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CHAPTER 843

An act to amend Section 14035.5 of the Government Code, to amend Section 99234 of the Public Utilities Code, and to amend Section 22710 of the Vehicle Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981.]

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

SECTION 1. Section 14035.5 of the Government Code is amended to read:

14035.5. The department may enter into contracts with common carriers, as defined by Section 211 of the Public Utilities Code, or with any corporation, partnership, or person to provide feeder services to and from rail passenger terminals or intercity bus transportation.

In contracting for intercity bus transportation, the department may fund fixed route, scheduled services which primarily provide service between nonurbanized communities and passenger air terminals with 1980 volumes of 1,000,000 passengers or less. "Nonurbanized community" means any city or territory which does not meet the criteria for an "urbanized area," as defined by the Bureau of Census of the United States Department of Commerce on page 66185 in Number 195 of Volume 45 of the Federal Register for October 6, 1980.

The department may construct, acquire or lease, improve, and operate bus passenger terminals and related facilities which provide intermodal passenger services.

SEC. 2. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles shall be filed in the same manner as are claims filed for the purposes of subdivision (a) of Section 99400.

(b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to a priority list of those facilities prepared by the transportation planning agency for the area within its jurisdiction.

(c) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(d) The transportation planning agency shall review its allocations made pursuant to Section 99233.3 within 30 days after receiving a request for a review from any city or county in the area within the jurisdiction of the transportation planning agency.

SEC. 3. Section 22710 of the Vehicle Code is amended to read:

22710. The Department of the California Highway Patrol may:

(a) Disburse any of the money in the Abandoned Vehicle Trust

Fund established in subdivision (b) of Section 9250.7 to any city, county, or city and county, which establishes pursuant to Section 22660 procedures for the abatement and removal as public nuisances of any abandoned vehicles or parts thereof from corridors of the state highway system, from public lands and parks, and from river, wildlife, agricultural, and recreational areas, to carry out such procedures. Insofar as practical, the Department of the California Highway Patrol shall prorate moneys in the fund to each county in proportion to the number of abandoned vehicles which have been surveyed throughout the state.

(b) In the alternative, provide for the removal of abandoned vehicles by franchise or contract, in which event the Department of the California Highway Patrol shall be reimbursed from the fund.

(c) Establish rules and regulations to carry out the provisions of subdivisions (a) and (b).

SEC. 4. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Abandoned Vehicle Trust Fund to the California Highway Patrol for expenditure during the 1981–82 fiscal year for the purpose of Section 22710 of the Vehicle Code.

CHAPTER 844

An act to add and repeal Sections 17053, 17202.3, 23605, and 24343.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 17053 is added to the Revenue and Taxation Code, to read:

17053. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (f)), an amount equal to the amount determined in subdivisions (b) and (c).

(b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program for employees conducted principally in this state.

(2) The credit provided in paragraph (1) shall be claimed in the state income tax return for the taxable year in which the ridesharing vehicles are purchased.

(3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the

credit is allowed.

(c) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or commuter motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total annual payments to the lessor or vehicle provider, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision shall not be eligible for this credit.

(d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the employer's business activities in the absence of an employer-sponsored ridesharing incentive program.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds the "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect, notwithstanding subdivision (g), for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest taxable years possible.

(f) (1) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent such credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced so that the combined effective credit shall not exceed 30 percent of the costs, notwithstanding the carryover provisions of subdivision (e).

(2) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced by the amount of the increase in the federal credit.

(g) For purposes of this section:

(1) "Employer" means a taxpayer who is either of the following:

(A) A person for whom services are performed by employees, except government agencies.

(B) A private educational institution which enrolls students at higher than the secondary level.

(2) "Employee" means either of the following:

(A) An individual who performs service for an employer for more than eight hours per week for remuneration.

(B) Any commuting student, as defined in paragraph (3).

(3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the "employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.

(4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal or other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.

(5) "Company shuttle bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:

(i) Transporting employees on a scheduled-route basis.

(ii) Interfacing with public transportation facilities.

(iii) Transporting employees on a demand-response basis.

(C) Is acquired by the taxpayer on or after the date of the enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which the vehicle is placed in service.

(6) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

(D) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service.

(7) "Company motor pool vehicle" means a highway vehicle which meets all of the following criteria:

(A) Is an automobile with a gross vehicle weight of 6000 pounds or less.

(B) Meets or exceeds certain fuel efficiency standards pursuant to the provisions of Title II of Public Law 95–618.

(C) Is made available to all employees on a nondiscriminatory basis in the normal course of the taxpayer's business.

(D) Is acquired by the taxpayer on or after the date of the enactment of this section.

(E) With respect to which the taxpayer makes an election under

this paragraph on his return for the taxable year in which the vehicle is placed in service.

(8) "Net tax" means the tax imposed under Section 17041 or 17048 minus all credits except the credits provided by Section 17053.5 (relating to the renters' credit), Section 17061 (relating to the excess state disability insurance withheld), and Section 18551.1 (relating to income tax withheld).

(h) This section shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1981, and ending on or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 2. Section 17202.3 is added to the Revenue and Taxation Code, to read:

17202.3. (a) Except as otherwise provided in this section, there shall be allowed to an employer a deduction as an ordinary and necessary expense paid or incurred during the taxable year in carrying on any trade or business those expenses involved in each of the following activities:

(1) Subsidizing employees commuting in third-party vanpools.

(2) Subsidizing employees commuting in private commuter buses.

(3) Subsidizing monthly transit passes for his or her employees or for use by the employee's dependents, except that no deduction shall be allowed for transit passes issued for the use of elementary and secondary school students.

(4) Subsidizing employees commuting in subscription taxipools.

(5) In the case of an employer who offers free parking to his or her employees, offering a cash equivalent to employees who do not require parking.

(6) Providing free or preferential parking to carpools and vanpools.

(7) Making facility improvements to encourage employees, for the purpose of commuting from their homes, to participate in ridesharing arrangements, to use bicycles, or to walk. These facility improvements may include, but are not limited to, any of the following: the construction of bus shelters; the installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms; and parking lot modifications to provide carpools, vanpools, or buspools with preferential treatment. The cost of these facility improvements shall be allowed as a depreciation deduction. Notwithstanding subdivision (c), the depreciation deduction shall be allowable over a 36-month period.

(8) Providing company commuter van or bus service to his or her employees and to others for commuting from their homes, but not for transportation required as part of the employer's business activities, except as otherwise provided in this section. The capital costs of providing this service shall not be an eligible deduction

under this section.

(9) Providing to employees transportation services which are required as part of the employer's business activities to the extent that the transportation would be provided by employees without reimbursement in the absence of an employer-sponsored ridesharing incentive program. The capital costs of providing this service shall not be an eligible deduction under this section.

(b) For purposes of this section:

(1) "Employer," "employee," "commuting student," "employer-sponsored ridesharing incentive program," and "company commuter bus or van" shall have the meanings specified in Section 17053.

(2) "Third-party vanpool" means a vanpool that is not administered and operated by an employer or his or her employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.

(3) "Vanpool" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to 15 adult passengers.

(4) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.

(5) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(6) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis, following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(7) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term shall include ridesharing arrangements known as carpools, vanpools, and buspools.

(8) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than eight adult passengers.

(9) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(c) This section shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1981, and ending on or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 3. Section 23605 is added to the Revenue and Taxation Code, to read:

23605. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in subdivisions (b) and (c).

(b) (1) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for the purchase of company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program for employees conducted principally in this state.

(2) The credit provided in paragraph (1) shall be claimed in the state return for the income year in which the ridesharing vehicles are purchased.

(3) The basis of any ridesharing vehicle purchased for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

(c) The amount of the credit allowed by this subdivision shall be 20 percent of the cost incurred by an employer for leasing or contracting company shuttle buses, company commuter buses or vans, or commuter motor-pool vehicles which are provided as part of an employer-sponsored ridesharing incentive program. This credit shall be based on the total annual payments to the lessor or vehicle provider, excluding insurance, maintenance, fuel, drivers' salaries, or other operating expenses. The lessor or vehicle provider of vehicles specified in this subdivision shall not be eligible for this credit.

(d) The credits allowed by subdivisions (b) and (c) shall not apply to the cost of purchasing, leasing, or contracting company shuttle buses, company commuter buses or vans, or company motor-pool vehicles which would otherwise be required as part of the employer's business activities in the absence of an employer-sponsored ridesharing incentive program.

(e) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds those taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect, notwithstanding subdivision (g), for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest income years possible.

(f) (1) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle

buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced so that the combined effective credit shall not exceed 30 percent of the costs, notwithstanding the carryover provisions of subdivision (e).

(2) If the federal investment tax credit for "commuter highway vehicles," as defined and provided for in the Energy Tax Act of 1978, is increased, then to the extent the credit is allowed or allowable for the purchase, lease, or charter of company shuttle buses, company commuter buses or vans, or company motor pool vehicles, as defined in this section, the state credit provided in subdivisions (b) and (c) shall be reduced by the amount of the increase in the federal credit.

(g) For purposes of this section:

(1) "Employer" means either of the following:

(A) A taxpayer for whom services are performed by employees, except government agencies.

(B) A taxpayer which is a private educational institution which enrolls students at higher than the secondary level.

(2) "Employee" means either of the following:

(A) An individual who performs service for an employer for more than eight hours per week for remuneration.

(B) Any commuting student, as defined in paragraph (3).

(3) "Commuting student" means a registered full-time student at a college, university, or other postsecondary educational institution, who lives apart from the property which is designated as the "employment site" for the purpose of this section, and who travels between his or her residence and the designated employment site on a regular, though not necessarily daily, basis.

