial measure of elective control over the state-level educational administrative structure. In large part, the people now possess that control through their election of members to the Legislature, since all major state educational policy is set by the Legislature through statute The State Board of Education is not a true policymaking body, but merely interprets and effectuates legislative policy.

8 A greater measure of popular control over the selection of members of the State Board of Education than now exists is desirable

9. However, a popularly elected State Board of Education is not desirable, since it would not insure that the most highly qualified citizens would serve on such a board, and would subject education at

the state level to many unfortunate political influences Such a system might also allow education interest groups to obtain and maintain control—through political assistance and contributions—over a segment of such a board In short, the same evils which exist in the popular election of a state superintendent would exist to a much greater degree in the popular election of a State Board of Education, with eventual detrimental effects to the public schools of the state.

10. There is an increasing tendency among the states to move toward an appointive chief state school officer, appointed in various ways, and away from popularly elected state boards of education

11 Several states have developed unique systems for combining the best of the principles of popular control over educational administration at the state level, with noninterference of partisan political interests in the education process

12. Although the people of California, in 1958, voted overwhelmingly against an appointed Superintendent of Public Instruction (Proposition No 13), at that time they were presented with no new method for selection of the State Board of Education There is a good likelihood that the people might approve an appointed state school chief, if such a change were combined with a measure of greater popular control over the selection of members of the State Board of Education.

RECOMMENDATIONS

The committee recommends that the following combination of legislation and constitutional changes be adopted by the 1967 Legislature.

1. A constitutional amendment which makes the office of State Superintendent of Public Instruction an appointive one, to be selected by a majority of the members of the State Board of Education for a four-year term The State Superintendent should serve at the pleasure of the board.

2. Legislation, contingent only upon approval by the people of the above-cited constitutional amendment, which adopts a version of the plan used by the State of New York for the selection of members of the State Board of Education

Such a plan would envision a 10-member State Board of Education, each serving for a 10-year term, to be selected by a majority ~~vote of~~ each House of the Legislature from a list of five nominees for each office submitted by the Governor The legislation should require that at least five members of the State Board of Education shall have formerly served for at least two years on a local school district governing board.

Commencing with the expiration of terms of present members of the State Board of Education in 1969 (following approval of the constitutional amendment by the people), the plan should go into effect, with the Governor nominating and the Legislature selecting board members in accordance with the following schedule:

A. Two members in 1969, to replace those board members whose terms expire on January 15, 1969, with one member to serve an abbreviated one-year term and one member an abbreviated two-year term.

B. Four members in 1970, to replace those board members whose terms expire on January 15, 1970, with one member to serve an abbreviated two-year term, one an abbreviated three-year term, one an abbreviated four-year term, and one a full 10-year term.

C. Three members in 1971, to replace those board members whose terms expire on January 15, 1971, with one member to serve an abbreviated four-year term, one an abbreviated five-year term, and one a full 10-year term.

D. Four members in 1972, to replace those board members whose terms expire on January 15, 1972, with one member to serve an abbreviated five-year term, one an abbreviated six-year term, one an abbreviated seven-year term, and one a full 10-year term.

Thereafter all selections of State Board of Education members should be made on the basis of one per year for full 10-year terms of office. Successors, in the event of a resignation, should be selected in the same manner to serve out the remainder of the term of their predecessors.

3. The constitutional amendment which makes the office of Superintendent of Public Instruction appointive by the State Board of Education should contain a "grandfather clause," which insures that it shall not apply to the present incumbent superintendent so long as he shall hold office.

SELECTION OF THE STATE BOARD OF EDUCATION AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Introduction

In his statement opening hearings on the subject of methods of selecting a chief state school officer and a State Board of Education in California which this committee held in August 1965, the committee chairman said:

> "The challenges faced by California as it moves well into the second half of the 20th century are nowhere more grave than in education. Since the 1950's we have seen a million more students enroll in our public schools, while educational knowledge itself, that is, the demands upon these students, has multiplied a thousandfold It is clear today that educational issues must be faced and must be solved without delay and without political bickering and disagreement To fail to do this would be to place our entire society in jeopardy
>
> "Despite these challenges, we operate in California under a (statewide) educational structure which is 86 years old and has never been revised since its adoption It is a structure which, like many other facets of state government in California, is frozen into our State Constitution This could be tolerated in a leisurely age with few pressures, it cannot be tolerated in an age of rapid change under constant and unremitting pressure"

The chairman proceeded to outline two principles to which this committee wholeheartedly ascribes as being essential to the vital functioning of any state's educational system, principles which must be mirrored in a state-level educational administrative structure·

> "First, a policy body for education must insure smooth and efficient functioning of the educational system and (must possess) the capability to make necessary decisions without unnecessary delay.
>
> "Second . . the members of the policy body should be free from political influences—both partisan and popular influences of the moment—because education . . . in the last analysis has a commitment to the lasting and enduring situation in which the broad and generally consistent lines of human conduct must ultimately be established."

More specifically, we note that the respected and noted State Commissioner of Education of New York, Dr. James E Allen, Jr, has said that·

> "State laws should provide for the creation of a state board of education responsible for the determination of general policy within a broad framework. Such a body should be given full authority by the Legislature to plan, coordinate, and govern a statewide system of education . . . It should have the authority, freedom, and funds to select the best superintendent available.

"[Such a board] should be given maximum freedom from all political, fiscal, and bureaucratic controls inimical to the best interests of education"

Regrettably, the committee has found that the system of state-level educational administration in California satisfies neither the chairman's general principles nor Commissioner Allen's specific guidelines Educational administration in this state, as it exists in Sacramento, consists of a chaotic, unplanned collection of boards, agencies, commissions and officers, connected sometimes by dotted lines of authority and sometimes by no lines at all. It resembles nothing so much as a blunderbuss approach to satisfying the pinpointed and crucial needs of public education in the nation's most populous state

What must have appeared incredibly simple, organizationally, to the constitutional framers in 1879 has developed into a two-headed monster Unfortunately, neither head realizes that the other exists No present state officer or board is responsible for this dilemma; it exists because the governmental structure could not adjust itself to the great changes This committee is alarmed at the dangers which face California education—simply due to inaction and lethargy—caused by this structure Notwithstanding the very many well-justified reasons, political and otherwise, for the development of this structure, it simply cannot be allowed to continue as it is Education in California in the 1960's demands swift and measured action to meet problems. Our existing state-level educational structure is simply not up to the task.

Before embarking on its final report to the 1967 Legislature on this issue, the committee wishes to make it very clear that the basic ground rule with which we undertook this study was that the issue would be considered in isolation from a consideration of the personalities who now occupy the offices which we herein discuss At no time during the committee's study was there consideration of structuring this segment of state government in a certain way because of the political personages who now sit on the Board of Education or as Superintendent of Public Instruction While as a committee we are somewhat dismayed over the open political activities of such persons in *both* offices, we believe that it is far more important to recommend a workable governmental structure for the administration of education in California than to engage in political potshotting There has been far too much of this—on the part of both political parties—in California education in recent years

It is our hope that this report will serve as a useful vehicle for increased public dialogue and discussion concerning these crucial issues, within the Legislature, within the Constitutional Revision Commission, which is just now commencing an in-depth study of the constitutional provisions dealing with education, and among the people of California Our proposals and recommendations illustrate what we believe to be a useful and workable method of overcoming the present organizational muddle in which California education, at the state level, finds itself.

The Present System

The office of Superintendent of Public Instruction was created at the state's Constitutional Convention of 1849 Records show that little debate was engaged in on the matter of a chief school officer. The first section of the proposed article was lifted word for word from the 1846 Constitution of the State of Iowa·

> "SEC 1 The Legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold this office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the Legislature may direct."

The article was adopted without opposition and became Section 1 of Article IX of the Constitution of 1849

The Constitutional Convention of 1878–79 was equally unconcerned about educational matters, having been called to cope with growing unrest among the state's working classes and farmers Nevertheless, records show that spirited debate was engaged in when the proposed draft on the Superintendent of Public Instruction was placed before the convention Efforts to place the office on a par with that of the Secretary of State with regard to compensation resulted in the offering of amendments to completely delete all constitutional reference to the office, leaving the job of the state-level administration of education to be decided by the State Legislature in the statutes These amendments failed Ultimately the proposed draft making the office equal to that of the Secretary of State was approved

Until 1913 California had no formal State Board of Education, but an ex officio body of professional educators existed to deal with technical nonpolicy questions facing the Superintendent of Public Instruction It did nothing with regard to the former and more basic recommendation.

In 1926, for the first time, a conflict developed between the board and the superintendent The election of Governor Friend Richardson in 1923 brought about the appointment of a conservative board, dedicated to cutting educational expenditures This group conflicted openly with Superintendent Will C Wood As a result, an impasse developed between the two centers of power in the administration of education

The conflict between Governor Richardson's board and the Superintendent of Public Instruction called for remedial action by the Legislature In 1927 Senator H C Jones introduced SCA 26 which called upon the Legislature to establish a board of 10 members with terms of 10 years each The members were to be appointed by the Governor and confirmed by a two-thirds vote of the State Senate The elected Superintendent was abolished but the Legislature was empowered to provide for an appointed officer

The 1927 Legislature almost unanimously approved the Jones Amendment, out of 120 votes only 10 were cast in opposition However, on November 6, 1928, SCA 26 was defeated by a vote of 714,411 to 551,858

In 1945 the State Board of Education accepted a management consultant's report (the Strayer Report) which proposed a reorganization of the Department of Education and an appointed Board and Superintendent The voters in 1946 accepted a constitutional amendment which reorganized the department but no action was taken on the more fundamental organizational change.

Who Sets Policy?

The question of who sets basic state education policy has long been a vexing one for California Unquestionably, major and final policy decisions affecting the public schools are made by the State Legislature. However, the implementation of these legislative directives—which are often couched in very general terms—has at times turned into a political football which has bounced in strange fashion

At the outset it should be stated that this development is not new Contrary to popular conception, the conflict between state superintendents and the State Board of Education and state administration did *not* commence with the election of the incumbent superintendent in 1962; it has existed ever since the present arrangement was adopted As the special consultant to the state's Constitutional Revision Commission stated in a letter to the committee·

> "The threat of uncongenial board members to the elected state superintendent is real Those of us who have a long memory realize that this can bring almost total confusion and disruption to the state government of education as happened in the late twenties Governor Friend Richardson (known affectionately as 'Gravyvest') was highly antagonistic to State Superintendent Will C Wood (an outstanding superintendent) Richardson soon stacked the State Board of Education with newspaper editors and others who had successfully fought support of the public schools . . They in turn appointed a dairy public relations man as 'Director of Education' and gave him most of the functions of the superintendent, and fired many of the members of Wood's staff, replacing them by political hacks "

In addition to pointing out the dangers from possible partisan appointment of a state board of education by a governor unfriendly to education, the consultant noted the opposite side of the coin

> "I would remind you that every State Superintendent of Public Instruction we have had in California (prior to 1962) since 1920 (my memory does not go beyond that) has entered into that position initially upon appointment All incumbents have left their office before expiration of their terms, opening the way for new appointees to be sufficiently well known prior to the next election to be able to win California, *by chance,* has been much more fortunate in its state educational leadership than have many other states which retain the elected state superintendent. *But we flirt with danger—danger of partisan electees whose primary consideration may not be the interests of kids in classrooms . . .*
>
> Can we afford to retain this threat?" (emphasis ours)

This committee's position is that we cannot.

Twice in the past 25 years the Attorney General has been asked to rule on the question of who holds final policy control and direction over the administration of California's vast public school system at the state level The first such opinion, issued in 1943 by Attorney General Robert W. Kenny contends that if sections of the State Constitution and the statutes which relate to the State Board of Education and the Superintendent of Public Instruction are read together, and out of legal context, they "disclose an apparent conflict which, if literally interpreted, would render certain provisions meaningless."

The opinion proceeds.

> "The state board is the governing and policy-determining body in the Department of Education The director (superintendent) is the administrative executive of the department and the board "The department" is a collective term which describes the entire state school system, insofar as the law provides for state, as distinguished from local, administration of school affairs.
>
> The relative positions of the director and the board are not unlike the relationship between the executive head of a corporation and its board of directors "

The second, and more highly publicized legal opinion, was issued in 1963 by then Attorney General Stanley Mosk in response to an inquiry from Dr. Max Rafferty, the State Superintendent. Mr Mosk restated the earlier opinion, and then added:

> "The State Board of Education is the governing and policy determining body of the Department of Education and its control over the conduct of its officers and employees of the department is to be executed by the Superintendent of Public Instruction through rules and regulations adopted by the board."

Thus, the legal issues of who controls state educational administration seem clear to this committee California appears caught in the dilemma of having an elected state official to whom the Constitution gives no formal duties, but whom the statutes describe as an administrative officer with little or no policy control Similarly, policy is made by an appointed State Board of Education, which (in theory at least) directs the state superintendent.

Whether the people understand this fine distinction when they elect a state superintendent is, at best, problematical. At the same time, as an elected state official, the superintendent has a right and, indeed, a duty to speak out on educational issues of the day. When he does so—and his views conflict sharply with those of the Board of Education—misunderstandings and eventual harm to education are bound to ensue. Obviously, such instances have occurred during the past four years. This committee has no desire to become embroiled in the controversies which have raged between the Superintendent of Public Instruction and the State Board of Education during this period, nor will we take sides But we do condemn the harmful effects of such frankly partisan battles on our state's public school system We are convinced that our state-level educational structure fosters such unfortunate occurrences.