(4) "Employer-sponsored ridesharing incentive program" means a program undertaken by an employer either alone or in cooperation with other employers to encourage or provide, or both, fiscal or other incentives to employees to make the home-to-work commute trip by any mode other than the single-occupant motor vehicle.

(5) "Company shuttle bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 80 percent of the mileage of which reasonably can be expected to be for any of the following purposes:

(i) Transporting employees on a scheduled-route basis.

(ii) Interfacing with public transportation facilities.

(iii) Transporting employees on a demand-response basis.

(C) Is acquired by the taxpayer on or after the date of the enactment of this section.

(D) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which the vehicle is placed in service.

(6) "Company commuter bus or van" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least eight adults, not including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this legislation.

(D) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service.

(7) "Company motor pool vehicle" means a highway vehicle which meets all of the following criteria:

(A) Is an automobile with a gross vehicle weight of 6,000 pounds or less.

(B) Meets or exceeds certain fuel efficiency standards pursuant to the provisions of Title II of Public Law 95-618.

(C) Is made available to all employees on a nondiscriminatory basis in the normal course of the taxpayer's business.

(D) Is acquired by the taxpayer on or after the date of the enactment of this section.

(E) With respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which the vehicle is placed in service.

(h) This section shall be applicable in the computation of taxes for income years beginning on or after January 1, 1981, and ending on or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 4. Section 24343.5 is added to the Revenue and Taxation Code, to read:

24343.5. (a) Except as otherwise provided in this section, there shall be allowed to an employer a deduction as an ordinary and necessary expense paid or incurred during the income year in carrying on any trade or business those expenses involved in each of the following activities:

(1) Subsidizing employees commuting in third-party vanpools.

(2) Subsidizing employees commuting in private commuter buses

(3) Subsidizing monthly transit passes for its employees or for use by the employee's dependents, except that no deduction shall be allowed for transit passes issued for the use of elementary and secondary school students.

(4) Subsidizing employees commuting in subscription taxipools.

(5) In the case of an employer who offers free parking to its employees, offering a cash equivalent to employees who do not require parking.

(6) Providing free or preferential parking to carpools and vanpools.

(7) Making facility improvements to encourage employees, for the purpose of commuting from their homes, to participate in ridesharing arrangements, to use bicycles, or to walk. These facility improvements may include, but are not limited to, any of the following: the construction of bus shelters; the installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms; and parking lot modifications to provide carpools, vanpools, or buspools with preferential treatment. The cost of these facility improvements shall be allowed as a depreciation deduction. Notwithstanding subdivision (c), the depreciation deduction shall be allowable over a 36-month period.

(8) Providing company commuter van or bus service to its employees and to others for commuting from their homes, but not for transportation required as part of the employer's business activities, except as otherwise provided in this section. The capital costs of providing this service shall not be an eligible deduction under this section.

(9) Providing to employees tranportation services which are required as part of the employer's business activities to the extent that the transportation would be provided by employees without reimbursement in the absence of an employer-sponsored ridesharing incentive program. The capital costs of providing this service shall not be an eligible deduction under this section.

(b) For purposes of this section:

(1) "Employer," "employee," "commuting student," "employer-sponsored ridesharing incentive program," and "company commuter bus or van" shall have the meanings specified in Section 23605.

(2) "Third-party vanpool" means a vanpool that is not administered and operated by an employer or his employees, but is administered and operated by an outside organization, including a government agency, which makes vehicles and other equipment and services available for use by employers and their employees.

(3) "Vanpool" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to 15 adult passengers

(4) "Monthly transit pass" means any bulk purchase of transit rides that entitles the purchaser to 40 or more rides per month, whether at a discount rate or the base fare rate.

(5) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(6) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily-fare basis, following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(7) "Ridesharing arrangement" means the transportation of

persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term shall include ridesharing arrangements known as carpools, vanpools, and buspools.

(8) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry less than eight adult passengers.

(9) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(c) This section shall be applicable in the computation of taxes for income years beginning on or after January 1, 1981, and ending on or before December 31, 1986. This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 5. Notwithstanding any other provisions in this act to the contrary, no credit shall be allowed for the purchase, lease, or charter of a commercial vehicle, as defined in Section 260 of the Vehicle Code.

SEC. 6. It is the intent of the Legislature to encourage employers to sponsor ridesharing incentive programs for their employees. The incentive programs shall be voluntary in nature and shall not require or coerce, either explicitly or implicitly, employees to participate. Any employer-sponsored ridesharing incentive program which is established in violation of this condition shall not be eligible for the tax credits or deductions, or both, provided in this act.

SEC. 7. (a) For the 1981–82 fiscal year, the sum of two million dollars ($2,000,000) is hereby transferred from the Transportation Planning and Development Account in the State Transportation Fund to the General Fund for the purpose of replacing revenues which will not be collected as a result of the enactment of this act.

(b) On July 1, 1982, and on every July 1 thereafter, through July 1, 1986, the State Treasurer shall transfer from the Transportation Planning and Development Account in the State Transportation Fund or other appropriate funding source determined by the Legislature, to the General Fund, an amount specified in the Budget Act as necessary for the purpose of replacing revenue which will not be collected as a result of the enactment of this act.

(c) The Franchise Tax Board shall annually provide the State Treasurer with an estimate of the amount to be transferred pursuant to subdivision (b).

(d) Funds transferred to the General Fund pursuant to this section shall not be deducted from the amounts appropriated pursuant to Sections 99313 and 99313.5 of the Public Utilities Code.

SEC. 8. (a) The Franchise Tax Board, in cooperation with the Energy Resources Conservation and Development Commission, shall, after one or more public hearings, prescribe guidelines as may be necessary to carry out the purposes of this act.

(b) The Franchise Tax Board shall report to the Legislature on or

before October 1, 1984, on the effects of this act, including the revenue losses, the claims filed for credits and deductions, the number and types of ridesharing incentive programs sponsored, the number and types of vehicles which were purchased, leased, or chartered, and, in cooperation with the Energy Conservation and Development Commission, the energy savings.

SEC. 8.5. This act shall be known and may be cited as the California Employer's Ridesharing Incentive Act.

SEC. 9. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 845

An act to amend Section 51246 of the Government Code, relating to timberland.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 51246 of the Government Code is amended to read:

51246. (a) If the county or city or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(b) No city or county shall enter into a new contract or shall renew an existing contract on or after February 28, 1977, with respect to timberland zoned as timberland preserve. The city or county shall serve notice of its intent not to renew the contract as provided in this section.

(c) In order to meet the minimum acreage requirement of an agricultural preserve pursuant to Section 51230, land formerly within the agricultural preserve which is zoned as timberland preserve pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

(d) Notwithstanding any other provision of law, commencing with the lien date for the 1977–78 fiscal year all timberland within an existing contract which has been nonrenewed as mandated by this section shall be valued according to Section 423.5 of the Revenue and Taxation Code, succeeding to and including the lien date for the 1981–82 fiscal year. Commencing with the lien date for the 1982–83 fiscal year and on each lien date thereafter, such timberland shall be valued according to Section 434.5 of the Revenue and Taxation Code.

CHAPTER 846

An act to amend Section 65913.3 of the Government Code, and to amend Section 35800 of the Health and Safety Code, relating to real property.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 65913.3 of the Government Code is amended to read:

65913.3. Every city, county, or city and county shall, on or before January 1, 1983, provide for coordination of review and decisionmaking and the provision of information regarding the status of all applications and permits for residential developments, as required by such city, county, or city and county, by a single administrative entity. The city, county, or city and county may charge fees to defray costs which are directly attributable to the coordination of an application of a developer by a single administrative entity.

For the purposes of this section, "administrative entity" means a person or agency designated by the legislative body of the city, county, or city and county to coordinate the review and decisionmaking and provide information regarding the status of all permits or applications required by the local agency.

A city, county, or city and county may adopt, by resolution or ordinance, procedures for the implementation of this section by the designated administrative entity.

SEC. 2. Section 35800 of the Health and Safety Code is amended to read:

35800. This part shall be known and may be cited as the Holden Act.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 847

An act to amend Sections 69511, 69760, 69761, 69761.5, 69763, 69772, and 69775 of, and to repeal Section 69760.5 of, the Education Code, and to repeal Section 14 of Chapter 1201 of the Statutes of 1977, relating to student financial assistance.

[Approved by Governor September 26, 1981. Filed with Secretary of State September 26, 1981.]

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

SECTION 1. Section 69511 of the Education Code is amended to read:

69511. (a) Each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have two-year terms.

(b) The members appointed pursuant to subdivisions (a), (d), and (f) of Section 69510 shall be appointed effective January 1, 1976.

(c) At no time shall both student representatives be enrolled in a California independent college or university or the University of California or the California State University and Colleges or a California community college.

(d) Current members of the Student Aid Commission shall serve on the commission for the remainder of the terms for which they were appointed, and such members may be reappointed. Notwithstanding Section 69510, the commission shall consist of 13 members in 1976, 12 members in 1977, 1978, and 1979, and 11 members thereafter.

(e) Appointment to the commission shall be made by the Governor subject to confirmation by the Senate.

(f) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. The appointee shall hold office only for the balance of the unexpired term.

(g) Each member of the commission shall receive a stipend of fifty dollars ($50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission and, in addition, shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.

(h) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of such program within a state by a state agency, the Student Aid Commission, as established by Section 69510, shall administer such act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under such act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

The commission shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan

for development and administration of any such federal scholarship or grant program within the state.

Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

Before adopting a state plan the Student Aid Commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

SEC. 2. Section 69760 of the Education Code is amended to read:

69760. There is hereby established a State Guaranteed Loan Program for postsecondary students, to be consistent with Title IV of the act of Congress entitled the "Higher Education Act of 1965" (P.L. 89-329) and extensions thereof, the Education Amendments of 1976 (P.L. 94-482), or any similar act of Congress and the rules and regulations adopted thereunder.

SEC. 3. Section 69760.5 of the Education Code is repealed.

SEC. 4. Section 69761 of the Education Code is amended to read:

69761. The purpose of the guaranteed loan program shall be as follows:

(a) To provide a source of loans to eligible students to assist them in meeting educational costs at eligible schools of their choice.

(b) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress.

SEC. 5. Section 69761.5 of the Education Code is amended to read:

69761.5. The commission shall serve as a state student loan guarantee agency, pursuant to P.L. 94-482, and subsequent federal regulations including but not limited to the following provisions:

(a) The commission shall be the designated state agency for receiving any federal advances for administrative costs and payments of insurance obligations.

(b) Student loans to undergraduate and graduate students shall not exceed the limits provided in federal law.

(c) Participating educational institutions shall notify lenders and the commission of participating students enrollment status changes and current address.

(d) No educational institution shall lend to more than 50 percent of its undergraduate students; this provision may be waived by the United States Secretary of Education if such a limitation creates a hardship for present or prospective students.

(e) A student may receive a guaranteed student loan only if he or she is maintaining satisfactory progress in a course of study pursuant to practices of the institution in which the student is enrolled, and provided the student has not previously defaulted on any student loan. If a student has made satisfactory arrangements to repay a

default on a previous student loan, the student may be eligible to receive a guaranteed student loan.

(f) An insurance premium may be charged student borrowers not to exceed the maximum rate allowable, pursuant to federal statutes and regulations.

SEC. 6. Section 69763 of the Education Code is amended to read:

69763. The commission shall administer the guaranteed loan program established pursuant to this chapter. The commission is hereby vested with authority to enter into any contract with the United States Secretary of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, and is hereby vested with all other necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The commission shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

SEC. 7. Section 69772 of the Education Code is amended to read:

69772. The commission, in consultation with lenders, shall:

Annually report on the numbers of students participating in the program, total loan volume, the postsecondary educational institutions in which participating students are enrolled, and numbers and types of students not served by the program.

SEC. 8. Section 69775 of the Education Code is amended to read:

69775. The commission shall develop and distribute in cooperation with postsecondary educational institutions and private lenders, simple, common consumer information for prospective student borrowers.

SEC. 9. Section 14 of Chapter 1201 of the Statutes of 1977 is repealed.

CHAPTER 848

An act to amend Sections 10208.5, 10209.5, 10210, 10213.5, 10214.5, 10215, 10222, 10249.2, 10249.3, 10249.4, 11011, 11011.05, 11011.1, 11011.12, 11015, and 11017 of, and to add Sections 11011.06 and 11011.13 to, the Business and Professions Code, relating to real estate licensees, and making an appropriation therefor.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 10208.5 of the Business and Professions Code is amended to read:

10208 5 The real estate broker license examination fee is fifty

dollars ($50). The real estate broker license reexamination fee is fifty dollars ($50).

If an applicant fails to appear for the examination within two years from the date of filing his application and fee for the examination, his application shall thereupon lapse and no further proceedings thereon shall be taken.

SEC. 2. Section 10209.5 of the Business and Professions Code is amended to read:

10209.5. The fee for an active restricted broker license shall not exceed one hundred ten dollars ($110).

These fees are subject to the delinquency, penalty, and late fees provided for in Section 163.5.

SEC. 3. Section 10210 of the Business and Professions Code is amended to read:

10210. The fee for an active real estate broker license shall not exceed one hundred ten dollars ($110).

In the case of an original applicant, the fee is payable after the applicant is notified of passing the examination for license.

These fees are subject to the delinquency, penalty, and late fees provided for in Section 163.5.

SEC. 4. Section 10213.5 of the Business and Professions Code is amended to read:

10213.5. The real estate salesperson license examination fee is twenty-five dollars ($25). The real estate salesperson license reexamination fee is twenty-five dollars ($25).

If an applicant fails to appear for the examination within two years from the date of filing his or her application and fee for the examination, his or her application shall thereupon lapse and no further proceedings thereon shall be taken.

SEC. 5. Section 10214.5 of the Business and Professions Code is amended to read:

10214.5. The fee for an active restricted salesperson license shall not exceed eighty dollars ($80).

These fees are subject to the delinquency, penalty, and late fees provided for in Section 163.5.

SEC. 6. Section 10215 of the Business and Professions Code is amended to read:

10215. The fee for an active real estate salesperson license shall not exceed eighty dollars ($80).

In the case of an original applicant, the fee is payable after the applicant is notified of passing the examination for license.

These fees are subject to the delinquency, penalty, and late fees provided for in Section 163.5.

SEC. 7. Section 10222 of the Business and Professions Code is amended to read:

10222. For any examination required under any order issued pursuant to the provisions of the Administrative Procedure Act, the fee is twenty-five dollars ($25) for salespersons and fifty dollars ($50) for brokers.

SEC. 8. Section 10249.2 of the Business and Professions Code is amended to read:

10249.2. The sale or lease, or the offering for sale or lease of lots or parcels in a subdivision situated outside of this state shall be governed by the provisions of Article 6, of Chapter 3 of this part and of Chapter 1 of Part 2 of the Division 4 of this code, insofar as applicable.

The Real Estate Commissioner may adopt regulations reasonably necessary to enforce the provisions of this article.

The actual subdivision fees established by regulation shall not exceed the amount reasonably required by the department to process applications for permits required by this article.

SEC. 9. Section 10249.3 of the Business and Professions Code is amended to read:

10249.3. The fee for filing an application for a permit required by this article shall not exceed one thousand six hundred dollars ($1,600) per subdivision, plus ten dollars ($10) for each lot, unit, apartment, undivided interest, time-share estate, or time-share use offered for sale or lease.

SEC. 10. Section 10249.4 of the Business and Professions Code is amended to read:

10249.4. The fee for filing an application for a renewal permit required by this article shall not exceed five hundred dollars ($500).

SEC. 11. Section 11011 of the Business and Professions Code is amended to read:

11011. After receiving the notice of intention, the commissioner may require such additional information concerning the project as he deems necessary, for which purpose he may prepare a questionnaire for the owner, his agent or subdivider, to answer. A filing fee not to exceed five hundred dollars ($500), plus ten dollars ($10) for each lot in the subdivision, shall accompany the answered questionnaire.

SEC. 12. Section 11011.05 of the Business and Professions Code is amended to read:

11011.05. The fee for filing an application for a preliminary or renewal subdivision report shall not exceed five hundred dollars ($500).

SEC. 13. Section 11011.06 is added to the Business and Professions Code, to read:

11011.06. The fee for filing an application for an amended subdivision report shall not exceed three hundred dollars ($300)

SEC. 14. Section 11011.1 of the Business and Professions Code is amended to read:

11011.1. With respect to an answered questionnaire in connection with any subdivision described in Section 11004.5, or any interest therein, a filing fee not to exceed one thousand six hundred dollars ($1,600) per subdivision, plus ten dollars ($10) for each lot, parcel, apartment, unit, undivided interest, time-share estate, or time-share use in the subdivision, shall accompany the answered

questionnaire. The filing fee provided for in this section shall be in lieu of the filing fee otherwise provided for in Section 11011 of this code.

SEC. 15. Section 11011.12 of the Business and Professions Code is amended to read:

11011.12. The fee for filing an application for a preliminary or renewal subdivision report in connection with any subdivision described in Section 11004.5, or any interest therein, shall not exceed five hundred dollars ($500).

SEC. 16. Section 11011.13 is added to the Business and Professions Code, to read:

11011.13. The fee for filing an application for an amended subdivision report in connection with any subdivision described in Section 11004.5, or any interest therein, shall not exceed three hundred dollars ($300).

SEC. 17. Section 11015 of the Business and Professions Code is amended to read:

11015. When an inspection is to be made of subdivided lands, situated outside the State of California, being offered for sale or lease in this state, the questionnaire shall be accompanied by the filing fee, together with an amount equivalent to twenty-five cents ($0.25) a mile for each mile going and returning, or where public transportation is available the actual round trip fare pertaining thereto, estimated by the commissioner to be traveled from the office of the Department of Real Estate where the filing is made to the location of the project, and an amount estimated to be necessary to cover the additional expenses of such inspection, not to exceed seventy-five dollars ($75) a day for each day consumed in the examination of the project.

SEC. 18. Section 11017 of the Business and Professions Code is amended to read:

11017. All fees and earned expense collected under this chapter shall be deposited in the Real Estate Fund under Chapter 6 of Part 1 of Division 4 of this code.

The actual subdivision fees established by regulation shall not exceed the amount reasonably required by the department to process questionnaires and applications for public reports required by this article.

CHAPTER 849

An act to amend Section 261 of the Penal Code, relating to crimes.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 261 of the Penal Code is amended to read:

261. Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent.

(2) Where it is accomplished against a person's will by means of force or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating, narcotic, or anaesthetic substance, administered by or with the privity of the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.

(5) Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 850

An act to amend Section 5149 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 1981. Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 5149 of the Revenue and Taxation Code is amended to read:

5149. (a) Any city for which county officers collect taxes may provide for the defense by counsel for the county of actions brought against the city under this article, in which event it shall be the duty of such counsel to defend such actions, or the city may provide that such actions shall be defended by its own counsel; provided, however, that no city may provide for the defense by counsel for the county of any action brought against the city under this article unless the city previously has designated the county as its agent for service of process for any and all actions brought against the city under this article. A city which has so designated the county as its agent for service of process may, at any time thereafter, withdraw that designation. Where a city has so designated the county as its agent for service of process, the county shall notify the city of the title and general nature of any action naming the city as defendant within 10 days after service of process.