The unfortunate situation created by California's confused educational policy structure was well illustrated by one member of the State Board of Education in testifying before the committee

"The State Superintendent of Public Instruction by his title is, I think, misleading to the public The public votes for a superintendent and in their minds, we think, the mass of the public believe they are electing a policy-determining official who will be responsible for shaping educational policy and determining major policy questions He runs on a platform of his views on general educational policy, instead of running on a platform of administration

"We think that under the existing laws the platform that a superintendent should be running on would be generally to do with good administration, economical administration, effective organization, executive ability, but instead the superintendent runs on curriculum issues and on finance structure and this type of thing *when in reality under our laws and Constitution as interpreted by the Attorney General he has no area of responsibility or area of policy determination in these fields*

"The result is that when he is elected he has a full-time job within a job It's a full-time job to administer board and legislative policy and conduct a mammoth Department of Education, but in fact what he has to do is meet with his constituents They expect this; they have elected him, and it is not his fault, but he must go out and talk to the people statewide and tell them what he thinks about teaching foreign languages and what he thinks about curriculum and philosophy and reading and finance *and in reality he has no control over these things*

"The Legislature of the State of California has the control over this, and within the structure [established by] the Legislature, the State Board of Education implements this policy and acts as a sub-policy-determining body . As a result the superintendent is required by the nature of this anomalous situation to do things that are really wheelspinning, he isn't designated by the law to be responsible for these things and yet the public expects him to and he must answer to the public because they have elected him *As a result he doesn't have time to tend to the administrative operation that the law anticipates he will* For this reason we think the structure is very bad " (Emphasis ours)

This board member capped his testimony by relating an incident which he observed, of the type which has become disturbingly common to those of us who have sat for any length of time on this committee

"I have been before the Senate Education Committee when a Senator said to an assistant superintendent, 'Is this Dr Rafferty's or the state board's position that you are presenting,' and the superintendent said, 'No, this is the State Board of Education's position,' and the Senator said, 'Aren't you an assistant to Dr Rafferty?' 'I am' 'Well, how can you disagree with your boss?'

" We get bogged down in administrative difficulties that are really side issues but simply point up the confusion and the difficulty I think the greatest difficulty is actually perpetuated on

the superintendent himself I think he is in an impossible position because of the existing structure."

As a committee we can add no more illustrative example of the built-in policy contradictions in the present structure than the above colloquy provides

Alternatives to the Present Structure

In its hearings and in private discussions on this issue, the committee has considered numerous ways and means of changing and thereby, hopefully, improving the present system of selecting a State Board of Education and a chief state school officer These have included

1 Continuation of the present system,

2 Election of a State Board of Education by districts approximately equal in population, such board to be a full-time, salaried body, with the board to then appoint its superintendent,

3 Appointment of a State Board of Education by the Governor with the consent of two-thirds of the Senate, and appointment of the state superintendent by that board;

4 Abolition of the State Board of Education, with its full authority vested in a Superintendent of Public Instruction who would be elected;

5 Abolition of all duties presently vested in the Superintendent of Public Instruction, with his duties to be vested in a "Director of Education" appointed by the State Board of Education,

6 The "New York Plan," outlined earlier in our final recommendations to the Legislature

While several of the propositions set forth do not seem worthy of discussion, especially proposals four and five, we believe that some discussion should be devoted to suggestions which have been made for an elective State Board of Education, and for an appointive body which would then appoint its superintendent Clearly, these alternatives seem, on the surface, to be the most attractive and have received most of the public attention in the past

We believe that the elective, full-time board—while sound in theory and attractive on its face—could create grave problems in California education One obvious such problem revolves about the Legislature's own role in making statewide, generalized policy for the public schools We believe it would be unwise to create another elective body to administer one, single state program when the Legislature is elected to make policy for all state functions and activities At the very least, such a system could lead to a costly struggle for power between the Legislature and the elected board One member of the committee expressed the conflict thusly·

> "Mr. Chairman, I would like to make just one comment to this point, and here it seems to me it is less difficult for an elected representative to say this He (such a representative) is saying, 'I am willing to take the responsibility for the actions that you elected me to take I am willing to take responsibility in *every* field of government and I am willing to take the knocks because of the decisions I make.'

"If we say . . . we will turn everything over to the people for a vote . . . there would be absolutely no reason for the existence of this Legislature. The reason for the existence of the Legislature is to take responsibility, and it's the business of the executive branches to take its responsibility.

"Because we are the Education Committee doesn't necessarily mean that we are only educators—we are representing the public as a whole—whereas the State Board of Education, it seems to me, represents the public in a much narrower sense in dealing with policy relating only to education. That is, when I run for election, I can be shot at from six different directions—about water problems, about fiscal policy, or about education, about highways and transportation . . ."

As a committee, we believe that the creation of an elected board of education—which presently *does not set policy*, but merely implements legislatively established policy—could lead to conflicts over such questions as which body shall enact school finance legislation, which body shall set teacher credentialing policy, which body shall establish curriculum standards, and the like Clearly, then, there is no analogy between a locally elected school board—which *does* set local policy and must therefore be representative of the people—and the State Board of Education, which implements policy set by another elective body—the Legislature We have, consequently, rejected an elected state board on these grounds.

Another difficulty with an elected, full-time, salaried State Board of Education is that while the job of being a state board member is indeed time consuming, it is most certainly not a full-time job. Members of the present state board who have testified before this committee were unanimous in believing that a full-time board—under the present system—would simply not have enough to do. However, this committee is familiar enough with the ever-present and pervasive "Parkinson's Law" to know that once we provided for a full-time elected board, the work would expand to fill the time available. Thus, such a system would be costly and likely to expand, rather than to reduce, the state bureaucracy.

Finally, we have rejected the proposal for a full-time elected board because we do not believe that education ought to be subjected to the partisan and nonpartisan special interests which might take great relish in financing campaigns for elective officers running in districts approximately eight times the size of the average Assembly district. One representative of a major teachers' organization was clear on this point. he contended that his organization opposed an elective state board, but that if one was created his group would almost certainly participate heavily in the election campaigns of its members. The President of the Coordinating Council for Higher Education, a highly respected California educator, brought this point sharply into focus when he testified:

"The field of education today is far more complex and diverse in nature, and far more meaningful in reference to the future than can be readily identified in any simple, sloganistic approach to an election."

It occurs to us, as well, that education is far too important to California to allow it to slip into the occasional horse trading of elective politics. If we want statewide decisions about educational administration and policy implementation to be made with prime regard for the welfare of children, it seems clear to us that we want to remove it from electioneering, not bring it closer to such activities

We believe, too, that we must discuss our reasons for rejecting the proposal that an appointed State Board of Education appoint its own superintendent. Clearly, the most obvious has to do with the expressed will of the people of California, who in 1958 stated by their votes that they rejected such a plan The people obviously desire some greater measure of control over educational policy implementation at the state level than their control over an elected Governor, serving a four-year term, can provide. Additionally, such a plan removes the selection of such education officials from the Legislature to an alarming degree. We must oppose this proposal, simply because we believe we would not be keeping faith with the people of California if we proposed moving state education officers still further away from popular influence over them.

The Proposal

The committee recommends the adoption of a system of selecting a State Board of Education and a chief state school officer for California which, although not formally recommended to us by any of our witnesses, has worked well in New York State for nearly 100 years The plan combines the best features of an elective board—and the expressed desire of the people for more direct control over board of education members than presently exists—with the outstanding features implicit in any proposal for an appointive body It should provide the people with a genuine method to object to board of education selections—through their vote every two years for members of the Legislature, together with their selection every four years of a Governor—but it will continue to isolate board members from the rough-and-tumble of electioneering and political campaigning.

The plan is outlined as follows·

1. The adoption of legislation which, contingent upon approval of the appropriate constitutional amendment, would provide for a 10-member State Board of Education, each member serving for 10 years or until the qualification of his successor with one member to be chosen each year, selected on the following basis

—No later than March 15 of each year, the Governor would be required to submit to the Legislature (initially to the Assembly) a list of five nominees for the office of member of the State Board of Education. The Legislature would then be empowered to select one of the five, by a majority vote of each house, for the board office. Should all five choices be rejected, the Governor would be required to submit a second list of five nominees, but no more than two such lists would be submitted by him.

—At least one-half of the board's membership or five of its members would be required to have served in the past for at least two years on a local school district governing board.

2. Submission to the people of a constitutional amendment which, if adopted, would ratify the proposed legislation relative to the State Board of Education's selection and which would also make the office of State Superintendent of Public Instruction appointive by the newly constituted board for a four-year term Clearly, the amendment should not apply to the present incumbent superintendent so long as he serves.

This proposal is nearly identical to the method used by the Governor and the Legislature of New York to select that state's Board of Regents, which supervises not only the New York public school system, but also its public colleges and universities. The analogies between New York and California in terms of size, degree of industrialization and population mobility are clear enough to indicate that the plan might work well here. Clearly, it is superior to the present system, which is no system at all.

Conclusions

For 40 years or more California has wrestled with the dichotomy which characterizes its present hydra-headed system of state educational administration. The energies which this state, its people and its elected officials have poured into this issue could well have been better spent in improving the education of children which, in the last analysis, constitutes the reason for our publicly supported school system

It is the hope of this committee that the proposal which we have outlined in this report encourages significant discussion of the genuine alternatives which exist in addition to the traditional choices of "elected or appointed" bodies Should the proposal form the basis for specific legislation at the 1967 session of the Legislature, the committee will be gratified. Clearly, further study of this question—which has been studied by legislative bodies in the past ad nauseum—can accomplish little The issues are before the Legislature and the people, and we hope that action will be taken to resolve them

II. RELATIONSHIPS BETWEEN COUNTY- AND STATE-LEVEL EDUCATIONAL ADMINISTRATION

FINDINGS

The committee finds that

1 There presently exists no long-range master plan for educational administration in California, which seeks to make sensible and equitable divisions of responsibility between the three levels of government concerned with school affairs the school district, the county and the state. We believe that such a master plan should be adopted The Legislature should be prepared to assume the task of preparing such a plan, if no other appropriate agency can be found to perform this important task.

2 The offices of county superintendents of schools today expend nearly $20 million from the State School Fund for activities variously known as "direct services" and "other services, including coordination," but these terms mean little to the average taxpayer and are a poor substitute for a meaningful description of the work of the county superintendents

3. There is a myth abroad—which may or may not be well founded—that, with the advent of stronger, more independent unified school districts, the need for the county superintendent will fade away

4 County superintendents, legally, are an arm of the state, and can be called upon to perform many of the policing and inspection functions within the school districts which are presently performed by personnel of the State Department of Education There is no indication that the county superintendents are unwilling to assume this greater responsibility, given adequate financial support, but there is evidence that the Department of Education is not eager to relinquish control over these activities.

5 There is strong indication that county boundaries are not necessarily the most logical for the purpose of providing needed service to school districts, and that many of the smaller (in population) counties could combine their county superintendents' offices with improved service and greater efficiency and economy in operation as the result The committee sees no need at this time for any mandatory legislative action in this direction, but we believe that permissive legislation presently on the books should be strengthened to encourage such consolidation further

6. Concurrent with permissive merging of many county schools' offices, these merged service agencies should be referred to as the "intermediate school office," rather than the county school office This would be in keeping with nationwide trends toward the creation of strong intermediate educational administrative units

7 Consistent with sound governmental practice, it appears that the office of county superintendent of schools should be removed from the State Constitution and placed in statutory law Likewise, serious doubt has been expressed over the logic of having an elected county school superintendent report to an elected county board of education.

8. Only 11 of the state's 58 counties are charter counties, having the constitutional power to require either the election or the appointment of their county superintendent of schools. Four of these eleven now provide for an appointive county superintendent. The remaining 47 nonchartered counties are governed solely by the Constitution with respect to the selection of their county superintendents, and would require a constitutional amendment if appointed county superintendents were to be provided for.

9. In an attempt to clarify the duties, functions and organizational structure of the intermediate educational unit, and the relationship of this unit with the State Department of Education, a "Committee of 10" was established early in 1965 under the auspices of Dr. Cecil Hardesty, Superintendent of Schools of San Diego County. This committee was composed of county school administrators and county board members. The committee wishes to commend the "committee of 10" for its understanding of the issues involved in making county school offices more responsive to educational needs in California, and for undertaking leadership in this area. To a great extent, the committee's conclusion and recommendations in this field have been influenced by the findings and work of the "Committee of 10."

10. The Legislature has already authorized partial regionalization of intermediate educational services, through its passage of legislation establishing regional data processing centers to serve several counties in 1965. Several county offices have already combined their efforts in certain other areas of providing service to school districts under their jurisdiction.

11. When a countywide unification occurs—and several have already occurred in California—state county school service funds cease to flow to the county involved County superintendents, however, contend that the need for the service which those funds provided still exists

12. There exists a genuine need in California for a unit larger than the individual school districts, but smaller and more regional than the State Department of Education to provide coordinating educational services, such as long-range planning, evaluation of program effectiveness, conducting of in-service training programs, data processing, research and reporting and enforcement of state minimum requirements. Such an organization should not necessarily be based upon county political boundaries, but should be geographically oriented to serve a community of interest

However, this committee is unable to suggest specific geographical areas which might be served for all purposes by such an intermediate educational unit It appears that a more flexible mode of organization—based upon the need which exists for each specific task—should be developed.

RECOMMENDATIONS

The committee recommends as follows.

1. The 1967 Legislature should authorize the establishment of a citizens' commission, combined with substantial legislative membership and composed of partial representation from persons working in education or serving on school boards, to study the possible adoption of a master plan for an administrative structure for public education in California Such a commission should be granted broad powers to look into every facet of this subject, especially with a view toward the elimination of costly duplication of services and effort, and should be required to report its findings and recommendations to the 1969 Legislature

2 A constitutional amendment should be adopted in 1967 which requires the appointment of county superintendents of schools by elected county boards of education in nonchartered counties at the end of the terms of incumbent county superintendents

3. The Legislature should give strong consideration to placing future enforcement and oversight responsibilities over the public school system primarily in the hands of the respective county offices of education, with overall supervision to be exercised by the State Department of Education The county schools offices should be utilized in this area wherever possible in preference to the state department, in light of the fact that a more locally based agency can more easily meet the needs of local school districts than can a single, state-based office.

Under this proposal, the Department of Education in Sacramento and through its own regional offices would concern itself more with program planning, research gathering and statewide administration than with program development in individual school districts.

4 Legislation should be adopted which permits two or more contiguous counties to elect one intermediate unit board of education to be elected from the entire area which would then appoint one intermediate unit superintendent The legislation should insure that state county school service funds presently provided to the counties involved would continue to be available to the combined intermediate unit The legislation should also enable the intermediate unit to levy a property tax, proportioned equitably among the counties which it represents, for partial support of its activities Responsibility for approval of courses of study in nonunified districts within the counties involved should be placed with this intermediate unit

5. Legislation should be adopted which repeals all reference to "county" schools offices in counties where a merger has taken place, replacing that term with the title "intermediate education office"

6. We urge continued voluntary cooperation among superintendents, personnel and board members representing intermediate units in California, such as was exemplified by the work of the "Committee of 10," toward further coordination of educational services

7. A thorough review should be made of the Education Code in an effort to determine the policy responsibilities presently granted to the

county superintendent of schools Concurrent with the adoption of our recommendation that county superintendents be appointed by county boards of education, these policy responsibilities should be transferred from the county superintendent to the county board of education Responsibilities of a purely administrative nature should remain with the county superintendent

RELATIONSHIPS BETWEEN COUNTY- AND STATE-LEVEL EDUCATIONAL ADMINISTRATION

On July 28, 1966, the committee met in Oakland to consider the issue of the future of the offices of county superintendents of schools, with particular reference to their relationship with the State Department of Education It became clear to us that with the increasing pace of district unification, and the consequent creation of stronger, better financed school districts able to support many of the special services previously provided by the county offices, many were questioning the continued existence of the county offices as we now know them

However, the committee was impressed with the work which one group of county superintendents and board members has done in terms of studying methods of making the county schools offices more responsive to modern-day educational needs This "Committee of 10" has proposed numerous important improvements in the functioning and organization of county offices which they propose to refer to as the "flexible intermediate unit"

Far beyond the commendable work of the "Committee of 10," however, we note that there exists in California at this time no long-range master plan for education administration which provides for a sensible division of responsibilities and duties between county offices, local school districts and the State Department of Education Consequently, we propose that the 1967 Legislature establish a broad-based citizens' commission—with appropriate legislative representation—and charged with the duty of developing such a plan, with findings and recommendations to be reported to the Legislature in 1969. We note that in recent sessions several resolutions have been introduced requesting similar studies, but they have never been implemented Our study of this problem has indicated that more than a cursory legislative review of our overlapping and often duplicative public school administrative structure is needed We would propose that such a citizens' commission be given broad powers to look into every aspect of this subject so that a unified administrative structure may be created for California education.

We have also proposed a more far-reaching change than was proposed to us by the "Committee of 10" insofar as county boards of education are concerned One witness, a county board member, testified that at the present time county boards have little more than *pro forma* duties, and that many of the real policy responsibilities with respect to the county schools office rests with the elected county superintendent In many respects, we find this situation to be similar to the situation which obtains at the state level, with an appointed school board with policy powers, while an elected official—the State Superintendent of Public Instruction—possesses merely administrative duties With respect to the counties the situation is reversed.

There can be little justification, in our view, for the continuance of an elected county superintendent when an elected county board of

education exists in the county. Such a board—if it is to continue—must be given all major policy responsibilities presently vested in the county superintendent, and that official must be appointed by the elected board. This would be perfectly consistent with the practice followed by the school districts of the state.

Several charter counties in California have already taken this step by a vote of the county electors. However, in the state's 47 nonchartered counties, constitutional provisions prevail, and the constitution calls unequivocally for the election of county superintendents We propose that the 1967 Legislature propose a constitutional amendment to provide for an appointed county superintendent of schools in all nonchartered counties to be selected by the elected county board of education Thus, the lines of authority from the board to its administrative officer will be more clearly defined than is presently the case In making this recommendation, we note that the Constitutional Revision Commission is presently considering a proposal to remove all reference to county superintendents of schools from the Constitution of 1879 and place these matters in statutory law This committee supports these changes and urges their adoption by the commission.

The "Committee of 10" also recommended to this committee that all reference to "county" schools offices be deleted from the Education Code, and that the term "intermediate education office" be substituted. Consistent with this recommendation, they also proposed the adoption of legislation which would permit two or more contiguous counties to combine to elect an "intermediate" board of education which would then appoint its superintendent. We support both of these proposals, believing that they will provide needed permissive authority for county schools offices to merge where a merger is deemed desirable. Trends in other states, the committee learned at its hearing, are toward consolidation of the intermediate education office and in some states toward its complete abolition. While we have seen no evidence as yet to support the latter course of action in California, we believe that a good many mergers might well be justified, particularly in the sparsely settled counties of northern California We do not believe that any mandatory legislative action in this area would be justified at this time, at least until counties are given an opportunity to merge their education offices on a voluntary basis

Finally, we have noted that recent studies performed for the State Board of Education by the Arthur D. Little Co suggested that the state place far more emphasis on the close, day-to-day supervision of educational programs by the county schools office, rather than the State Department of Education. Such studies have concluded—and rightfully so, we believe—that the county superintendent of schools is an agent of the state, and that one of his major functions should be the policing of local educational programs to determine whether state requirements are being met and to provide consultative and supervisory assistance when requested by school districts. At the present time, much of this type of work is performed by the State Department of Education, located in Sacramento with numerous branch offices in the large cities of the state To us, such a practice is absurd and wasteful. Since the state generously finances the operations of the county offices through the State School Fund, it seems that these locally based

offices might better provide much of the close supervision and spot-checking required in local districts, while the State Department of Education concerns itself more with long-range planning, development of legislation and new programs, research and data collection and overall school finance matters California is simply too big a state and its school system is too vast for one single state agency to be able individually to supervise the educational program in each school district We believe it is also naive to think that the State Department of Education can more easily identify and serve local educational needs than can the locally based county offices which are operated by locally elected boards.

Thus, we have recommended that future legislatures carefully consider whether state policy might not be better served by placing new administrative and supervisory responsibilities in the hands of the new "intermediate" education offices, on a county-by-county or in the case of merged counties, on a multicounty, basis, rather than to delegate such responsibilities to the State Department of Education automatically. In addition, we believe that close attention should be paid to this matter by the proposed citizens' study commission, particularly with respect to possible transfers of many of these administrative responsibilities, which are delegated by present law to the state department, to the intermediate units.

III. STATEMENTS OF INDIVIDUAL MEMBERS

ADDITIONAL VIEWS OF ASSEMBLYMAN EDWARD E. ELLIOTT RELATIVE TO THE SELECTION OF STATE EDUCATION OFFICERS

I have signed the committee report dealing with selection of the State Board of Education and the Superintendent of Public Instruction. I object, however, to any terms longer than four years for a board member.

I also object to some of the language in the report, as I feel it reflects a lack of confidence in the democratic process.

STATEMENT OF DISSENT OF ASSEMBLYMAN JAMES E. WHETMORE RELATIVE TO THE SELECTION OF STATE EDUCATION OFFICERS

I have read the final report of the committee and I concur in the findings and recommendations relative to the relationships between county and state-level educational administration, but I dissent from that portion of the report dealing with selection of the State Board of Education and the Superintendent of Public Instruction

In connection with my dissent from those findings, I concur with findings No 1 and 2, disagree with finding No 3, and agree with finding No 4 As to No 5, I realize that this states the present Attorney General's opinion, but I do not entirely agree with this opinion

I agree with finding No 6 and agree with finding No 7 to the extent that the people of California desire a substantial measure of elective control over the state-level educational administrative structure, but disagree with the finding that the people now possess that control through their election of Members of the Legislature Further, I disagree that the State Board of Education is not a true policymaking body, most particularly in its past interpretations of what I believe to have been the intent of Assembly Bill 145 of the 1964 session.

I agree with finding No 8 and disagree entirely with finding No 9. As to findings No 10 and 11, I am taking no position at this time, and I agree with finding No 12

As to the recommendations of the committee in this matter, I agree with recommendation No 1 and disagree with recommendations No 2 and 3

To say that the election by popular vote of members of the State Board of Education "would not insure that the most qualified citizens would serve on such a board" is to say, in effect, that election by popular vote does not insure that the Members of the Legislature, and indeed the Governor and constitutional officers of this state are not the most highly qualified citizens for these offices, and to infer that the process of election by popular vote is not the proper process for the people of this state to obtain highly qualified citizens to handle their affairs flies in the face of our entire concept of government, as practiced in the United States

To say that "education at the state level" today is not subject to, at times, "unfortunate political influences" represents naive thinking and, as observed from my years on the Assembly Education Committee, is utterly ridiculous

While it is possible that political influences are not always the best, as shown by the backward steps that this country has taken over its years of existence, it is submitted at the same time that election of officials and the political overtones created thereby is far superior to any other way of life devised by man in any other country, and there is no reason why the persons who control the educational program of this

state, paid for by the people, should be less responsible to these people than the legislators and officers who control the state as a whole.

It is stated that "such a system might also allow education interest groups to obtain and maintain control—through political assistance and contributions—over a segment of such a board." Is there any reason why the same education interest groups should not, through political assistance and/or contributions, exert control over Members of the Legislature? Is it not true, in fact, that prospective legislators are, in many cases, given assistance by way of exposure, meetings and through other means, in campaigns that are waged at present? Is it not also true that, in spite of the well organized teacher and other education interest groups, the legislators display admirable independence of these groups, in most instances, and represent the people of their district rather than these interest groups when they vote in the legislative halls?

In the conclusions of the report it is stated "It occurs to us, as well, that education is far too important to California to allow it to slip into the occasional horse trading of elective politics" It is stated further that statewide decisions should be made with "prime regard for the welfare of children and it seems clear to us (the committee) that we want to remove it from electioneering, not bring it closer to such activities" Here again is a complete, utter and absolute indictment of the most precious heritage the voters of California have, namely, the elective process

It is interesting to note that the committee's report on this matter at one and the same time states that, in effect, education will be better served if the state board is not elected by the people—but as to a plan to have the State Superintendent of Instruction appointed by the board (under present law elected by the people), the report states: "We must oppose this proposal simply because we believe we would not be keeping faith with the people of California if we proposed moving state education officers still further away from popular influence over them"

Query: How can we be keeping faith with the people by moving state education officers further away, in the case of the superintendent, and at the same time keeping other state officers further away by opposing a system whereby the people would elect them?

As a compromise it may be possible, though not in my opinion preferable, to have candidates for the State Board of Education nominated by elected school board members and then elected by the people, rather than to have them file for office directly as legislators do, but as to the present system of continuing them as appointed officers of the Governor and stating a fear that the people would make the wrong selection by the elective process, as expressed by the committee in this report, shows a lack of confidence in the people of this state that is, to me, utterly appalling.

SEPARATE STATEMENT OF ASSEMBLYMEN VICTOR V. VEYSEY AND STEWART HINCKLEY

We concur generally with the report, but we must express surprise that the "New York plan" for selecting a State Board of Education receives exclusive mention in the committee recommendations. To our knowledge, the New York plan was never described or discussed before the committee. Other plans, such as the "Washington plan" were, however.

We believe the report should recognize that there are alternative solutions to the problem, and recommend that the Legislature should consider several approaches

STATEMENT OF DISSENT OF ASSEMBLYMAN E. RICHARD BARNES

I disagree with the recommendations of the committee which has urged a constitutional amendment making the office of State Superintendent of Public Instruction an appointive one The committee has recommended that the Superintendent be appointed by a State Board of Education which would be selected by a majority vote of each house of the Legislature from a list of five nominees for each office submitted by the Governor Should such a proposal be adopted, the people would lose all direct control over those administering the state's educational program.

I believe that the State Superintendent of Public Instruction should be an elected official The public's attention is easily focused upon this individual whose responsibility it is to administer the vast educational programs of the State of California. I believe the law should be amended to give the elected superintendent more extensive policymaking powers while maintaining his direct responsibility to the voters of California Indeed, I would prefer constitutional and statutory modification to provide for an elected Superintendent of Public Instruction charged with both policy and administration, answerable to the people every four years, with the State Board of Education serving as an advisory citizen board without policymaking powers.

To create an education structure in which neither the administration nor policymaking board is directly responsible to the voters is an affront to democratic principles

I also object to the concept that the Board of Education members should serve for 10-year terms There is sound basis for a policy of shorter terms with frequent accountability for an official's conduct in office. A board member who has done a good job can always be reappointed at the end of four years. There is no justification for creating a system which keeps in office for 10 years an individual who may not be doing a good job or whose conduct in office may have become out of step with the public he is presumed to serve.

PART TWO

I disagree with the recommendation of the committee that the law should be changed to require the appointment rather than the election of county superintendents of schools. The public's awareness of educational policies and administration is easily concentrated on the office of county superintendent This individual should be directly answerable to the voters In counties where the superintendent is appointed by an elective board there is a substantial gap between the public's concern with education and its ability to effectively achieve changes which it desires.

I also have grave reservations about the creation of intermediate school offices on a regional instead of a county basis Patterns of school district organization have developed locally to meet particular community needs throughout California The creation of large educational units tends to reduce public participation in and control of the educational processes. I am unconvinced that the creation of large intermedi-

ate education offices will solve as many problems as it will create The probable reduction in local control of schools would in my judgment be undesirable.

E. RICHARD BARNES

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A MASTER PLAN FOR THE EDUCATION OF HANDICAPPED YOUTH

A Report of the

SUBCOMMITTEE ON SPECIAL EDUCATION
Assembly Interim Committee
on Education

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January 1967

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TABLE OF CONTENTS

	Page
Letter of Transmittal	5
Subcommittee on Special Education—Background to the Report	7
Introduction	9
Conclusions and Recommendations	10
Analysis of Recommendations and Conclusions	14
Closing Remarks	30
Appendices	33

NOTE: Assemblyman Monagan concurs in the report, but "with reservations"

LETTER OF TRANSMITTAL

CALIFORNIA LEGISLATURE
ASSEMBLY COMMITTEE ON EDUCATION
January 1, 1967

HON JESSE M UNRUH
Speaker of the Assembly, and
Members of the Assembly
Assembly Chamber, Sacramento

Gentlemen ·

Pursuant to House Resolution 710, of the 1965 General Session of the Legislature and subsequent directives of the Assembly Committee on Rules, the Assembly Interim Committee on Education submits herewith the final report of its Subcommittee on Special Education.

This report was considered and adopted by the subcommittee listed below and appears in subcommittee report form

I respectfully commend these recommendations to you for your consideration.