(b) The county clerk shall keep and maintain a public record of all cities who have designated the county as agent for service of process pursuant to subdivision (a), and shall delete therefrom the name of any city which has withdrawn the designation.

(c) The county shall impose fees on a city which has designated the county as its agent for service of process which shall cover the costs incurred pursuant to this section.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 851

An act to add Section 118.1 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981.]

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

SECTION 1. Section 118.1 is added to the Streets and Highways Code, to read:

118.1. Except as provided in Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code and Section 118.6 of this code, with respect to

commercial real property acquired for the construction of a state highway, but no longer required for that purpose because the construction will not be undertaken, the department shall first offer the real property for sale at its current fair market value to the occupant thereof if the occupant is renting or leasing the real property from the department, has used and occupied the real property, and has made improvements of a value in excess of five thousand dollars ($5,000) on the real property during that time at his or her own expense consistent with the terms of the rental or lease agreement with the department. For the purpose of establishing fair market value, the department shall obtain at least two independent appraisals from qualified appraisers.

The failure of the department to first offer excess real property as required by this section shall not affect the validity of any conveyance of this excess real property to any person or entity unaware of the failure of the department to do so. However, this shall in no way be construed as releasing the department from its responsibility in offering that property to the occupants thereof first.

CHAPTER 852

An act to add and repeal Sections 15709, 15976, 16486, and 16487 to, and to repeal Section 16477 of, the Public Utilities Code, relating to public utility districts.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 15709 is added to the Public Utilities Code, to read:

15709. Notwithstanding any provision of law to the contrary, for purposes of this division all territory in the Kirkwood Meadows Public Utility District shall be deemed to be solely within the County of Alpine, which shall be the principal county for purposes of formation of the district and which shall have jurisdiction to approve, disapprove, and carry out all matters pertaining to formation of the district; provided, however, that nothing in this section shall limit or impair the authority of the board of supervisors of the County of El Dorado or the County of Amador to disapprove, by resolution, formation of all or any part of the Kirkwood Meadows Public Utility District within its territory any time prior to final approval of the district by the County of Alpine. If either county so disapproves, any territory designated by the resolution of disapproval shall be excluded from the boundaries of the district.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1984, this section is repealed on

that date.

SEC. 2. Section 15976 is added to the Public Utilities Code, to read:

15976. Notwithstanding any provision of law to the contrary, the board of directors of the Kirkwood Meadows Public Utility District shall consist of five members, elected at large. Each member of the board, including a member appointed to fill a vacancy, shall be a resident and qualified elector of the district.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1984, this section is repealed on that date.

SEC. 3. Section 16477 of the Public Utilities Code, as added by Chapter 223 of the Statutes of 1973, is repealed.

SEC. 4. Section 16486 is added to the Public Utilities Code, to read:

16486. In addition to all other powers, excepting telephone service, authorized by this division, the Kirkwood Meadows Public Utility District may acquire, construct, own, and operate public parking facilities and cable television facilities and may provide snow removal and road maintenance services for all roads open to the public, including, but not limited to, public roads and roads offered for dedication but not accepted, within the district. Prior to providing any snow removal or road maintenance services, the district shall obtain the consent of any public agency owning such roads. Notwithstanding the provisions of Section 16467, the facilities and services provided in this subdivision need not be operated on a self-sustaining, revenue-producing basis. Revenue to defray the cost of such facilities and services may be raised in any manner authorized by this division.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1984, this section is repealed on that date.

SEC. 5. Section 16487 is added to the Public Utilities Code, to read:

16487. Notwithstanding any other provision of law, the Kirkwood Meadows Public Utility District may issue bonds and incur indebtedness pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), or the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) for the purpose of acquiring, constructing, owning, and operating any revenue-producing improvement, building, system, plant, works, facilities, undertaking, or other enterprise used for or useful for the generation, production, transmission, or distribution of electricity or gas for light, heat, or

power for public or private uses.

If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1984, this section is repealed on that date.

SEC. 6. The Legislature finds and declares that this act is necessary since special facts and circumstances applicable to the proposed Kirkwood Meadows Public Utility District, and not generally applicable, make the accomplishment of this purpose impossible by any general law. The territory proposed for inclusion within this district comprises parts of three counties, the majority of residents within the proposed district boundaries are in the County of Alpine, and the formation of and the nature of the public services required in the district are unique to this sparsely inhabited and mountainous rural area. The Legislature therefore finds and declares that since these special facts and circumstances applicable only to this district are involved, the purposes of this act are impossible to be accomplished by any general law, and special legislation applicable only to Kirkwood Meadows Public Utility District is therefore necessary.

SEC. 7. If the Kirkwood Meadows Public Utility District is incorporated on or before March 1, 1984, the district shall make payment to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act. In this event, no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 8. If the Kirkwood Meadows Public Utility District is not incorporated on or before March 1, 1984, notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 853

An act relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Mariposa Public Utility District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 2. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Mendota for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 3. A grant not to exceed the amount of twenty-two thousand eight hundred dollars ($22,800) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Oro Loma Elementary School District for the purpose of improving its domestic water supply system to meet, at a minimum safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 4. A grant not to exceed the amount of seventy-eight thousand dollars ($78,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Alvina Elementary School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 5. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Pico Water District for the purpose

of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 6. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the Mariposa Public Utility District, the City of Mendota, the Oro Loma Elementary School District, the Pico Water District, and the Alvina Elementary School District to immediately undertake certain improvements necessary to enable the residents of those communities to have a dependable and potable water supply.

SEC. 7. The Legislature further finds and declares that the water systems of the Mariposa Public Utility District, the City of Mendota, the Oro Loma Elementary School District, the Pico Water District, and the Alvina Elementary School District have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize grants from the California Safe Drinking Water Fund to the Mariposa Public Utility District, the City of Mendota, the Oro Loma Elementary School District, the Pico Water District, and the Alvina Elementary School District to resolve the critical water supply problem of the communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 854

An act to amend Sections 859b, 861, 871.5, and 1387 of, and to add Section 859c to, the Penal Code, relating to dismissal of criminal actions.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 859b of the Penal Code is amended to read:

859b. At the time the defendant appears before the magistrate for arraignment, if the public offense is a felony to which the defendant has not pleaded guilty in accordance with Section 859a,

the magistrate, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time therefor as provided in Section 859, shall set a time for the examination of the case and shall allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. The magistrate shall also issue subpoenas, duly subscribed, for witnesses within the state, required either by the prosecution or the defense.

Both the defendant and the people have the right to a preliminary examination at the earliest possible time, and unless both waive that right or good cause for a continuance is found as provided for in Section 1050, the preliminary examination shall be held within 10 court days of the date the defendant is arraigned or pleads, whichever occurs later.

Whenever the defendant is in custody, the magistrate shall dismiss the complaint if the preliminary examination is set or continued beyond 10 court days from the time of the arraignment or plea and the defendant has remained in custody for 10 or more court days solely on that complaint, unless either of the following occur:

(a) The defendant personally waives his or her right to preliminary examination within the 10 court days.

(b) The prosecution establishes good cause for a continuance beyond the 10-court day period.

If the preliminary examination is set or continued beyond the 10-court day period, the defendant shall be released pursuant to Section 1318 unless:

(1) The defendant requests the setting of continuance of the preliminary examination beyond the 10-court day period.

(2) The defendant is charged with a capital offense in a cause where the proof is evident and the presumption great.

(3) A witness necessary for the preliminary examination is unavailable due to the actions of the defendant.

(4) The illness of counsel.

(5) The unexpected engagement of counsel in a jury trial.

(6) Unforeseen conflicts of interest which require appointment of new counsel.

The magistrate shall dismiss the complaint if the preliminary examination is set or continued more than 60 days from the date of the arraignment or plea, unless the defendant personally waives his or her right to a preliminary examination within the 60 days.

SEC. 1.5. Section 859c is added to the Penal Code, to read:

859c. Notwithstanding the provisions of Section 859b, the magistrate may deny release on the person's own recognizance if the reason the continuance is requested is not the fault of the prosecution and the offense charged is one of the violent felonies in subdivision (c) of Section 667.5.

SEC. 2. Section 861 of the Penal Code is amended to read:

861. The preliminary examination shall be completed at one session or the complaint shall be dismissed, unless the magistrate, for

good cause shown by affidavit, postpones it. The postponement shall not be for more than 10 court days, unless either of the following occur:

(a) The defendant personally waives his or her right to a continuous preliminary examination.

(b) The prosecution establishes good cause for a postponement beyond the 10-court day period. If the magistrate postpones the preliminary examination beyond the 10-court day period, the defendant shall be released pursuant to subdivision (b) of Section 859b.

The preliminary examination shall not be postponed beyond 60 days from the date the motion to postpone the examination is granted, unless by consent or on motion of the defendant.

Nothing in this section shall preclude the magistrate from interrupting the preliminary examination to conduct brief court matters so long as a substantial majority of the court's time is devoted to the preliminary examination.

SEC. 3. Section 871.5 of the Penal Code is amended to read:

871.5. When an action, or a portion thereof, is dismissed by a magistrate pursuant to Section 859b, 861, 871 or 1385, the prosecutor may make a motion in the superior court within 10 days to compel the magistrate to reinstate the complaint or a portion thereof and to reinstate the custodial status of the defendant under the same terms and conditions as when the defendant last appeared before the magistrate. Notice of the motion shall be made to the defendant and the magistrate. The only ground for the motion shall be that, as a matter of law, the magistrate erroneously dismissed the action or a portion thereof.