CHARLES B GARRIGUS, *Chairman*
Assembly Interim Committee
on Education

LEROY F GREENE, *Chairman*
Subcommittee on Special
Education

Subcommittee on Special Education

Greene, *Chairman*	Garrigus
Casey	Monagan †
Collier *	Shoemaker
Dymally	Whetmore

* Assemblyman Collier concurs in the report "with some reservations"
† Assemblyman Monagan has signed the report "with reservations"

SUBCOMMITTEE ON SPECIAL EDUCATION

BACKGROUND TO THE REPORT

In September 1964 the Subcommittee on Special Education was constituted by the Chairman of the Assembly Interim Committee on Education for the purpose of conducting a broad study in depth of special education with a view to presenting a coordinated program in this area to the 1965 Legislature.[1] On January 8, 1965, that subcommittee study was transmitted to the California State Assembly in the form of a final report containing 14 conclusions and recommendations for legislation [2] Though legislation regarding special education was enacted during this 1965 session, the primary purpose of the 1964 subcommittee study—to present a coordinated program—was not accomplished The present Subcommittee on Special Education was constituted in March 1966 by the Chairman of the Assembly Interim Committee on Education, Assemblyman Charles B Garrigus, for the purpose of reviewing past legislative attempts, evaluating present programs and proposals, and presenting recommendations for special education in California to the 1967 Legislature

To achieve its purposes, the committee has pursued several courses. Its research staff has collected many proposals of recent sessions and has drafted original recommendations for the committee's consideration The committee and its staff have actively participated in various forums, discussion groups, institutes and conferences in an attempt to gather the opinions of groups and persons dealing with handicapped children as to what legislation is necessary to improve special education The committee has also sent a questionnaire soliciting information and opinions of some 157 county superintendents and selected school districts regarding special education Tabulation of response to this questionnaire is found as Appendix A In addition, the committee held two public hearings, one in Los Angeles on August 15, 1966, and one in Sacramento on October 27, 1966, at which the committee offered tentative areas of concern for discussion by witnesses and the public. Finally, the committee has directed and received, pursuant to House Resolution No 489, various points of information and recommendations as included in Appendix B from the Office of the Auditor General

The depth and detail of the recent 1965 report of the Assembly Interim Committee on Education,[3] which specifically dealt with special education alleviates the necessity of describing either the historical background of special education in California or the present special education programs For discussion of these two areas, specific reference should be made to Sections II and III of that report.[4] The present committee is indebted to the 1965 report, as the last compre-

[1] California State Assembly Interim Committee on Education, Report, 1963–65 (10 19, January 1965), p 9
[2] *Ibid*, pp 10–11
[3] *Ibid*
[4] *Ibid*, pp 14–23

hensive statement from the Legislature on this subject, for providing a starting point from which to work The committee is also greatly indebted to those groups and persons who gave freely of their time and experience in developing and refining the legislative recommendations contained in this present report. It is the hope of the committee members that the recommendations which have grown out of this study receive full consideration by the Legislature in 1967.

INTRODUCTION

Special education refers to educational programs and educational services offered exceptional children The distinctive characteristic of special education is the children it serves. Exceptional children, or more properly, in educational context, exceptional pupils have been described as those "(1) who differ from the average to such a degree in physical or psychological characteristics, (2) that school programs designed for the majority of children do not afford them opportunity for all-around adjustment and optimum progress, (3) and who therefore need either special instruction or in some cases special ancillary services, or both, to achieve at a level commensurate with their respective abilities"[1]

The term special education is often more misleading than useful. The difficulty with the term is that it is descriptive of *any* program which varies from those educational programs offered the majority

Special education as used in this report refers only to programs under the Division of Special Schools and Services of the State Department of Education Classes for culturally disadvantaged, although education programs with special reimbursement, are not considered special education within this report. Programs under the Division of Special Schools, and herein considered within the term special education, are for the mentally retarded, the physically handicapped, the educationally handicapped and the gifted This report is concerned with programs for the mentally retarded, the physically handicapped and the educationally handicapped and it is these groups which are referred to by the term handicapped children, the gifted are otherwise excluded from the consideration of this report unless specifically mentioned Programs for the gifted are the specific concern of another subcommittee of the Assembly Interim Committee on Education

The committee has considered the entire field of special education as heretofore defined A summary of the committee's recommendations and conclusions is presented following this introduction, a detailed discussion and analysis of these recommendations and conclusions follow this summary and comprise the substantial portion of the report

It is the belief of the subcommittee that the recommendations contained herein are of critical importance to special education programs, and will go far to perfect a system of education for handicapped children It is also the firm belief of this committee that compliance with these recommendations will greatly assist the families of these children in obtaining the benefits of education for them

[1] Dunn, Loyd ed *Exceptional Children in the Schools*, New York Holt, Rinehart and Winston, 1963, p 2

CONCLUSIONS AND RECOMMENDATIONS

1. The committee concludes that many more special education teachers are needed, that such teachers are essential, and that permanent solution to this problem can only be attained by developing potential teacher resources within this state The committee therefore recommends and proposes the following.

(a) Revision of existing credentialing requirements in order to give those preparing to serve as teachers of exceptional children credit for such preparation toward an academic major.

(b) Continuation, on a permanent basis, of teacher summer grants, under Education Code Sections 6875–6878 permitting teachers to complete qualifications necessary to teach physically handicapped and mentally retarded minors

(c) Establish teacher summer grants similar to those provided by Education Code Sections 6875–6878 for teachers to complete qualifications necessary to teach educationally handicapped and gifted minors

(d) Request, by concurrent resolution, that all groups interested in special education meet, discuss and establish, with the advisory assistance of the State Department of Education and the State Scholarship and Loan Commission, a united scholarship program, financed by the combined efforts of these interested groups, for college students wishing to pursue the profession of teaching exceptional children.

2 The committee finds that laboratory classes for exceptional children are needed to improve special education curriculum, aid in teacher training and recruitment and provide liaison between the public school special education programs and research activities of the state colleges. The committee proposes that laboratory classes for exceptional children be established in conjunction with two state college campuses

3 The committee finds that, though state law now mandates educational programs for physically handicapped and mentally retarded minors, such programs are not uniformly available throughout the state. The committee further finds that the availability of special education programs varies from school district to school district and that this results in total lack of such programs in some areas or duplication and inefficiencies in such programs in other areas The committee believes that the purpose of state mandates of these programs is to assure the availability of an education to these children regardless of the particular geographical area or district in which their families reside. The committee concludes that county superintendents of schools can, should, and will perform an invaluable function to improve special education by assuring that state-mandated programs are available for all children within their counties. By coordinating the efforts of local school districts the county superintendent could assist in eliminating unnecessary duplication and inefficiency. The committee finds that present relationships with regard to special education between school districts, county superintendents of schools and the State Department of Education are unclear and have resulted in lack of necessary local coordination of special education programs. The committee concludes

that by focusing coordination of special education in the county superintendents of schools more special education programs will be offered at the local level and such programs will be offered more efficiently and uniformly throughout the state Therefore, the committee recommends and proposes the following·

(a) The county superintendents of schools be established in a position of responsibility to enable their offices to utilize their unique potential to assure local economies where possible, assure the availability of special education programs to all handicapped children within county jurisdiction, and provide overall coordination and leadership in special education within the county County superintendents' responsibility for physically handicapped and mentally retarded programs under Education Code Sections 8951 and 8901 (primary responsibility for these programs for children of smaller school districts) should be preserved. County superintendents of schools' responsibility should be established to assure that school districts, not included under Education Code Sections 8951 and 8901, offer or provide special education programs for physically handicapped and mentally retarded minors County superintendents of schools' responsibility should be established to encourage school districts to offer or provide for special education programs for all handicapped children within their district. The committee emphasizes that responsibility to establish and operate such special programs for all handicapped children shall remain with local school districts.

(b) The administration of each school district should be required to report to the appropriate county superintendent of schools information regarding every handicapped child whose parents contacted the district or applied to the district regarding admission and were informed by the district that a special education program was not available. The administration of each school district should be required to annually report to the appropriate county superintendent of schools information regarding each handicapped child who is participating in a special class, school or program of the school district for handicapped children Information regarding handicapped children within each county should be annually reported to the State Department of Education by the county superintendents of schools

(c) A state program of school building aid available upon application and compliance with strictly designated conditions and standards should be established for county superintendents of schools' building projects in those limited situations where the county is required to provide special education programs or where it is necessary that such programs be established and administered by the county and building aid under existing programs is not available Such a state program of building aid is *not* to be based on the impoverished district criteria now utilized in allocating building aid under the present school building aid programs, but should require substantial financial participation by both the state and the county making application

(d) Legal authority for two or more counties to enter into an agreement in order to jointly fulfill their special education responsibilities should be established

4. The committee finds that a number of handicapped children, especially the multiple handicapped, are going without education or are re-

ceiving only partial assistance in special education programs in public schools The committee further finds that private schools for handicapped children are a relatively untapped resource for meeting public school responsibility for these children and that utilization of such private schools, where no appropriate public special education facilities and services are available or cannot be reasonably made available, is necessary and economically desirable. The committee proposes that the cost of educating these handicapped children be reimbursed to approved private schools, where no public school programs are available or can be reasonably made available, through the expansion of the mechanism already established in Education Code Section 6871, et seq , established by Senate Bill 346 (Sedgwick) of the 1963 General Session The committee further recommends that expansion of the mechanism in Section 6871 be made to specifically mandate its use with regard to physically handicapped, mentally retarded and multiple handicapped children and to be permissive with regard to educationally handicapped children. The committee also recommends that the county superintendents of schools be utilized to determine availability of public school programs or the reasonableness of making such programs available

5 The committee finds an immediate need to improve the educational programs available to handicapped children at state mental institutions. The committee recommends that educational programs at state mental hospitals be supervised by the county superintendent of schools in which the hospital is located and that curriculum and personnel standards for these programs be administered by the State Department of Education. Compliance with this committee recommendation will require the cooperation of both the Department of Mental Hygiene and Department of Education and can be accomplished only after a great number of administrative problems are worked out by these two departments, the committee therefore recommends that initially a separate appropriation be made for financing special education programs at state mental hospitals and that immediate compliance with all existing laws and regulations pertaining to special education programs not be required until the 1969–70 fiscal year

6 The committee concludes there is need for clarification in law as to the mandatory and permissive school ages appropriate for handicapped children. The committee recommends that the Department of Education study the question of mandatory and permissive school ages for handicapped children and report the findings and conclusions to the Legislature

7 The committee finds that the present method of reimbursement of excess costs causes difficulties to school districts in initiating special education programs and expanding programs already offered by these districts The committee recommends and proposes that the state apportionment of excess costs be placed on a current rather than a reimbursement basis

8. It is the conclusion of the committee that there is a need for a statement of intent to assure educational opportunity to handicapped children as well as normal children The committee recommends that the Legislature enact such a statement setting forth responsibility for assuring handicapped children an educational opportunity.

9 The committee recommends that the State Department of Education study the present system of reporting special education costs, with particular emphasis toward producing program cost reports, and report the findings and recommendations of this study to the Legislature. The committee also recommends that all permissive override taxes for special education programs be clearly limited in use as a source of additional revenue for special education programs to situations when the appropriate local general purpose tax effort, state apportionments and state excess costs have been exhausted

10 It is recommended that a study be conducted to investigate the possibilities of establishing channels for interagency cooperation It is further recommended that the county superintendents of schools and Department of Education be encouraged and permitted to contract with other agencies for appropriate services

ANALYSIS OF RECOMMENDATIONS AND CONCLUSIONS

California special education programs have come a long way since a residential school for the deaf was established in San Francisco in 1860 Today the state provides almost 75 million dollars for special education programs serving nearly 300,000 children Programs originally revolutionary have become obsolete and replaced as new diagnostic and teaching techniques have been developed Progress in special education has been both a cause and result of an increased awareness of the problems of exceptional children by the society as a whole However, many times this expansion and progress has taken place without regard to long-term planning and has resulted in shortages of necessary resources and lack of coordinated effort The purpose of the committee's recommendations, discussed in this section, is to improve this rapidly growing area of education, to give coordinated form to its future expansion, and to assure all exceptional children of an educational opportunity in this state.

1. TEACHER SHORTAGE AND TEACHER TRAINING

The committee has concluded there is a critical shortage of teachers in special education The particular skills and qualities necessary for the teacher of exceptional children are one indication of the great dependence of these children on the presence of a qualified classroom teacher. The particular special education needs of the exceptional child dictate the presence of a teacher with specialized preparation The need for such preparation eliminates the possibility of resorting to other types of teachers or placement of the children in the regular classroom curriculum The result of a continued teacher shortage in special education may well be the elimination of any education for many handicapped children It is a useless gesture for the state or local school district to establish a program for the education of these children if no teacher is available to conduct the program

There is much statistical data and testimony to substantiate the committee's conclusion regarding a critical shortage of special education teachers Such data and testimony was received at both public hearings of the committee. The response to the committee's questionnaire, found as Appendix A, indicates the scope of this concern as well as support for the committee's recommendations for solution. Perhaps the best available estimate of numerical need for these teachers in the immediate future is found in a 1965 report prepared by Blair E. Hurd, Coordinator of Teacher Recruitment. California State Department of Education, entitled *California's Need for Teachers, 1965–1975,* in which a projected increase from 6,610 teachers in 1965–66 to 19,840 by 1975–76 was forecast Such phenomenal growth in need indicates that unless we enter upon a program of permanent solution, the teacher shortage problem may well eliminate the existence of many

special education programs in this state, as well as stifle their expansion.

At present the employing districts and counties confronted with this shortage have attempted to alleviate the problem in a number of ways: many now have exhaustive out-of-state recruitment procedures, others recruit from within their own district or other districts, thus leaving vacancies elsewhere; some utilize salary incentives or other benefits as inducement; still others find it necessary to use credentialed personnel not actually equipped to teach the children involved. None of these methods offers any hope of permanent solution to the problem and, at best, are makeshift provision for the present lack of teachers in special education. We believe we must immediately revise existing law and establish specific programs for developing potential resources for special education teachers within our state.

We recommend the following four specific proposals for alleviating the present special education teacher shortage and building a sound basis for permanent solution to this problem:

(a) The existing credential requirements for prospective teachers of exceptional children must be revised. The present law precludes credit toward satisfaction of an "academic major," for much of the course work in preparation for teaching exceptional children. This restriction lengthens the time necessary to obtain a credential for teaching exceptional children and consequently dissuades many from entering this profession. A significant reduction in course load and time can be effectuated without sacrificing essential course preparation if the present laws were revised to permit recognition, as areas of academic subject matter, of at least some of the coursework required to teach exceptional children. The work of this committee indicates that such a shortening of credential requirements would remove one of the most important barriers to many college students who would otherwise enter the profession of teaching handicapped children. In addition, redefining of the phrase "academic major" in the context of special education would, in many instances, relieve an unwarranted burden on out-of-state experienced special education teachers transferring to California, as well as those California teachers wishing to acquire a credential to teach exceptional children. This committee recommendation was specifically considered at the committee's October 27, 1966, hearing and received the support of all witnesses testifying regarding this problem. The committee has considered the alternative of a new credential for "specialized preparation" for teaching exceptional children. This alternative would alleviate the necessity of substantially amending existing law and would offer a direct method for out-of-state teachers and California college students to obtain a credential for teaching only exceptional children. The disadvantages of this alternative are primarily in terms of substantially avoiding the intent and purpose of present credentialing laws to require more varied preparation of teachers and creating a potentially immobile teacher force within the public schools.

(b) The committee recommends continuation and expansion of the "teacher summer grants" in Education Code Sections 6875–6878. This program provides funds to selected teachers who wish to attend summer school to undertake preparation to teach physically handi-

capped or mentally retarded minors. This program, when coupled with the committee's recommended revisions of credentialing requirements, eases much of the penalty now placed on persons wishing to teach handicapped children. However, the necessity under the existing summer grant program that the state make an appropriation each budget year places the existence of this program in doubt until such appropriation is made, this tentative financing jeopardizes the purpose of the program to encourage quality teachers into special education and does not afford the administrators of these grants sufficient opportunities to effectively plan for their distribution We believe teachers with experience in the "regular" classroom are an especially vital source of teachers for the handicapped and we believe the teacher summer grant program has proven itself effective and valuable in recruiting teachers to the special education field We further believe that funds for this program must be appropriated in a manner to afford administrators opportunity to plan for effective, broad distribution of these grants and the selected teachers opportunity to plan for utilizing such grants Therefore, it is the committee's recommendation that funds appropriated for teacher summer grants for specialized preparation to teach physically handicapped or mentally retarded minors be placed on a permanent basis. The estimated amount of such appropriation annually is $150,000

(c) The committee recommends a pilot "~~teacher~~ summer grant" program be established, similar to that now provided in Education Code Sections 6875–6878, for specialized preparation to teach the educationally handicapped and mentally gifted The program for the educationally handicapped was first authorized during the 1963 legislative session. The rapid growth of this program and its relative newness result in great demand for teachers from the existing teaching profession Summer teacher grants would provide a method to recruit teachers from the present teaching profession and offer them opportunity to acquire necessary training to teach the educationally handicapped We believe that similar grants should be offered teachers wishing to qualify for teaching the mentally gifted The state now provides funds for identifying the gifted student and should also offer means to assure such students of trained teachers to meet his particular needs The estimated expense of these summer teacher grants for educationally handicapped and mentally gifted is $180,000 for a two-year period

(d) The committee recommends the establishment of a united scholarship program, funded and administered by the private groups and voluntary organizations interested in special education We believe there are many voluntary groups and organizations willing and able to assist in solving the teacher shortage in special education This belief was unanimously substantiated by testimony of these groups at the committee's October 27, 1966, hearing Their assistance would be most direct and effective if such groups would join their efforts and resources to provide scholarships for college students preparing to teach exceptional children. The legislature can and should assist such a project by directing the State Department of Education and the State Scholarship and Loan Commission to provide advisory assistance to these voluntary organizations in establishing their united scholarship program The benefits from such a program include direct assistance to

potential special education teachers, inducement and recruitment of qualified college students into the teaching profession, and an opportunity for all interested groups and organizations, regardless of their wealth, to directly participate, with legislative support, in permanently improving the quantity and quality of special education. The committee recommends the united scholarship proposal be instigated by a concurrent resolution of the Legislature indicating legislative support for such a project and directing the State Department of Education and State Scholarship and Loan Commission to assist interested voluntary organizations in establishing this program

We believe the preceding four specific proposals of the committee will greatly alleviate the present critical teacher shortage in special education But more importantly, these proposals provide a sound basis for teacher-training programs which will go far to solve the teacher-shortage problem The present credentialing laws eliminate the choice of teaching exceptional children from the consideration of many potential teachers Revision of these laws, expanded summer training programs and opportunities, and active financial assistance by the many special education interest groups will place special education among the feasible alternatives to many prospective teachers.

In addition, we believe the laboratory classes proposed in the next recommendation of this committee will also prove important in providing an adequate number of properly trained special education teachers The laboratory schools will provide actual teaching situations and workshop facilities which in turn may well stimulate many more students to enter this field

We further find that there is vital need for special education curriculum development, expanding the presently short supply of special education college instructors and a growing need for expanded teacher-training and retraining programs at our institutions of higher education We conclude that as the number of teachers of exceptional children increases, the need and demand for expanded training programs at these institutions will become more and more critical We recommend that funds be earmarked in certain state college budgets to expand existing special education training programs and establish such programs at those colleges not now offering these programs We further recommend continued and extended efforts by the university and state colleges to meet the needs of teacher training and curriculum development for special education programs

2. LABORATORY CLASSES

In the 1965 legislative session it was proposed in AB 2235 (Greene) that laboratory classes for exceptional children be established on state college campuses We have extensively considered this proposal in both committee hearings and, though we have revised the original proposal in several respects, we conclude that there is an immediate and vital need to establish such classes We therefore recommend that an appropriation be made for the initial planning and development of laboratory classes for exceptional children and authorization for establishment of such classes at two state college campuses

The laboratory class is a well-established aid for the training of teachers of normal children at higher education institutions. At least

five state colleges now have such classes in operation on their campuses The University of California and leading California Private universities have utilized the laboratory class concept with success. Laboratory classes have demonstrated their value in stimulating campus interest in teaching, in providing training grounds under the guidance of skilled instructors for prospective teachers, and in serving as centers of educational research and curriculum development Such classes also serve as successful centers for summer institutes and workshops for nearby teachers and school administrators The pupils of laboratory classes usually receive a superior education because of the fresh attitudes, and concentration of effort used in instructing them

The benefits which laboratory classes offer to the education of normal children would be increased in laboratory schools for exceptional children There is a critical, accentuated need for special education teachers Laboratory classes would not only stimulate interest in special education on campuses but would serve to induce experienced teachers to pursue the challenge of exceptional children Such classes would prove invaluable training grounds for prospective teachers as well as centers for programs for special education teachers to refresh their skills and become familiar with new techniques Compared to regular education, special education has almost no facilities for systematic continuing research in the development of techniques of pupil instruction and teacher training. Laboratory classes would provide facilities for continuing research in the development of such techniques as well as provide experimentation for programs for children not yet served by our school system.

We believe the on-campus laboratory class would also serve to bring many varied disciplines and resources to bear to solve the difficult problems inherent in special education The various subject matters represented in colleges, the educational expertise available upon our campuses, and the multipurpose research projects conducted on college campuses could and would be available to resolve the stubborn problems besetting special education

The laboratory classes would focus attention on the problems now unmanageable at the local school district level and would in turn directly contribute to development of such districts' programs We believe laboratory classes would directly assist school districts in adopting curriculum for new programs, providing teachers, and a superior education for pupils attending these schools

We recommend that the laboratory classes established on state college campuses should be established and administered by the Trustees of the California State Colleges We believe that such authority must be with the trustees to assure effective coordination with the activities and benefits accruing to a state college system However, we believe that there must be a proper mixture of practical and academic orientations to further many of the objectives of laboratory classes for special education purposes It will thus be incumbent upon the state colleges to include an appropriate balance between research and training and service to the public school system. The success of the laboratory classes is dependent upon offering improvements to the special education programs in our schools

The committee has assigned a high priority to this laboratory class proposal. Much favorable testimony on this proposal was received by the committee at both its hearings This proposal offers a great deal of promise to meeting short-term needs, such as for teacher training, and long-term goals, such as the discovery of improved instructional techniques Laboratory classes offer the possibility of development of programs for many children, such as the multiply handicapped who now receive little or no educational opportunity. Where a necessary adjunct to the educational process, residential facilities and well-defined diagnostic procedures should be developed The laboratory class for exceptional children will serve as the center of many efforts for improvement of special education

3. COUNTY SUPERINTENDENTS OF SCHOOLS

The Education Code mandates special education programs for physically handicapped and mentally retarded minors With the exception as provided by Education Code Sections 8951 and 8901 in the case of school districts of less than 901 and 8000 units of average daily attendance (ADA), the responsibility for these special education programs is upon the local school district in which these children reside However, the committee finds that in practice not all districts make available special education programs for all the physically handicapped and mentally retarded minors whose residence is within the district Letters from parents, testimony at hearings, and cursory investigation by the committee substantiate this finding It is also important that the last 1965 Report of the Assembly Interim Committee on Education, Report of the Subcommittee on Special Education, also concluded many of these children had no access to special education programs; this similarity in findings not only substantiates the present committee's findings but, unfortunately, indicates that little has been accomplished in the last two years to correct this deficiency.

Explanations and justifications for the inadequacy or failure of a school district to provide for physically handicapped or mentally retarded minors vary primarily with the exigencies of the particular district involved. the number of children in a given district at a given time may be so few as to make offering a program economically unreasonable; some districts are unable to arrange facilities and equipment, or recruit teachers or other staff necessary; other districts simply do not understand the nature of their responsibility to provide these programs; many districts have difficulty in justifying to themselves any additional financial burden on the local district, many districts need counseling to work out their individual problems As was stated in a relatively recent study of the entire California education system, "Communities are becoming increasingly interested in providing for the special needs of handicapped children in the public schools Since the incidence of need and the availability of alternative sources of assistance vary from community to community, a good deal of "tailoring" must take place in the design and installation of special education programs." [1]

[1] Little, Arthur D, Inc Emerging Requirements for Effective Leadership to California Education (California State Department of Education, November 1964), p 108.

It is the conclusion of the committee that to accomplish the intent and purpose of the legislative mandate for physically handicapped and mentally retarded programs, a great deal more supervision and direction must be provided the local school districts The State Department of Education Division of Special Schools and Services presently has a statewide consultant staff to assist these school districts; however, there are potentially not enough of these consultants to serve every school district (there are only about eighteen such consultants presently employed by the state), and such an attempt would be both unrealistic and uneconomical The committee finds that the county superintendents of schools are both the most appropriate and potentially most economical intermediaries to provide school districts with consultation in establishing these programs as well as to supervise compliance by the school districts with the legislative mandates It would then become reasonable to expect that the specialized skills and extensive training of State Department of Education consultants could be utilized effectively and efficiently at the county level.

The county superintendents of schools can serve to improve and expand the educational programs for the physically handicapped and mentally retarded because of several unique features of such county offices Geography places these offices within reasonable distance of the school districts and familiarity with these districts provides the county with continual information regarding the programs such districts make available Proximity also provides the county superintendent with opportunity to assist school districts in working out their special education problems as well as to supervise and direct these districts to comply with the legislative mandates for special education programs The county superintendents of schools not only offer the opportunity to assure continuity and availability of these programs throughout each county, but could provide leadership in coordination of such programs in a manner to eliminate unnecessary duplication and inefficiency Such county offices, with knowledge of all programs within the county, can prove effective in promoting interdistrict agreements or district-county agreements, both of which are authorized by Education Code Sections 6806 and 6910 Further, it is well established that, except in very large and well-staffed districts, the county office is the logical center for the location of certain kinds of specialized personnel who would be underutilized if located within any one school district. Many county offices have already proven themselves valuable in acquiring, and distributing various instructional materials for special education for school districts within the county

The committee further concludes that county superintendents can serve to improve and expand special education programs in addition to those now mandated by the Legislature The committee's findings and conclusions regarding mandated physically handicapped and mentally retarded programs are equally appropriate to such programs as those for the educationally handicapped

The nature of the county superintendents of schools also makes their offices the logical and necessary intermediary to perform a great number of liaison functions for the benefit of all special education programs. The county can serve to assist in recruiting and placing crucially needed teachers and other staff with the school districts and

could assist the activities of any laboratory classes within the county The committee has received much testimony demonstrating the great need for expanded diagnostic services and the services of other agencies for handicapped children—the county superintendent is uniquely qualified to coordinate these services with the schools The county superintendents can and should perform a great number of intermediary services between the State Department of Education, such as providing easy access to information on existing programs and needs within the county; the committee believes that this function alone, if properly performed, can eliminate much duplication, effectuate substantial savings of money and time, and provide a continuing firm basis upon which to plan and develop special education programs in the future

The foregoing discussion demonstrates the necessity and appropriateness of expanding the role of county superintendents of schools in special education. Special education programs, especially for the physically handicapped and mentally retarded, must be made available throughout the state in order to offer all handicapped children educational opportunity and avoid displacement of these children and their families from their homes because of unavailability of education The committee has received testimony at hearings and replies to its questionnaire (found as Appendix A) that county superintendents can and want to play a greater role in special education

It is upon the preceding findings that the committee concludes there is great need for the following enactments:

(a) County superintendents of schools must be responsible for assuring that every physically handicapped and mentally retarded minor within the county has the opportunity to participate in an appropriate special education program County superintendents of schools should continue to be directly responsible for providing physically handicapped and mentally retarded programs for children from small districts as provided by Education Code Sections 8951 and 8901; all school districts not within the scope of Sections 8951 and 8901 should continue to be directly responsible for providing physically handicapped and mentally retarded programs for children residing within the district The county superintendents of schools should, in any case of a physically handicapped or mentally retarded child residing within a school district not within the provisions of Sections 8951 and 8901, have the responsibility and authority to assist and compel the school district not providing for such a child to comply with the legislative mandates for these programs, by either assisting in instituting a program within the school district or arranging for the child to be educated by another district, the county or a private school (under circumstances described in the next recommendation of the committee), it should be clear that whatever manner is selected for educating the child, the school district of residence shall continue to be directly responsible for the costs and must bear the expense exceeding the combined state financial efforts for the education of this child. The county superintendents of schools should, in addition, have the responsibility to encourage and assist every school district to make provision for or offer appropriate special education programs for all handicapped children within their district; the county's responsibility in this regard should include

information, consultation and assistance to the district to solve problems it may have in offering any such programs and assistance in arranging for education for such children outside the district or in a private school.