The superior court shall hear and determine the motion on the basis of the record of the proceedings before the magistrate. If the motion is litigated to decision by the prosecutor, the prosecution is prohibited from refiling the dismissed action, or portion thereof.

Within 10 days after the magistrate has dismissed the action or a portion thereof, the prosecuting attorney may file a written request for a transcript of the proceedings with the clerk of the magistrate. The reporter shall immediately transcribe his or her shorthand notes pursuant to Section 869 and file with the clerk of the superior court an original plus one copy, and as many copies as there are defendants (other than a fictitious defendant). The reporter shall be entitled to compensation in accordance with the provisions of Section 869. The clerk of the superior court shall deliver a copy of the transcript to the prosecuting attorney immmediately upon its receipt and shall deliver a copy of the transcript to each defendant (other than a fictitious defendant) upon his or her demand without cost.

When a court has ordered the resumption of proceedings before the magistrate, the magistrate shall resume the proceedings within 10 days after the superior court has entered an order directing the reinstatement of the complaint, or a portion thereof, or within 10 days after the remittitur is filed in the superior court. Upon receipt

of the remittitur, the superior court shall forward a copy to the magistrate.

Pursuant to paragraph (9) of subdivision (a) of Section 1238 the people may take an appeal from the denial of the motion by the superior court to reinstate the complaint or a portion thereof. If the motion to reinstate the complaint is granted, the defendant may seek review thereof only pursuant to Sections 995 and 999a. Such review may only be sought in the event the defendant is held to answer pursuant to Section 871.

Nothing contained herein shall preclude a magistrate, upon the resumption of proceedings, from considering a motion made pursuant to Section 1318.

SEC. 4. Section 1387 of the Penal Code is amended to read:

1387. An order terminating an action pursuant to this chapter, or Section 859b, 861, 871, or 995, is a bar to any other prosecution for the same offense if it is a felony or it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 861, 871, or 995, or if it is a misdemeanor not charged together with a felony, except in those felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds that substantial new evidence has been discovered by the prosecution which would not have been known through the exercise of due diligence at or prior to the time of termination of the action.

However, if the previous termination was pursuant to Section 859b, 861, 871, or 995, the subsequent order terminating an action is not a bar to prosecution if either:

(a) Good cause is shown why the preliminary examination was not held within 60 days from the date of arraignment or plea.

(b) The motion pursuant to Section 995 was granted because of (1) present insanity of the defendant or (2) a lack of counsel after the defendant elected to represent himself rather than being represented by appointed counsel.

SEC. 5. Section 859c as added to the Penal Code by Section 1.5 of this act shall become operative only if Senate Constitutional Amendment No. 10 of the 1981–82 Regular Session of the Legislature is adopted by the people.

CHAPTER 855

An act to amend, repeal, and add Sections 35150 and 54790 of, and to add and repeal Section 35051 of, the Government Code, relating to annexations.

[Approved by Governor September 26, 1981. Filed with Secretary of State September 26, 1981.]

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

SECTION 1. Section 35051 is added to the Government Code, to read:

35051. "Urban service area" means existing developed, undeveloped, or agricultural land, either incorporated or unincorporated, within a city's sphere of influence, which is currently served by existing urban facilities, utilities, and services or are proposed to be served by urban facilities, utilities, and services in the first five years of a city's adopted capital improvement program. The boundary around such an urban area shall be called the "urban service area boundary" and shall be delineated and adopted by mutual agreement of a commission and a city pursuant to policies adopted by a commission in accordance with Sections 54774 and 54774.5.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 1.5. Section 35150 of the Government Code is amended to read:

35150. The commission shall have the powers and duties set forth in Chapter 6.6 (commencing with Section 54773) of Part 1, Division 2, Title 5, and such additional powers and duties as are specified in this part, including the following:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for the incorporation of cities, for changes of organization of cities, and municipal reorganizations; provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city or, (2) located within an urban service area which has been delineated and adopted by mutual agreement of a commission and a city, which is not prime agricultural land, as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city.

As a condition to the annexation of an area, which is surrounded or substantially surrounded by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this chapter, that the annexation include the entire island of surrounded or substantially surrounded territory.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city, or with regard to a proposal for municipal reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or municipal reorganization, is inhabited or uninhabited. Such determination shall be based on the definitions of "inhabited territory" contained in Section 35038.

(c) With regard to a proposal for consolidation of two or more cities, to determine which city shall be the consolidated, successor city.

(d) To adopt standards and procedures for the evaluation of plans for providing municipal services submitted pursuant to Section 35102.

(e) To waive the restrictions of Section 35010, if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed as a result of incorporation or annexation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(f) To approve the annexation of unincorporated, noncontiguous territory not exceeding 160 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.

(g) Subject to the provisions of Section 35031, to designate in the resolution making determinations the conducting authority for proceedings.

(h) When a municipal reorganization includes the annexation of inhabited territory to a city and the assessed value of land within such territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within such territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the reorganization that the reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

(i) With respect to the incorporation of a new city, to determine the number of inhabitants or the number of registered voters residing within the proposed city.

Except as otherwise provided in this part, such powers and duties shall be exercised in accordance with the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5. To the extent of any inconsistency between Chapter 6.6 and this part, the provisions of this part shall control.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 2. Section 35150 is added to the Government Code, to read:

35150. The commission shall have the powers and duties set forth in Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5, and such additional powers and duties as are specified in this part, including the following:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for the incorporation of cities, for changes of organization of cities, and municipal reorganizations.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city, or with regard to a proposal for municipal reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or municipal reorganization, is inhabited or uninhabited. Such determination shall be based on the definitions of "inhabited territory" contained in Section 35038.

(c) With regard to a proposal for consolidation of two or more cities, to determine which city shall be the consolidated, successor city.

(d) To adopt standards and procedures for the evaluation of plans for providing municipal services submitted pursuant to Section 35102.

(e) To waive the restrictions of Section 35010, if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed as a result of incorporation or annexation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(f) To approve the annexation after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election if the commission finds that the territory contained in an annexation proposal:

(1) Does not exceed 100 acres in area and such area constitutes the entire island;

(2) (A) Is surrounded or substantially surrounded by the city to which annexation is proposed or by such city and a county boundary or the Pacific Ocean; or

(B) Is surrounded by a city and adjacent cities;

(3) Is substantially developed or developing;

(4) Is not prime agricultural land as defined in Section 35046; and

(5) Will benefit from such annexation or is receiving benefits from the annexing city.

The finding required pursuant to paragraph (3) of this subdivision shall be based upon one or more factors, including, but not limited to:

(i) The availability of public utility services.

(ii) The presence of public improvements.

(iii) The presence of physical improvements upon the parcel or

parcels within such area.

(g) To approve the annexation of unincorporated, noncontiguous territory not exceeding 160 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.

(h) Subject to the provisions of Section 35031, to designate in the resolution making determinations the conducting authority for proceedings.

(i) When a municipal reorganization includes the annexation of inhabited territory to a city and the assessed value of land within such territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within such territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the reorganization that the reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

(j) With respect to the incorporation of a new city, to determine the number of inhabitants or the number of registered voters residing within the proposed city.

Except as otherwise provided in this part, such powers and duties shall be exercised in accordance with the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5. To the extent of any inconsistency between Chapter 6.6 and this part, the provisions of this part shall control.

This section shall become operative January 1, 1988.

SEC. 3. Section 54790 of the Government Code is amended to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city or, (2) located within an urban service area which has been delineated and adopted by mutual agreement of a

commission and a city, which is not prime agricultural land, as defined in Section 35046 and is designated for urban growth by the general plan of the annexing city. A commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt standards and procedures for the evaluation of proposals, including standards for each of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 4. Section 54790 is added to the Government Code, to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided that a commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt standards and procedures for the evaluation of proposals, including standards for each of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the

health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

This section shall become operative January 1, 1988.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 856

An act to amend Section 901 of the Government Code, relating to indemnity.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 901 of the Government Code is amended to read:

901. For the purpose of computing the time limits prescribed by Sections 911.2, 911.4, 912, and 945.6, the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if there were no requirement that a claim be presented to and be acted upon by the public entity before an action could be commenced thereon. However, the date upon which a cause of action for equitable indemnity or partial equitable indemnity accrues shall be the date upon which a defendant is served with the complaint giving rise to the defendant's claim for equitable indemnity or partial equitable indemnity against the public entity.

CHAPTER 857

An act to amend and repeal Section 18210 of, and to add Sections 18210 and 18210.5 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Section 18209 and subject to subdivision (b), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless such loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term which shall not exceed eight years and six months from the date the loan or other obligation is made or acquired by the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property and shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except as otherwise may be provided for in subdivision (b) of Section 18205 and Sections 18206 to 18209, inclusive.

(c) Notwithstanding any other provision of this division, an industrial loan company may make loans and acquire or discount obligations having a term in excess of three years secured primarily by real property pursuant to subdivision (a) or secured solely by real property pursuant to subdivision (b), provided that all such loans and obligations in excess of three years shall not in the aggregate exceed 20 percent of the industrial loan company's total outstanding loans and obligations.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 2. Section 18210 is added to the Financial Code, to read:

18210. Except as provided in Section 18209, an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless such loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term which shall not exceed two years from the date the loan or other obligation is made or acquired by the company except that loans or other obligations of a face amount of two thousand dollars ($2,000) or more may have a maturity of not to exceed three years from the date of making or acquisition.

This section shall become operative on January 1, 1986.