(b) The committee concludes that in order to effectively equip the county superintendents of schools with the information necessary to meet the county's responsibilities under recommendation (a), a system of mandatory reporting by school district administrators to the county superintendents must be provided by state law. The committee also concludes that a system of mandatory reporting by school districts will provide a method of accounting for all special education children, reveal what children are not being afforded educational opportunities, reflect the success or failures of special education programs, and greatly assist in solving problems and planning new programs in the future The committee finds that any mandatory report should include information as to the child's name, address, age and date of birth, parent(s) or other person(s) having custody of the child, handicaps insofar as they are known to the school district, and participation in special education programs or, if none, the reason for nonparticipation The committee recommends that school district administration be required to make the following reports to the county superintendent of schools· report each incident, within a reasonable time after such incident, of inquiry or application of admission of a handicapped child who is not then provided for by the district, report annually regarding the handicapped children participating in a special education program of the district Information regarding handicapped children within each county should be annually reported to the State Department of Education by the county superintendents of schools The committee has received information and believes there is an opportunity that the mandatory system of reporting outlined in this recommendation could be at least partially financed through federal sources as provided by Title 6 of the Elementary and Secondary Schools Act Approximately 50 million dollars for handicapped children for 1967 has been authorized for Title 6, though it is not yet funded

(c) The committee finds that present criteria for allocation of state school building aid present a number of problems with regard to county superintendents of schools The restrictions on the availability of state building aid to "impoverished" districts has resulted in location of many county administered facilities for the handicapped in "impoverished" districts which often are not geographically the most economical or efficient placement of such facilities within the county Further, the county superintendents can effectuate many efficiencies and economies in special education, especially where the incidence of a particular handicap is low, by providing centrally located facilities for special education programs; savings can be especially large with regard to capital outlay Because of such possible efficiencies and savings, incentives for combined projects through the county offices or through cooperative efforts of several districts should be established by offering building aid to such projects, regardless of the "nonimpoverished" condition of the location of the facilities built. The committee concludes that state building aid should be available to the counties and to coop-

erative district projects, but further concludes that such aid should not be allocated on the basis of technical "impoverishment."

However, the committee's recommendation is appropriate only in situations where placement of a facility in an impoverished district is either impossible or would substantially impair the availability of the special education program to the children needing the service, due to geographic distance from the areas of need

(d) The expanded role of the county superintendents of schools in special education recommended by the committee is partially predicated upon the potential these county offices have for effectuating efficiencies and economies within the system of programs offered handicapped children Increased efficiency as well as broader availability of programs would be especially apparent in areas where the incidence of handicaps is low, usually because of population sparsity. In most instances, counties contain enough handicapped children to offer the possibility of efficient programs However, there are a number of counties, particularly in rural or mountainous areas, where the incidence of many handicaps is very low; in such areas the committee finds that no programs are offered, or are offered but at phenomenal expense to the local taxpayers, or the children must leave their homes and attend residence schools because of the impracticality of traveling to school daily The committee concludes and recommends that authority in law be established for two or more counties to enter agreement in order to jointly fulfill their special education responsibilities

4. PRIVATE SCHOOLS

The committee finds that there are a substantial number of handicapped children not receiving the benefit of education from public schools There is no accurate estimate available of the number or type of handicaps of these children, as California does not conduct a census of its youth and their disabilities However, the estimates which have been made by public and private agencies indicate that there are substantial numbers of children, especially those with multiple disabilities, who are not receiving the benefits of educational programs The replies to the committee's questionnaire, found as Appendix A, substantiates this fact The committee further finds that there are relatively few instructional programs suited to the needs of multiply handicapped children; from this it is concluded that a substantial percentage of multiply handicapped children receive no educational program It is the opinion of the committee that all educable and trainable handicapped children should have the same right to education as do other children

In the proposal regarding expansion of responsibility of county superintendents of schools, the committee concluded that county offices could effectively expand the availability of special education programs and effectuate efficiency in providing these programs However, the committee finds that for some handicapped children there are no public special education facilities and services available nor can they be reasonably provided by the public schools The committee finds that though public programs may not be available, there are often private schools which do and can provide approved educational programs for these children The committee concludes that under the

limited circumstances herein described, utilization of such private schools to meet the needs of these children is highly desirable

There is already precedent for the committee's conclusion in Education Code Section 6871, which reads in part as follows

> "With the approval of the Superintendent of Public Instruction, any school district having a physically handicapped minor for whom special education facilities and services are not available and cannot be reasonably provided . and for whom the State of California has no appropriate special education facilities and services, may pay to the parent or guardian an amount not to exceed the sum per unit of average daily attendance of the regular state apportionment to the district the maximum amount allowable per unit of average daily attendance for reimbursing for excess current expenses and the amount per unit of average daily attendance derived from district taxation . . ."

In essence, Section 6871 permits a school district to pay public funds to parents of physically handicapped children when (1) the public schools do not offer that child an education, (2) for the public schools to offer that child an education would be unreasonably expensive, and (3) the child is enrolled in a private school approved by the state

The committee finds that private schools, approved by the Sate Department of Education as to standards, offer a great potential, relatively untapped, resource for providing educational opportunity to handicapped children within this state Such private schools have often pioneered new education methods for handicapped children; they usually provide expanded staff personnel and curriculum for the particularly difficult disabilities, they are usually small and provide residential care where necessary, they are often recipients of voluntary services and contributions, thereby keeping the costs to the handicapped children's parents down

The committee concludes that the purpose and concept of Education Code Section 6871 should be expanded to include other handicapped children. The committee further concludes that under conditions where no educational program is available and can not reasonably be made available, all handicapped children should have the opportunity to attend private schools offering programs for their disability The committee recommends that a mechanism similar to that contained in Section 6871 be enacted for all physically handicapped and mentally retarded minors; as programs for these handicaps are mandated by state law, the committee further recommends that under circumstances described in Section 6871 it be made mandatory that the school district or county superintendent whichever is responsible under present state mandate, pay to the parent or guardian of the physically handicapped or mentally retarded child, or to the institution in which he is enrolled, the sum presently itemized by the provisions of Section 6871 It is further recommended that a mechanism similar to that contained in Section 6871 be enacted on a permissive basis for the educationally handicapped

The 1965 Report of the Assembly Interim Committee on Education, Report of the Subcommittee on Special Education, at pages

38–41, discussed in detail the deficiency of educational programs for the multiply handicapped During the 1965 session of the Legislature a bill, AB 409 (Greene), was proposed and extensively considered to mandate programs for the multiply handicapped under circumstances and in a manner similar to that found in Education Code Section 6871 The present committee has considered such a proposal at its recent hearings and concludes that a mechanism similar to Section 6871 and proposed by AB 409 must be enacted and made mandatory with respect to the multiply handicapped The committee finds that though the relative number of multiply disabled children is small their need is great and immediate The committee further finds that few public schools now offer programs to meet the needs of the multiply handicapped The parents of a multiply handicapped child have little alternative other than to keep him at home without education or educate him at a private school at their own expense The state has an interest and responsibility in encouraging these parents to send their children to approved private schools when no public programs are available It is the recommendation of the committee that a mechanism similar to Section 6871 and proposed by AB 409 (1965) be enacted and made mandatory for the benefit of multiply handicapped children

The committee recommends that, with regard to all its proposals contained herein for enactment of an Education Code Section 6718-type mechanism, the county superintendents of schools be given responsibility for determination of the availability or the reasonableness of providing special education programs and that such determination be subject to review by the State Department of Education It is further recommended that the State Board of Education establish rules and regulations for this procedure This procedure recommended by the committee for the important determination under a Section 6871-type mechanism is warranted by the committee findings and conclusions detailed in conjunction with proposal 4 of this report. It is important that a procedure for determining availability and reasonableness under the Section 6871 mechanism be provided in order to assure the parents of handicapped children that this determination will be made and to clarify who is responsible for making it

Finally, it should be made clear that all private schools receiving funds under the proposals of this committee would be subject to state approval The State Department of Education would periodically review curriculum, care and the program of these schools as a whole to determine whether standards were being met, as funds would not be available from public agencies unless such standards were maintained

Though the expansion of the potential use of private schools and facilities may appear unorthodox, it is advocated because of the necessity of education for handicapped children and the unreasonable public expense to provide such education under certain circumstances Nor do the committee's recommendations in any way relieve the public schools of their authority or responsibility in the education of handicapped children—the use of private schools is not an alternative to or substitute for public education These recommendations would become effective only when and in areas where public special education programs for these handicapped children do not exist

rather than all in the first year, this does not eliminate the problem and, from the testimony of several school district and department representatives, is relatively seldom used

The committee recommends that excess costs be apportioned on a current rather than reimbursement basis This recommendation was unanimously approved by witnesses at the committee's October 27, 1966, hearing. Replies to the committee's questionnaire, found as Appendix A, indicate substantial support for this recommendation

The expense of converting excess cost apportionments to a current basis would occur only in the one year of conversion and would be relatively minimal In the year of conversion, actual apportionment of excess costs would be equal to the district's estimated excess costs for the coming year.

Placing excess costs on a current apportionment basis will enable the school districts to obtain state funds in the year the districts actually spend them and will more closely align special education financing with the financing of regular education

8. EDUCATION OPPORTUNITY—INTENT

The committee finds there is much confusion as to the state's philosophy toward handicapped children The existing laws and regulations provide what some describe as an entirely separate system of education for handicapped children Communities, local districts and various agencies are sometimes misled regarding their respective responsibility to provide an education for handicapped children Too often special education is considered in the nature of a social service rather than a right

There is a growing need for the state to reaffirm its responsibility to the education of handicapped children As special education has become more categorized, its curriculum more developed and perhaps thereby more foreign to those not disabled, and its finances more state oriented than local, the greater the need for reaffirmation that special education is education and the society's responsibility to educate includes the education of handicapped children as well as those more fortunate

It is the conclusion of the committee that the Legislature can clarify the responsibility to provide educational opportunity for all children, whether handicapped or normal, by a statement of legislative intent and purpose. The committee therefore recommends that, by statute, the Legislature indicate its support for the proposition that the state and its public schools have the responsibility to assure educational opportunity to all children, whether handicapped or not

9. ACCOUNTING FOR SPECIAL EDUCATION COSTS AND PERMISSIVE TAX OVERRIDES

The committee finds there are a number of shortcomings to the method by which school districts presently report special education expenditures The Department of Education Forms J-22 are completed each year by school districts in reporting expenditures upon which the department bases excess cost reimbursements These forms neither require a breakdown of expenditures nor require sufficient differentiation of expenditures according to type of children served. Although the J-22

reports are used to justify proposals for increased special education expenditures and are often the basis for requests to the Legislature to increase excess cost maximums, they do not relate expenditures to the needs of the children served The inadequacy of present accounting procedures makes it impossible to accurately determine costs of each special education program, this inadequacy makes it extremely difficult to attain a proper balance between local and state contributions to special education, to plan and allocate costs in future years, and correct inefficiency and uneconomies in special education programs The committee concludes that if a proper balance of financial effort is to be maintained between local taxpayers and the state, and if efficiency is to be attained in special education programs to the benefit of all concerned, the present system of accounting and reporting special education costs must be substantially altered It is the recommendation of the committee that the State Department of Education study the present system of reporting special education costs, with particular reference to the expanded roles of the county superintendents of schools and use of private schools as proposed in this report, and with particular emphasis toward producing program cost reports, and report the findings and recommendations of this study to the Legislature

The committee finds that the present provisions for permissive tax overrides for special education programs are both illogical and may be misused Provision is now made for permissive tax overrides for mentally retarded and educationally handicapped programs, a permissive tax override might be allowed for the equally important programs for the physically handicapped The results of the Auditor General's study requested by the Assembly (HR 489), as found in Appendix B, indicate that, in establishing the basis for the levy of permissive override taxes for special education programs, some districts incorrectly report revenues from sources other than permissive overrides The committee believes that the purpose of these override taxes is to allow school districts additional revenue to be used exclusively for special education programs over and above the regular state and district efforts, and the state's excess cost apportionment; the district has the obligation to apply a proportion of its general purpose tax revenues to special education programs before requiring its taxpayers to contribute additionally through the levy of a permissive override tax for these programs It is therefore the recommendation of this committee that present law be amended to clearly state that all special education permissive override taxes are to be used only in addition to district general purpose tax effort and state apportionment and excess costs effort for financing special education programs

10. INTERAGENCY COOPERATION AND EXPANDED SERVICES FOR HANDICAPPED CHILDREN

The committee concludes that needs of handicapped children require the cooperative efforts of many departments and agencies to assure that these needs are met The efforts expended to provide special education for handicapped children are ineffective if other services are not also available to meet the particular needs of these children The committee also finds that lack of interagency cooperation often leads to duplication or wasted effort and inefficiency.

There are a great number of areas in which interagency cooperation is vitally necessary to provide effective special education to handicapped children. Only a few need be mentioned for illustration

The committee finds a great need for expanded and coordinated diagnostic services. Available and continued diagnosis is crucial to properly insure the handicapped child of an education to meet his needs A number of facilities are now providing diagnosis to various groups of people Often there is much costly duplication in available facilities to some groups, while others are not provided for at all The committee finds the concept of the diagnostic centers for the mentally retarded a valuable one and similar provisions to assure diagnostic services to all handicapped children would avoid costly duplication, afford opportunity to take advantage of available resources, and assure the availability of such services to these children.

The committee is particularly concerned with the lack of coordination between agencies interested in providing vocational training for the handicapped In this area, the Departments of Education, Employment, Rehabilitation and Social Welfare all have a vested interest in assuring vocational training to handicapped children and adults However, the committee, while commending the recent efforts in this area, believes much more must be done to offer a consistent opportunity to handicapped children to acquire vocational skills

Comment has already been made in this report regarding the lack of adequate reporting to properly assure that all handicapped children are afforded educational opportunity The absence of a youth census hampers the effectiveness of public schools to know of handicapped children not in education programs. However, the work of many other agencies makes such agencies aware of the existence of handicapped children, their location and often whether they are participating in an educational program The committee concludes that a procedure for notifying county superintendents of schools of such children by, for example, social welfare workers within the county, would greatly increase the probability of all handicapped children participating in educational programs.

The committee received testimony and information regarding the operations of the Mental Retardation Program Board and was impressed by the potentiality for coordination of interagency activities that that program offers. The committee recommends a resolution directing a study of the possibilities of establishing similar channels for interagency cooperation and services for handicapped children. The committee further recommends that county superintendents of schools and the Department of Education be encouraged and permitted to contract with other agencies for appropriate services

CLOSING REMARKS

The purposes and goals of special education are generally identical to those of education as a whole The opportunity to learn is a need of every child, whether handicapped or not, and the responsibility of society to provide such an opportunity to all children must be fulfilled.

The committee strongly believes that the purposes of special education programs are, like that of education generally, to help the pupil view his assets and limitations realistically, develop his intellect and

skills, and enable him to pursue his aspirations in society. Special education programs must be offered, throughout the state, in a manner to assure every handicapped child of an opportunity to attain the purposes of an education

The recommendations and conclusions of this report are intended to expand and assure the educational opportunities of handicapped children and to clarify that special education is education and is, as is education of all children, the responsibility of society as a whole.