SEC. 3. Section 18210.5 is added to the Financial Code, to read:

18210.5. (a) The commissioner shall issue a report to the Legislature two years after the operative date of Section 18210, as amended during the 1981–82 Regular Session of the Legislature. The report shall provide the following information with respect to the

loans which are described in subdivision (c) of Section 18210:

(1) The number of loans and the principal amounts of the loans made during the preceding two-year period.

(2) The percentage that these loans represent of the total number of all loans made by industrial loan companies during the preceding two-year period.

(b) The commissioner shall have the authority and duty to obtain from industrial loan companies records and information he or she deems necessary for the analysis and preparation of the report.

CHAPTER 858

An act to amend Sections 76160, 84720.5, and 84721 of, and to add Sections 84604.7 and 84604.9 to, the Education Code, relating to community colleges.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 76160 of the Education Code is amended to read:

76160. Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service with the armed forces of the United States, who resides in this state and more than 90 miles from the nearest public community college attendance center where credit courses are maintained, measured by the usual vehicular route between the student's home and the attendance center, may request to attend credit courses at any public community college in the state, whether or not the student's residence is in a district maintaining a community college. The governing board of the district maintaining the community college designated by the student shall admit the student provided all requirements for admission are met.

The provisions of this section shall not apply to any student residing in a district maintaining a community college if that district maintains adequate dormitories or housing facilities or provides adequate transportation for the student between the student's home and the community college attendance center.

If the student resides within territory not included within any community college district there shall be paid to the parents or other persons having charge or control of the student and directly to adult students and married minors, by the district in which the student attends, an in lieu of transportation allowance of four dollars ($4) per calendar day for the period in which the student is enrolled full time in credit classes in a community college under this section. This

amount shall be paid on or before the 15th day after the close of the fiscal year in which the student was so enrolled. Community college districts shall be reimbursed for in lieu of transportation allowances provided to students from nondistrict territory for the prior fiscal year to the maximum amount as provided in Section 84721.1. Not later than August 1 of each year, the governing board of the community college district of student attendance shall forward appropriate information to the county superintendent of schools where the student resides. The county superintendent of schools where the student resides shall certify to the chancellor's office, on such forms as the chancellor's office shall require, the amounts payable to community college districts pursuant to this section.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he or she was honorably discharged from the armed forces of the United States or (b) if he or she was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and (1) satisfactorily completes his or her period of training and service under that act and is issued a certificate to that effect pursuant to that act, or (2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to that act, or (3) was otherwise released pursuant to that act under honorable conditions.

For the purposes of this section, the term "armed forces of the United States" shall include all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretaries of the Army, Navy, and Air Force, and all components of the Coast Guard.

SEC. 2. Section 84604.7 is added to the Education Code, to read:

84604.7. Beginning with fiscal year 1981–82, the computation required by Section 84720.5 shall include that portion of the 1977–78 fiscal year revenue generated specifically for capital outlay from the levy of the child development permissive tax authorized by Section 8329 of the Education Code.

SEC. 3. Section 84604.9 is added to the Education Code, to read:

84604.9. Notwithstanding any other provision of law, an amount not to exceed the revenue identified in Section 84721 relative to in lieu of transportation allowances shall be allocated by the chancellor to community college districts as provided for in Section 76160, commencing in the 1981–82 fiscal year, for the prior fiscal year.

SEC. 4. Section 84720.5 of the Education Code is amended to read

84720.5. Notwithstanding any other provision of law, the portion of the 1977–78 fiscal year revenue generated specifically for capital outlay from the levy of the child development permissive tax authorized by Section 8329 of the Education Code shall be excluded from the 1977–78 child development tax revenue used in determining the amount required to be made available to community colleges' child development programs pursuant to

Section 6.5 of Chapter 332 of the Statutes of 1978 for fiscal year 1978–79 and Section 30 of Chapter 1035 of the Statutes of 1979 for fiscal year 1979–80.

SEC. 5. Section 84721 of the Education Code is amended to read:

84721. The base 1980–81 fiscal year revenues for each community college district shall be either the sum of those revenues received pursuant to Sections 84701 to 84704, inclusive, plus the 1979–80 income received from motor vehicle license fees pursuant to Section 11003.4 of the Revenue and Taxation Code, or revenues received pursuant to Section 84706, whichever is applicable, minus those revenues received in the 1979–80 fiscal year for apprenticeship average daily attendance in classes of supplemental and related instruction pursuant to Section 3074 of the Labor Code and minus revenues received in fiscal year 1977–78 year for in lieu of transportation allowances paid pursuant to Section 76160.

SEC. 6. Sections 4 and 5 of this act shall be deemed operative for the entire 1980–81 fiscal year as though they had been enacted into law and become operative on July 1, 1980. The chancellor and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section B of the State School Fund.

CHAPTER 859

An act to amend Sections 461, 2203, 2275 and 2282 of, and to add Section 2283 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 461 of the Food and Agricultural Code is amended to read:

461. The department may conduct surveys or investigations of any nursery, orchard, vineyard, agricultural commodity, agricultural appliance, farm, or other premises within the state liable to be infested or infected with any pest as defined in Section 5006 or disease, including any infectious, transmissible, and contagious diseases of livestock and poultry, for the purpose of detecting the presence of, or determining the status of, the pest or disease. The director and the county agricultural commissioner shall consult concerning these surveys or investigations when the provisions of this code provide joint responsibilities in connection with the pest or disease

SEC. 2. Section 2203 of the Food and Agricultural Code is

amended to read:

2203. The commissioner shall be paid his compensation and traveling and incidental expenses while he is attending the annual meeting of the California Agricultural Commissioners Association or its successor and such other meetings as he is required by the director to attend, or while he is on any service that requires him to go outside the county if the performance of such service has been authorized by the board of supervisors or the director, or is authorized by this code.

SEC. 3. Section 2275 of the Food and Agricultural Code is amended to read:

2275. The commissioner, for the purpose of learning the best and most efficacious methods of performing his duties, shall attend the annual meeting of the California Agricultural Commissioners Association or its successor, and such other meetings as the director shall require.

SEC. 4. Section 2282 of the Food and Agricultural Code is amended to read:

2282. The director may allocate annually to each county an amount determined by the director not to exceed one-third of the amount expended by the county during the previous fiscal year for these programs of joint responsibility. The allocations shall be made from funds appropriated to the director for purposes of carrying out activities of joint responsibility with the commissioners at the local levels.

SEC. 5. Section 2283 is added to the Food and Agricultural Code, to read:

2283. The commissioner, in carrying out his responsibilities under Section 2281, may assist the department in the conduct of surveys or investigations pursuant to Section 461 for the purpose of preventing the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds under Section 403.

CHAPTER 860

An act to amend Sections 353, 2400, 2402.7, 2540, and 40000.19 of, to amend, repeal, and add Sections 2501 and 2502 of, and add Section 408 to, to repeal and add Article 4 (commencing with Section 2530) of Chapter 2.5 of Division 2 of, and to add and repeal Division 14.1 (commencing with Section 32000) of, the Vehicle Code, relating to hazardous material.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 353 of the Vehicle Code is amended to read:

353. "Hazardous material" is any substance, material, or device posing an unreasonable risk to health, safety, or property during transportation, as defined by regulations adopted pursuant to Section 2402.7. "Hazardous material" includes explosives and hazardous wastes or substances as defined by regulations adopted pursuant to Section 25141 of the Health and Safety Code.

SEC. 1.5. Section 408 is added to the Vehicle Code, to read:

408. "Motor carrier" is the registered owner, lessee, licensee, or bailee of any vehicle set forth in Section 34500, who operates or directs the operation of any such vehicle on either a for-hire or not-for-hire basis.

SEC. 2. Section 2400 of the Vehicle Code is amended to read:

2400. The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000), except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.1 (commencing with Section 32000), Division 14.5 (commencing with Section 33000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

The commissioner shall not be required to provide patrol for or enforce any provisions of Division 16.5 (commencing with Section 38000).

The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of such provisions and laws, and for the investigation of traffic accidents, on all state highways constructed as freeways within incorporated areas of the state; provided, however, that city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on state freeways. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles city, police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of such laws and ordinances, unless

the city council of any such city shall by resolution request administration and enforcement of such laws by the commissioner.

SEC. 3. Section 2402.7 of the Vehicle Code is amended to read:

2402.7. The commissioner shall adopt the definitions designated by the United States Department of Transportation under Title 49 (commencing with Section 1801) of the United States Code and Title 49 (commencing with Section 107) of the Code of Federal Regulations relating to hazardous materials, substances, or wastes, including, but not limited to, definitions relating to any radioactive material, poison, flammable gas, nonflammable gas, flammable liquid, oxidizer, flammable solid, corrosive material (liquid or solid), irritating materials, combustible liquids, explosives, blasting agents, etiologic agents, organic peroxides, hazardous wastes, and other regulated materials of classes A, B, C, D and E.

SEC. 4. Section 2501 of the Vehicle Code is amended to read:

2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned and operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of hazardous material, including the transportation of explosives. The licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 5. Section 2501 of the Vehicle Code is amended to read:

2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned or operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of hazardous material, including the transportation of explosives. The licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the

commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 6. Section 2501 is added to the Vehicle Code, to read:

2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned and operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of explosives. The licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

This section shall become operative January 1, 1988.

SEC. 7. Section 2501 is added to the Vehicle Code, to read:

2501. The Commissioner of the California Highway Patrol may issue licenses for the operation of privately owned or operated ambulances used to respond to emergency calls, armored cars, fleet owner inspection and maintenance stations, and for the transportation of explosives. The licenses shall be issued in accordance with the provisions of this chapter and regulations adopted by the commissioner pursuant thereto. All licenses issued by the commissioner shall expire one year from the date of issue. Licenses may be renewed upon application and payment of the renewal fees if the application for renewal is made within the 30-day period prior to the date of expiration. Persons whose licenses have expired shall immediately cease the activity requiring a license, but the commissioner shall accept applications for renewal during the 30-day period following the date of expiration if they are accompanied by the new license fee. In no case shall a license be renewed where the application is received more than 30 days after the date of expiration.