APPENDICES

APPENDIX A

SPECIAL EDUCATION QUESTIONNAIRE

A special education questionnaire was sent to the superintendents in all 58 counties and 99 selected school districts in California. The districts were selected for size, financial resources, and previous activity in the area of special education. Any inferences that are drawn from the answers must be restricted to the respondents.

Total sent	
Counties	58
Districts	99
	157
Total returned	
Counties	40
Districts	83
	123
Total used in analysis	
Counties	37
Districts	82
	119

Teachers

			Counties	*Districts*
1	Do you have a substantial special education teacher shortage?	Yes	28	51
	If yes, indicate the three special education categories of teachers in greatest need and the number of these teachers you need	No	9	30
		NA		1
	Districts 1 EMR 2 EH 3 Scattering in all			
	Counties 1 EMR 2 Speech 3 Scattering in all			
2	How many of your teachers in the area of special education hold provisional credentials?		143	268
	How many hold credentials for the category of children they are teaching?		400	1,962
		NA		5
	Do the answers to the above two questions include all your special education teachers? If no, please explain	Yes	33	59
		No	2	18
		NA	2	5
	EH teachers			
3	Please indicate the number of your special education teachers who came to you from the following sources			
	University of California campuses		7	51
	California State College campuses		118	400
	Other California college or university campuses		27	85
	Other districts in California		147	358
	From within your regular education staff		47	583
	From out of state		80	439
	Private teacher placement agencies		0	15
	Other		8	19
			434	1,950

			Counties	Districts
4	Do you believe there is a necessity for a laboratory, practical experience with this type of child during the course of preparation for teaching exceptional children?	Yes	36	82
		No	1	0
5	Do you believe there is a breakdown in the counseling of potential special education teachers in their college preparation?	Yes	23	51
		No	10	15
		NA	4	16
	If yes, do you believe this is a substantial factor in the special education teacher shortage?	Yes	20	45
		No	4	10
		NA	13	27
6	Do you believe any or all of the following will assist in solving shortage of teachers for special education?			
	(A) Designate as "academic" those courses leading to a degree in the education of handicapped children	Yes	28	65
		No	5	9
		NA	4	8
	(B) Scholarship program for those college students pursuing courses to be teachers of handicapped children	Yes	31	80
		No	5	0
		NA	1	2

Children

1	*Indicate the number of children you have in your programs for the following exceptionalities?*			
	Trainable retarded		1,720	2,513
	Educable retarded		1,924	17,188
	Blind		103	500
	Partially seeing		44	552
	Deaf		80	781
	Hard of hearing		172	788
	Speech defective		6,769	24,905
	Aphasic		73	72
	Cerebral palsied		145	715
	Orthopedically handicapped		292	1,102
	Educationally handicapped		1,158	4,877
	Other (specify)		171	907
	Total		12,651	54,900
	Are any of those included in the above categories multiply handicapped?	Yes	33	62
		No	4	14
			763	1,572
	If yes, how many children?	NA	1	10
2	Do you provide any program for more than the primary handicap of children with multiple handicaps?	Yes	11	25
		No	26	57
3	How many children in each of the following categories have you not provided a program for over the last year?			
	Trainable retarded		291	588
	Educable retarded		360	1,447
	Blind		11	18
	Partially seeing		40	35
	Deaf		18	65
	Hard of hearing		114	119
	Speech defective		1,607	7,674
	Aphasic		30	78
	Cerebral palsied		6	66
	Orthopedically handicapped		69	111
	Educationally handicapped		281	3,665
	Multiply handicapped		53	185
	Other (specify)		170	538
			3,050	14,589

			Counties	*Districts*
4	How many children and with what handicaps do you believe are not receiving an education within your jurisdiction?			
	Total number		6,008	6,832
	NA		18	25
5	Do you believe "mandatory school age" ought to be the same for exceptional children as it is for regular or normal children?	Yes	14	35
		No	22	47
		NA	1	
Capital Outlay—Buildings				
1	Are you now on state building aid?	Yes	3	33
		No	32	47
		NA	2	2
2	Are you using any facilities originally built for special education for regular education purposes?	Yes	6	16
		No	29	66
		NA	2	0
3	Does lack of capital outlay for buildings substantially restrict your special education programs?	Yes	28	60
		No	8	19
		NA	1	3
4	Do you believe all districts should be able to obtain state building aid, regardless of their local bonding capacity, for purposes of special education?	Yes	29	61
		No	6	18
		NA	2	3
Miscellaneous				
1	Do you use your own diagnostic facilities to determine the needs of exceptional children?	Yes	29	73
		No	8	8
	If no, indicate what facilities and for what exceptionalities?	NA	0	1
	Mostly contract			
2	Do you believe all special education costs ought to be borne by the state?	No	19	52
		No	19	52
		NA	2	2
3	Do you feel the local schools have (check one) the same ____, greater ____, or less ____ financial responsibility to educate handicapped children as they do for regular children?	Same	28	73
		Greater	3	4
		Less	4	3
		NA	2	2
4	Do you want to provide programs for handicapped children?	Yes	36	80
		No	1	0
		NA		2
	Do you believe these children ought to be educated through facilities other than those of regular education?	Yes	25	35
		No	9	39
		NA	3	8
5	Do you believe the excess cost apportionment ought to be on a (check one) reimbursement basis or current basis?	reimburse	3	6
		current	34	72
		NA		2
6	Do you believe the county superintendent's office could perform an expanded role in special education?	Yes	33	37
		No	4	42
		NA		3

If yes, indicate one function he could perform that he is not now performing

Counties	*Districts*
1 Coordination of district programs	1 Consultive services
2 Own facilities	2 Provide programs for small numbers

7. Please briefly list, in priority, any problems in special education which you believe ought to have our immediate attention:

Counties	*Districts*
1 Financial: level, current	1 Teacher qualifications, availability, salary
2 Teacher qualifications, availability, salary	2 Financing level, current
3 Capital investment aid	3 Capital investment aid
4 Program organization, coordination, support emphasis	4 Program organization, coordination, guidelines support emphasis

Reporting of Data for Purpose of Reimbursement of Excess Costs of Special Education—Forms J-22 and J-22.A for 1964–65 Fiscal Year

			Counties	*Districts*
1	Do you use a weighted ADA factor in allocating districts costs to special education programs?	Yes	1	24
		No	31	56
		NA	5	3
2	In your opinion, are total costs for the various programs per your forms J-22 and J-22 3A understated, due, perhaps to the fact that once the state's maximum allowances for the programs are exceeded, further analysis or effort is relaxed since the inclusion of additional expenditures is unimportant?	Yes	12	26
		No	21	54
		NA	4	3
3	Does the district assess special tax rates for:			
	A. Education of mentally retarded? (E C 6913 1)	Yes	30	51
		No	5	30
		NA	2	2
	B Educationally handicapped minors? (E C 20807)	Yes	6	23
		No	28	58
		NA	3	2
4	If either one or both in Question No 2 on the preceding page is "yes,"	Yes	10	37
	A Are state apportionments for basic and equalization aid for the ADA of the special education pupils included in lines 3 and 9 of the district's Budget Form J–41, p 4A?	No	7	9
		NA	20	37
	B. Do tax receipts, lines 2 and 8 of the J–41, p 4A include a proration of the general purpose tax collections applicable to the special education ADA?	Yes	12	30
		No	6	17
		NA	19	36
	C Do actual expenses reported on lines 3 and 6, p 4A, of Budget Form J–41 exclude related retirement, and OASDI which would be included in expenses reported for purpose of permissive override taxes under E C 14210, 20532, 20801 5, and 20806, p. 4, cols. 1, 2, 3, and 4 of the district's Budget Form J–41?	Yes	13	38
		No	5	8
		NA	19	37

APPENDIX B

JOINT LEGISLATIVE AUDIT COMMITTEE
CALIFORNIA LEGISLATURE

December 27, 1966

HONORABLE JESSE M UNRUH
Speaker of the Assembly, and
Honorable Members of the Assembly

Gentlemen:

We transmit herewith the report of the Office of the Auditor General on a study of the financing of special education programs in the public schools.

This report has been prepared in accordance with House Resolution 489 of the 1966 Legislature which requested that studies be made of special education programs to determine the reliability of cost data, the relative shares of costs borne by the state and the local school districts, and the use and disposition of funds received for special education purposes.

Respectfully submitted,

VINCENT THOMAS
Chairman

STATE OF CALIFORNIA
OFFICE OF THE AUDITOR GENERAL

The Joint Legislative Audit Committee
of the California State Legislature

In accordance with the provisions of House Resolution 489 of the 1966 Legislature, we have studied the financing of special education programs in the public schools Our study included reviews of records and procedures at the State Department of Education and at eight selected school districts and one county superintendent's office

House Resolution 489 requested that studies be made to determine the reliability of cost data, the relative shares of costs borne by the state and local school districts, and the use and disposition of funds received for special education purposes Our general conclusions relative to each of these follow:

1. Excess cost reports of the eight selected school districts and the one county superintendent of schools' office that we visited were found, with but two exceptions, to be correctly prepared
2. In some instances, the state's reimbursement is substantially below the excess costs of special education As education costs increase, the districts are bearing a greater proportion of the fiscal burden
3. Funds received by school districts for special education are not being used in all instances for the particular purpose for which they were levied or apportioned

A summary of specific findings and our recommendations follow:

SUMMARY OF FINDINGS AND RECOMMENDATIONS

1 Our review of special education cost reports in support of reimbursement claims was too limited as to the number of districts and counties visited to determine the proportion of costs borne by each district and the state on a statewide basis

Recommendation

We recommend that the Department of Education determine the relationship of costs borne by each district and the state, by programs, on a statewide basis and that the department recommend adjustments in statutory maximum allowances for special education programs where they appear to be justified

2. State apportionments for special education programs are based on district's prior year excess cost of conducting special education programs In most cases, districts' current year excess costs are more than the amount currently received from the state Also, the state does not share in the cost of new programs until the second year, which burdens the district with the full first year cost of a new program.

Recommendation

We recommend that special education apportionments be based upon the current year costs

3. The excess cost of educating handicapped pupils in a district with low enrollment of such pupils exceeds the state's maximum allowances.

If no alternate special education program can be arranged, a special allowance may be required to adequately support a necessary small class in a district.

Recommendation

> We recommend that the Legislature consider the feasibility of granting a special allowance to school districts for necessary small classes for special education programs where an alternate facility cannot be provided.

4. School district accounting records and procedures are not designed to readily produce cost reports of special education programs, such as the cost of educating the blind, deaf, and multiple-handicapped children and others. Program cost information is needed by district and state officials, including the Legislature, when reviewing the financing of each program.

Recommendation

> We recommend that school district accounting records and procedures be modified to provide for separate groups of accounts for recording the costs of special education programs.

5. The Education Code does not provide for the allocation of indirect salaries and wages, consisting primarily of general administrative salaries, to special education programs. This results in the understatement of costs of special education programs.

Recommendation

> We recommend that Section 17200 5 of the Education Code be amended to provide for the allocation of indirect salaries and wages to special education programs.

6. Education Code Section 17200.5 allows districts to charge a proration of certificated salaries and wages to special education programs in proportion to the time spent on special education programs ". . . upon substantiated evidence being presented." This results in the preparation and transmittal of voluminous detail information to the Department of Education.

Recommendation

> We recommend that the Legislature amend Section 17200.5 the Education Code to read ". . . upon substantiated evidence or documentation being readily available for audit in the school district."

7. School districts are allowed to levy permissive tax overrides for certain, but not all, statutory mandated special education programs and certain programs which are not mandated The amounts of permissive tax overrides have been incorrectly determined because revenues and costs of related programs have not been accurately reported. Because of this, millions of dollars have been collected by school districts for restricted purposes and used for other educational purposes.

Recommendation

We recommend that the policy regarding the use of permissive tax overrides and the methods of determining the amounts of such overrides be reviewed.

8. Information in school district budget documents, which are reported in the analyses section of General Fund taxes subject to tax rate limits, does not provide for the reporting of adjustments in restricted balances which may occur between years. The reconciliation of balances between years is necessary for control purposes.

Recommendation

We recommend that school district budget documents be revised to disclose adjustments in restricted balances that may occur between years.

9. Section 18351.1 of the Education Code requires that the Department of Education be notified and approve all line item budget changes within an acitivity or program in the county school service fund budgets. Since all changes are approved, these requirements result in unnecessary work with no improvement in control.

Recommendation

We recommend that control by the Department of Education over amounts budgeted be limited to a review of the overall activity or program of the county school service funds.

COMMENTS

Our study of special education in California included a rather detailed review of existing legislation, special studies and reports made by other committees of the Assembly and Senate, including a recent report to the Assembly Subcommittee on School Efficiency and Economy concerned with school budgeting and accounting, and various reports on file at the Department of Education, and personal visits to selected school districts throughout the state, including one county superintendent of schools' office. Selection of school districts was made to include large, small, wealthy, and impoverished districts located within different geographical sections of the state.