This section shall become operative January 1, 1988.

SEC. 8 Section 2502 of the Vehicle Code is amended to read:

2502. (a) Each application for a new or renewal license shall be accompanied by a fee of ten dollars ($10) for a new license or five dollars ($5) for a renewal license This subdivision shall not apply to

the transportation of hazardous material.

(b) Each application for a new or renewal license to transport hazardous material shall be accompanied by a fee of not to exceed one hundred dollars ($100) for a new license and not to exceed seventy-five dollars ($75) for a renewal license.

(c) Each application shall be made upon a form furnished by the commissioner. It shall contain such information concerning the applicant's background and experience as the commissioner may prescribe, in addition to other information required by law.

(d) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 9. Section 2502 is added to the Vehicle Code, to read:

2502. Each application for a new or renewal license shall be accompanied by a fee of ten dollars ($10) for a new license or five dollars ($5) for a renewal license. The application shall be made upon a form furnished by the commissioner. It shall contain such information concerning the applicant's background and experience as the commissioner may prescribe, in addition to other information required by law.

This section shall become operative January 1, 1988.

SEC. 10. Article 4 (commencing with Section 2530) of Chapter 2.5 of Division 2 of the Vehicle Code is repealed.

SEC. 11. Article 4 (commencing with Section 2530) is added to Chapter 2.5 of Division 2 of the Vehicle Code, to read:

Article 4. Transportation of Hazardous Material

2530. Licenses for the transportation of hazardous material shall not be subject to the provisions of Sections 2541, 2542, 2543, and 2544.

2531. The commissioner may deny, suspend, or revoke a license to transport hazardous material when it is evident that the applicant or licensee or his or her employees have been guilty of repeated violations of the provisions of this code to such an extent as to demonstrate that it would be unsafe and not in the public interest to permit the applicant or licensee to operate or permit the operation of any vehicle owned by him or her for the transportation of hazardous material upon the public highways.

2532 The commissioner may adopt such regulations as are necessary to administer the provisions of this article.

SEC. 12. Section 2540 of the Vehicle Code is amended to read:

2540. Any license issued may be suspended or revoked by the commissioner. The commissioner may refuse to issue a license to any applicant for the reasons set forth in Section 2531 or 2541. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

SEC. 13. Division 14.1 (commencing with Section 32000) is added

to the Vehicle Code, to read:

DIVISION 14.1. TRANSPORTATION OF HAZARDOUS MATERIAL

32000. It is the intent of the Legislature, by enacting this division, that the public be provided additional protection through the licensing of motor carriers transporting hazardous material. The Department of the California Highway Patrol shall be authorized to inspect and license the motor carriers with special attention directed to the negligent operators or repeat violators.

32000.5. Every motor carrier who directs the transportation of an explosive and, on and after July 1, 1982, any motor carrier who directs the transportation of a hazardous material, who is required to display placards pursuant to Section 27903, and every retailer, wholesaler, distributor, manufacturer, refiner, or commercial motor carrier who transports in excess of 500 pounds of hazardous material, shall be licensed in accordance with the provisions of this code, unless specifically exempted by this code or regulations adopted pursuant to this code. This license shall be available for examination and shall be displayed in accordance with the regulations adopted by the commissioner.

This division shall not apply to any person hauling only hazardous waste, as defined in Section 25115 or 25117 of the Health and Safety Code, and who is registered pursuant to subdivision (a) of Section 25163 of the Health and Safety Code or who is exempt from that registration pursuant to subdivision (b) of that section.

32001. (a) Any authorized employee of the department may inspect any sealed or unsealed vehicle, container, or shipment subject to this division in maintenance facilities, terminals, or other public or private property to ascertain the quantity and kind of hazardous material and to ensure compliance with the provisions of this code and regulations adopted pursuant to this code If a seal is opened for inspection, the department shall reseal any vehicle, container, or shipment prior to further transportation.

(b) Unless specifically stated, nothing contained in this division shall be deemed to exempt any vehicle transporting a hazardous material subject to this division or the operator or any other person from other provisions of this code.

(c) No motor carrier shall direct the transportation of any shipment of a hazardous material in any vehicle unless all of the following are complied with.

(1) The vehicle is equipped as required by this code and applicable regulations adopted pursuant to law.

(2) The shipment complies with laws and regulations pertaining to the shipment or transportation of hazardous material.

(3) The motor carrier holds a valid license for the transportation of hazardous materials.

32002. (a) The commissioner may adopt such regulations as are

necessary to administer the provisions of this division. It is unlawful and constitutes a misdemeanor for any motor carrier to violate any provision of this division or regulations adopted pursuant hereto.

(b) Notwithstanding subdivision (a), it is unlawful for the motor carrier or the person who directs the driver to operate a vehicle transporting hazardous material, when that transportation requires a license pursuant to this division, to cause the operation of the vehicle unless the motor carrier holds a valid license for the transportation of hazardous materials. A violation of this subdivision shall be punished by a fine of not more than two thousand dollars ($2,000).

32002.5. The commissioner may temporarily suspend a license to haul hazardous material prior to any hearing, when, in the commissioner's opinion, the action is necessary to prevent an imminent and substantial danger to the public health. The commissioner shall notify the holder of the license of the temporary suspension and the effective date thereof and, at the same time, shall serve the person with an accusation. Upon receipt of a notice of defense to the accusation, the commissioner shall set the matter for a hearing which shall be held as soon as possible, but not later than 10 days after receipt of the notice of defense. The temporary suspension shall remain in effect until the hearing is completed and the commissioner has made a final determination on the merits, which, in any event, shall be made within 10 days after the completion of the hearing. If the determination is not transmitted within 10 days after the hearing is completed, the temporary suspension is of no further effect.

32003. (a) All fees collected by the department pursuant to the issuance or renewal of a license for the transportation of hazardous material shall be deposited in the Motor Vehicle Account of the State Transportation Fund.

(b) All moneys collected from these fees shall be used for the support of the hazardous materials inspection and licensing program of the department upon appropriation therefor by the Legislature.

32004. Any violation of any provision of this division may be enjoined in a civil action brought by the Attorney General in the name of the people of the State of California, upon request of the department, except that it shall not be necessary to show lack of adequate remedy at law or to show irreparable damage or loss.

32005. The Department of the California Highway Patrol shall submit a report to the Legislature on or before January 1, 1983, concerning the implementation of the licensing and inspection program under this division, including, but not limited to, the amount collected for license fees, the number of companies and terminals inspected, and the nature of the violations charged.

32006. This division shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1988, deletes or extends that date.

SEC. 14. Section 40000.19 of the Vehicle Code is amended to read:

40000.19. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Division 14 (commencing with Section 31600), relating to transportation of explosives.

Division 14.1 (commencing with Section 32000), relating to the transportation of hazardous material.

Division 14.5 (commencing with Section 33000), relating to transportation of radioactive materials.

Division 14.7 (commencing with Section 34001), relating to flammable liquids.

SEC. 15. It is the intent of the Legislature, if this bill and Assembly Bill 1683 are both chaptered and become effective January 1, 1982, both bills affect Section 2501 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1683, that the changes to Section 2501 proposed by both bills be given effect and incorporated in Section 2501 of the Vehicle Code in the form set forth in Sections 5 and 7 of this act. Therefore, Sections 5 and 7 of this act shall become operative only if this bill and Assembly Bill 1683 are both chaptered and become effective January 1, 1982, both affect Section 2501 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1683, in which case Sections 4 and 6 of this act shall not become operative.

SEC. 16. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 861

An act to add Chapter 5.5 (commencing with Section 51010) to Division 1 of Title 5 of the Government Code, and to add Section 13107.5 to the Health and Safety Code, relating to fire safety

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Chapter 5.5 (commencing with Section 51010) is added to Division 1 of Title 5 of the Government Code, to read

CHAPTER 5.5. CALIFORNIA PIPELINE SAFETY ACT OF 1981

51010. It is the intent of the Legislature in enacting this chapter that the State Fire Marshal shall exercise safety regulatory authority over intrastate hazardous liquid pipelines by implementing the provisions of the federal Hazardous Liquid Pipeline Safety Act of 1979 (Chapter 29 (commencing with Section 2001) of Title 49 of the United States Code) as necessary to obtain annual federal certification.

51010.5. As used in this chapter, "pipeline" includes every intrastate pipeline used for the transportation of hazardous liquid substances, including a common carrier pipeline, but excluding any interstate pipeline subject to 49 Code of Federal Regulations, Part 195, and excluding any of the following:

(a) Any pipeline owned or operated by a publicly owned or privately owned public utility not used as a common carrier pipeline.

(b) Any crude oil gathering line.

(c) Any oil field flow line.

(d) Any pipeline located entirely within a single plant facility.

51011 The State Fire Marshal, on or before January 1, 1983, shall adopt hazardous liquid pipeline safety regulations in compliance with the provisions of federal law relating to hazardous liquid pipeline safety (Chapter 29 (commencing with Section 2001) of Title 49 of the United States Code) and the regulations adopted pursuant thereto (49 Code of Federal Regulations, Part 195), including, but not limited to, compliance orders, penalties, and inspection and maintenance provisions, and including amendments to those laws and regulations which may be hereafter enacted and adopted.