Detailed comments relative to our general conclusions follow:

Excess cost reports reasonably correct

Considering the complexity of special education excess cost report forms and the fact that the accounting records are not designed to account for costs on a program or activity basis, we were favorably impressed with the effort expended by district personnel in seeing that the reports were correctly stated In our review of the eight school districts visited, two exceptions were noted, one resulting in an apparent overstatement of expenditures and the other in an understatement of expenditures. In the former, the school district was applying a weighted ADA factor in prorating certain indirect costs to special education The use of weighted formulas, unless universally adopted, distorts comparisons of costs between districts and can result in incorrect conclusions as to the adequacy of state reimbursements if used in statewide stud-

ies Expenditures were understated in one district due to the district claiming reimbursement based only upon direct salaries and wages applicable to the special education programs. Obviously, other costs were incurred, the allocation of which is adequately explained in the school accounting manual. We estimate that an additional $10,000 to $12,000 could be claimed by this district if it filed an amended excess cost report. Otherwise, costs reported by school districts were found to be reliable and, in our opinion, usable as guidelines or bases for ascertaining the adaquacy of reimbursement maximums set forth in the Education Code. We were informally advised that many districts understate their costs due to districts "cutting short" their analyses of expenditures when they know they have exceeded maximum allowances We found no evidence to support this statement

Section 17200 5 of the Education Code, effective with the 1965–66 fiscal year, has limited to a large degree the methods whereby costs are to be allocated. We are strongly in favor of this legislation in that it provides for both simplicity and uniformity in accounting for costs, however, we have recommended certain technical changes as set forth in a later section of this report

State and district share of costs of special education

Since the number of districts visited by our office represented only a small number of the total districts in the state, we are unable to advise the Legislature of the relative shares of special education costs borne by the state and the districts on a statewide basis We have, however, prepared a tabulation of the excess costs per unit of ADA and percentages of excess costs applicable to those districts visited as shown in Schedule A This tabulation shows that high unit costs are incurred in the physically handicapped program, a major share of which is paid from district funds The physically handicapped program costs are subdivided into subgroupings depending upon instruction methods, namely special class, remedial, individual instruction, etc.; costs by subgroupings are not shown in Schedule A Costs within the subgroupings vary substantially, (individual instruction, for example, may cost as high as $4,000 per unit of ADA, whereas special physical education classes may be as low as $553 per unit of ADA); however, the state's reimbursement is based upon the average unit cost of educating all physically handicapped; unit costs of educating the physically handicapped shown in Schedule A are a composite of all the subgroupings

Costs of educating the educationally handicapped can also vary substantially. Costs of the learning disability group varies from a high of $4,543 per unit of ADA to a low of $583 Districts are reimbursed for costs reported for each subgroup of the educationally handicapped, rather than on a composite average cost of the subgroupings as is done with the physically handicapped It is our understanding that legislation will be introduced during the 1967 regular session reclassifying and regrouping certain of these classes to more equitably reimburse districts for costs incurred

Taking into consideration only those districts that we visited, there appears to be a need for some adjustment in the state's reimbursement maximums applicable to the physically handicapped. The educationally handicapped program, a relatively new program, also shows that

a substantial share of the cost is being borne by the districts We believe that maximums should remain the same until more cost information is available on the educationally handicapped programs

Levying and accounting for permissive tax overrides

Our review of school district records disclosed one instance in which the district prepared an incomplete report to the county superintendent of schools, resulting in the expenditure of $39,000 of special propose tax revenue for the education of nonspecial education pupils These revenues should have been accounted for as restricted funds and reserved exclusively for the education of mentally retarded pupils.

All districts visited that levied permissive tax overrides for the education of the mentally retarded and the educationally handicapped incorrectly reported revenue and costs, resulting in the collection of millions of dollars of tax money contrary to our interpretation of the statutes Education personnel in our discussions with them, generally agreed with our findings For additional comments and an illustration of the districts' reporting methods, see our comments on tax override levies under Findings and Recommendations which follow

Detailed comments on our findings and recommendations follow:

FINDINGS AND RECOMMENDATIONS

1 *Relative share of fiscal burden—state and local effort*

As indicated in this report, our review was too limited as to the number of school districts visited to determine the adequacy of the state's reimbursements to school districts for the education of the special child We have concluded that excess cost reports prepared by school districts are reasonably correct Copies of all of the districts' excess cost reports are on file with the Superintendent of Public Instruction The districts' reports can, in our opinion, be used as a basis to determine the shares of state and local financial effort in the education of the special child. From an analysis of district excess cost reports, the Department of Education can ascertain those special education programs in which actual costs are at variance with statutory reimbursement maximums, and make appropriate recommendations to the Legislature for changes in statutory allowances

Relative shares of fiscal burden might more simply be estimated by using the statewide average of direct teacher cost per unit of ADA as a basis To illustrate, assume that the statewide averages for a particular special education program are:

Direct classroom teacher cost, including retirement, OASDI, health and welfare, etc	$8,400
Overhead costs (reasonable percentage of direct costs, e g, 20 percent)	1,680
Total estimated costs	$10 080
Foundation program per standard ADA of 10	2,500
Excess of estimated cost over foundation program	$7,580
Excess cost per unit of ADA	$758
Current statutory maximum allowance	670
District share of excess cost	$88

It is assumed that the Department of Education will establish ADA standards for each special education program We believe that computations similar to the above can be made by grade levels within subclassifications of the major program, if desired

Recommendation

We recommend that the Department of Education determine the relationship of costs borne by the districts and by the state, by programs, on a statewide basis, and that the department recommnd adjustments in statutory maximum allowances for special education programs where they appear to be justified

2 *State apportionment—amounts and methods of payment*

Districts and counties receive funds from the state for the excess costs per ADA of maintaining a special education program on a reimbursement basis limited to specified maximums as set forth in the Education Code. In determining the amount to be reimbursed, the state requires that districts file, annually, excess expense reports which show ADA by grade level and program and costs incurred, segregated by major classification of expense, program, and subclass within program The reports are complex, require a great deal of analysis of district accounting records by local district personnel, and consume many hours of departmental personnel time in audit and review prior to processing for payment

Under the present system the amount of the apportionment is not determined or disbursed until during the year following the year in which the costs are incurred The state does not finance its share of the cost of new programs until the second year, which burdens the district with the full first year cost of new programs

An apportionment based upon a fixed allowance per unit of current year's ADA would simplify the method of determining the amount of the apportionment and provide for current financing of current costs of special education programs.

Recommendation

We recommend that special education apportionments be based upon the current year costs

3 *Small class allowances*

Situations occur in which special classes must, for reasons of geography or locale, be maintained by certain districts in which the number of special education students are few In situations of this kind, costs borne by a school district will be substantially in excess of the state's allowances for the particular program Under present law, the total apportionment received by a district is dependent upon the actual ADA for the particular program

When it is not economically feasible for a district to conduct special education classes because of low enrollment, and no alternate facility is available, such as through contracting with another district, with county superintendents, or with private schools, a special allowance of state funds may be needed to adequately support a necessary small class in a district.

Recommendation

We recommend that the Legislature consider the feasibility of granting a special allowance to school districts for necessary small classes for special education programs where an alternate facility cannot be provided

4 *School district accounting records*

The final report of the Citizens' Advisory Committee on School Budgeting and Accounting recommends many changes in school district accounting records, procedures, and reports We generally agree with all of the committee's recommendations, particularly recommendations calling for program budgeting and cost accounting There is little doubt that accounting for costs by activities and programs is vital to the effective management of school finances

Under the present system, costs of special programs are determined from analysis of numerous expense accounts which require a great deal of documentation and supporting work papers The accounts as prescribed in the accounting manual are not properly segregated and classified to permit recording of expenses in an expense account within a special program category.

In accordance with the school accounting manual, pupil transportation expenses are included in the current expense of education group of accounts. In our opinion, it is difficult to compare the current expense of education by school districts because of the inclusion in this category of expense the costs of transportation which vary greatly among school districts Classifying pupil transportation expenses within a noncurrent expense of education category would result in more meaningful total current expenses of education and expenses per unit of ADA

Recommendation

We recommend that school districts' accounting records be modified to provide for separate groups of accounts to record the costs of the several special education programs as well as the regular education program, and that the Department of Education study and develop guidelines by which this can be done economically and systematically throughout the state

We recommend that pupil transportation be classified as an expense of operating a school district separate from current expenses of education

5 *Allocation of indirect salaries and wages*

Education Code Section 17200 5 specified the methods of prorating salaries and wages applicable to special education programs General administrative services are utilized in the operation of special education programs, but the code does not provide for the allocation of these indirect costs to special education programs, which results in the understatement of the costs of special education programs

Recommendation

We recommend that Section 17200.5 of the Education Code be amended to provide for the allocation of indirect salaries and wages to special education programs.

6 *Part-time certificated salaries*

Education Code Section 17200 5 permits districts to include in their computations of the expenses of special education programs a portion of direct salaries of personnel whose duties are divided among several programs The code specifies that salaries charged must be on a "time spent" basis and only upon "substantiated evidence being presented "

It is necessary that districts develop the detailed information for program accounting purposes and current reporting requirements, however, the requirement that detailed evidence be "presented" to the Department of Education creates undue burdens upon both the district and departmental personnel One district submitted a formal report to the Department of Education consisting of 102 pages of payroll data which was of little value to the department

Recommendation

We recommend that the Legislature amend Section 17200 5 of the Education Code to read ". . upon substantiated evidence or documentation being readily available for audit in the school district "

7. *Permissive Tax Overrides*

School districts are permitted to levy tax overrides for the financing of certain special education programs The education of the mentally retarded and the physically handicapped are statutory-mandated programs A permissive tax override is permitted for the education of the mentally retarded but not for the education of the physically handicapped. Also, a tax override is provided for the educationally handicapped, which is not a mandated program.

Education Code Section 6913 1 (mentally retarded) and Section 20807 (educationally handicapped) permit the levy of the tax overrides, budget forms designed by the Department of Education include schedules whereby districts compute future year's tax revenue requirements for which the county board of supervisors levy the tax

All districts included in our study that levied permissive tax overrides for the education of the mentally retarded and the educationally handicapped incorrectly reported revenue and costs, resulting in the collection of millions of dollars of tax money for restricted purposes which was used for other educational purposes

Districts are excluding general purpose tax receipts applicable to special education pupils in their computation of permissive tax override requirements It is our understanding that each child, whether handicapped or not, is entitled to a proration of the general purpose tax levy. By excluding a proration of general purpose taxes, school districts overstate the excess of expenditures over total revenue of special education, increasing the amount that will be raised from a permissive tax rate levied by the county board of supervisors It is

generally agreed by education personnel that permissive tax overrides are intended by the Legislature to recover for school districts the excess of costs incurred in special education programs over the state's reimbursement for those programs and the amount available from other sources of district revenues.

The following illustrates the differences in computations using actual totals reported by a large sample school district and revised computations based upon our understanding of the legislation

	Reported By District	*Revised Computation*
	(In thousands of dollars)	
Restricted balance, July 1, 1964	$90	$90
Tax receipts	645	645
State and federal apportionments	816	560
Other designated income	45	22
Restricted balance plus income	1,596	1,317
Actual expense	1,485	545
Restricted balance, June 30, 1965	111	772
Estimated tax receipts on unsecured roll	95	95
Estimated state and federal apportionments	835	532
Other estimated income	45	23
Restricted balance plus income	1,086	1,422
Amount budgeted for expenditure and transfer	1,600	650
Surplus (deficit)	($514)	$772

The above statement shows that the sample district reported that a deficit of $514,000 was expected in special educational programs requiring the levy of a permissive tax override Our recomputation of the funds available for these special educational programs, as we interpret the applicable legislation, shows a projected surplus of $772,000, a difference of $1,286,000 from the deficit projected by the school district

The revised computations show only those totals representing excess expenses and state apportionments made exclusively for this purpose If, as shown, the resources available for these excess costs exceed the excess expenses, there is no need for a special tax levy

Recommendation

> We recommend that the policy regarding the use of overrides and the method of determining the amount of such overrides be reviewed

8 *Forms Revision—Permissive Tax Override Levies*

In the illustration shown in the preceding comments, the budget form as reproduced does not provide a separate line entry to account for adjustments which may occur in the restricted balance between the date that a particular year's budget is prepared, districts books are closed, and the next year's budget document is due Major adjustments can and do occur An additional line entry in the form showing adjustments to the preceding year's reported balances can provide a means

whereby ending restricted balances of one year can be identified for control purposes with adjusted beginning restricted balances in the following year

Recommendation

We recommend that school district budget documents accounting for permissive tax override levies be revised to disclose adjustments, if any, in restricted balances occuring between years

9 *Budgetary Control by Line Items*

Section 18351 1 of the Education Code requires that unexpended balances of an approved budget of a county school service fund be controlled by line items in each activity or program It further requires that amounts expended in excess of the approved budget be withheld from the allowances made in the next succeeding fiscal year. Preparation, review, approval, and posting of budget changes consume many hours of personnel time at the county and state levels; many of the documents merely transfer small amounts between line items within the same overall program

Recommendation

We recommend that control by the Department of Education over county school service fund budgets be limited to review of the overall activity or program instead of line items

WILLIAM H MERRIFIELD
Auditor General

December 22, 1966

Schedule A

SUMMARY OF SPECIAL EDUCATION PROGRAM EXCESS COSTS OF SELECTED SCHOOL DISTRICTS
For the Year Ended June 30, 1965

Program	State's share Cost per ADA	State's share % of total	District's share Cost per ADA	District's share % of total	Total excess cost
Physically Handicapped:					
School district:					
A	$927	72	$361	28	$1,288
B	918	73	333	27	1,251
C*	910	66	462	34	1,372
D*	910	52	827	48	1,737
E†	720	100	–	–	720
F	967	53	865	47	1,832
G	912	68	420	32	1,332
H	910	95	52	5	962
County superintendent of schools					
Elementary	658	100	–	–	658
Secondary	675	100	–	–	675
Educable Mentally Retarded:					
School district:					
A	375	84	72	16	447
B	375	85	64	15	439
C	375	67	181	33	556
D	375	77	113	23	488
E	68	100	–	–	68
F	375	66	191	34	566
G	299	100	–	–	299
H	375	97	13	3	388
County superintendent of schools					
Elementary	375	55	307	45	682
Trainable Mentally Retarded:					
School district:					
A	670	94	40	6	710
B	670	76	209	24	879
G	670	94	46	6	716
H	670	88	91	12	761
County superintendent of schools:					
Elementary	595	100	–	–	595
Educationally Handicapped: Special Day Classes:					
School district:					
A	290	100	–	–	290
B	910	96	37	4	947
G	910	85	165	15	1,075
H	910	52	849	48	1,759

* Reported direct salary costs of instruction only

† Total costs overstated in relation to other districts due to application of weighted ADA factors

Schedule A—Continued

Program	State's share Cost per ADA	State's share % of total	District's share Cost per ADA	District's share % of total	Total excess cost
Learning Disability Groups.					
School district					
A	$715	100	–	–	$715
B	910	20	$3,633	80	4,543
G	910	57	700	43	1,610
County superintendent of schools:					
Elementary	583	100	–	–	583
Home and Hospital Instruction:					
School district					
A	650	100	–	–	650
B	910	47	1,012	53	1,922
F	910	94	62	6	972
G	910	57	690	43	1,600
County superintendent of schools:					
Elementary	150	100	–	–	150
Transportation—Certain Handicapped Pupils:					
School district.					
A	455	100	–	–	455
B	305	100	–	–	305
C	475	73	176	27	651
F	475	81	113	19	588
G	421	100	–	–	421
H	420	100	–	–	420
County superintendent of schools:					
Elementary	358	100	–	–	358

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