The State Fire Marshal may, by regulation, exempt the application of regulations adopted pursuant to this section to any pipeline, or portion thereof, when it is determined that the risk to public safety is slight and the probability of injury or damage remote.

51012. The State Fire Marshal shall establish a Hazardous Pipeline Safety Technical Standards Committee for the purpose of informing local agencies and every pipeline operator of changes in applicable laws and regulations affecting the operations of pipelines. The committee shall be composed of seven members of whom two shall represent pipeline operators, three shall represent local fire departments and two shall be public members.

51013. The replacement of any portion of a pipeline constructed prior to January 1, 1982, and which normally operates under conditions of constant flow and pressure, shall include a means of leak detection and cathodic protection.

51014. Unless equipped with an automatic pressure relief device, every pipeline and every pipeline relief valve shall be inspected and tested annually. The test results shall be certified by an independent testing firm selected by the local agency or by the fire department having jurisdiction, at the selection of the local agency. The results of the tests shall be submitted to the local agency which shall furnish

them to the fire department having jurisdiction and the State Fire Marshal. The local agency shall inform the State Fire Marshal of any pipeline or valve which fails the testing procedure.

51015. Every local agency shall require every pipeline operator to provide the fire department having jurisdiction a map or suitable diagram showing the as-built location of the pipeline, including all block valves or other mechanical devices situated along the pipeline. Every fire department shall provide to every pipeline operator the fire department's plans and procedures for extinguishing fires involving volatile liquids in open areas, with specific reference to fire-extinguishing foam compounds.

51016. Every pipeline operator shall provide the fire department having jurisdiction a pipeline operations contingency plan covering all of the following:

(a) The procedures for conducting normal operations and maintenance activities and the approved means to handle abnormal operations and emergencies.

(b) The construction and repair record plan element of every pipeline.

(c) Its liaison procedure with fire, police, and other emergency authorities for emergency response, including the means of communication and the means of preventing the ignition of vapors released in a pipeline rupture.

(d) A pipeline testing and maintenance record plan element.

(e) The operator's personnel training procedures for firefighting and emergency equipment use.

51017. Every local agency shall compile and maintain for ready accessibility a study throughout its jurisdiction showing all of the following:

(a) Pipeline routes through residential areas.

(b) Population density along pipeline routes.

(c) Soil and other geologic conditions along pipeline routes.

(d) A means of providing to the public the information assembled pursuant to this section except such information as the public agency determines should be withheld as creating an unreasonable risk to public safety or security

51018. Every break, explosion, or fire involving a pipeline within the provisions of this chapter shall be immediately reported to the State Fire Marshal for such action pursuant to Section 13107.5 of the Health and Safety Code as is determined to be necessary or advisable.

51019. Every local agency may assess and collect from every pipeline operator an annual fee for purposes of conducting inspections and testing and meeting the requirements of this chapter as may be reasonably necessary to recompense the local agency, not to exceed the actual costs thereof. The amount of the fee assessed against each operator shall bear a reasonable relationship to the extent of that operator's pipeline operations within the local agency in comparison to the extent of the operations of all other operators

within the local agency.

51020. Every local agency which assesses and collects a fee pursuant to Section 51019 shall transmit to the State Fire Marshal on or before each July 1, its pro rata share of the State Fire Marshal's administrative expenses pursuant to this chapter, not to exceed the actual costs thereof as determined by the State Fire Marshal, to the extent not covered by any federal reimbursement.

SEC. 2. Section 13107.5 is added to the Health and Safety Code, to read:

13107.5. The State Fire Marshal may investigate every break, and shall investigate every explosion or fire, involving a pipeline reported by a local agency pursuant to Chapter 5.5 (commencing with Section 51010) of Division 1 of Title 5 of the Government Code. The State Fire Marshal may immediately order any pipeline closed when it is determined to be necessary to do so in the interests of public safety. The pipeline shall remain closed until it is determined that operations may be resumed with safety or until any discovered safety defect has been remedied or repaired.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 862

An act to amend Sections 15200, 15201, 15202, and 15252 of the Financial Code, relating to credit unions.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 15200 of the Financial Code is amended to read:

15200. Any credit union may, with the approval of the commissioner, and in accordance with such rules as the commissioner makes, merge with another credit union of like community interest in membership, or with a central credit union, under the charter of such other credit union, or as provided in subdivision (c) of Section 15201.

SEC. 2. Section 15201 of the Financial Code is amended to read:

15201. (a) The merger shall be made pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of at least a majority of the members of each credit union, in person

or by proxy, at meetings of the members called for that purpose or by written consent of a majority of the members of each credit union.

(b) The commissioner may approve a merger according to the plan agreed upon by the majority of the board of directors of each credit union, if approved by less than a majority of the entire membership as provided in this section if the commissioner finds, upon the written and verified application filed by the board of directors, that (1) notice of the meeting called to consider the merger or the ballot for written vote on the merger was mailed to each member entitled to vote upon the question, (2) such notice or ballot disclosed the purpose of the meeting or the written vote, (3) such notice or ballot informed the membership that approval of the merger might be sought pursuant to this section, and (4) a majority of the votes cast upon the question were in favor of the merger.

(c) Notwithstanding subdivisions (a) and (b), the commissioner may approve a merger if a majority of the members of the board of directors of the surviving credit union approves the merger, the disappearing credit union is in danger of insolvency and the merger would reduce the risk or avoid a threatened loss to the California Credit Union Share Guaranty Corporation, or other form of share guaranty or insurance approved by the commissioner. For purposes of this chapter, a credit union is insolvent when, from the most recent available financial statements, it can be shown that the total amount of its shares exceeds the present cash value of its assets after providing for liabilities unless:

(1) It is determined by the commissioner that the facts that caused the deficient share-asset ratio no longer exist; and

(2) The likelihood of further depreciation of the share-asset ratio is not probable; and

(3) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union concerned is probable; and

(4) The probability of a further potential loss is negligible to the California Credit Union Share Guaranty Corporation, or other form of share guaranty or insurance approved by the commissioner.

SEC. 3. Section 15202 of the Financial Code is amended to read:

15202. After the agreement by the directors and approval by the members of each credit union of the plan of merger, each credit union shall execute a certificate of merger as an officers' certificate pursuant to Section 5062 of the Corporations Code which shall set forth

(a) That the plan of merger has been approved by the board of directors.

(b) That the plan of merger has been duly approved by any required vote of the members pursuant to Section 15201.

(c) The total number of members of the credit union. A copy of the plan of merger and of the written approval thereof by the commissioner shall be annexed to the certificate of merger.

SEC. 4. Section 15252 of the Financial Code is amended to read:

15252. Promptly thereafter the president or vice president and secretary or assistant secretary, or a majority of the committee or the liquidating agent in charge of liquidation, shall sign and verify a certificate stating that the credit union has elected to wind up and dissolve and showing by what vote or consent such election was made. The certificate shall be filed in the office of the Secretary of State, and copies of the certificate certified by the Secretary of State shall be filed with the commissioner.

CHAPTER 863

An act to add Sections 14382 and 14780.5 to the Government Code, relating to state contracts.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 14382 is added to the Government Code, to read:

14382. Every contract shall contain a statement by which the contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board. For purposes of this section, a finding of contempt does not include any finding which has been vacated, dismissed, or otherwise removed by the court because the contractor has complied with the order which was the basis for the finding. The state may rescind any contract in which the contractor falsely swears to the truth of the statement required by this section.

SEC. 2. Section 14780.5 is added to the Government Code, to read:

14780 5. Every contract entered into by any state agency for any purpose specified in subdivisions (a) through (d), inclusive, of Section 14780 shall contain a statement by which the contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board. For purposes of this section, a finding of contempt does not include any finding which has been vacated, dismissed, or otherwise removed by the court because the contractor has complied with the order which was the basis for

the finding. The state may rescind any contract in which the contractor falsely swears to the truth of the statement required by this section.

CHAPTER 864

An act to amend Section 25000 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 25000 of the Business and Professions Code is amended to read:

25000. Each manufacturer, importer, and wholesaler of beer shall file and thereafter maintain on file with the department, in triplicate and in such form as the department may provide, a written schedule of selling prices charged by the licensee for beer sold and distributed by him to his customers in California, except that the transfer, including the sale, of beer between wholesalers who sell the same brand in package is permitted without filing the schedule of selling prices. All prices filed shall be for immediate delivery Each manufacturer, importer, and wholesaler of beer shall file a price schedule for each county in which his or her customers have their premise, whether the price which is posted is f.o.b. or delivered, or both. Different prices for different trading areas within a county shall be based upon natural geographical differences justifying the different prices, and shall not be established for special customers. This section shall not affect or alter any provisions of law concerning quantity discounts on beer.

CHAPTER 865

An act to amend Sections 11270, 11340, 11340.1, 11343, 11343.2, 11344, 11344.2, 11344.3, 11344.4, 11344.5, 11344.7, 11346.1, 11346.2, 11346.4, 11346.5, 11346.7, 11347.2, 11347.3, 11349.1, 11349.3, 11349.4, 11349.5, 11349.6, 11349.7, and 11350 of, to amend and renumber Sections 11343.5, 11343.6, 11343.7, 11343.8, and 11343.9 of, to repeal and add Sections 11344.6 and 11346 8 of, and to repeal Sections 11340.4, 11343.4, 11344.8, 11346.6, 11346.11, 11346.51, and 11346.81 of, the Government Code, and to amend Section 18911 of the Health and Safety Code, relating to administrative regulations.

[Approved by Governor September 26, 1981. Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 11270 of the Government Code is amended to read:

11270. As used in this article "administrative costs" means the amounts expended by the Legislature, Controller, Treasurer, the State Personnel Board, the Secretary of State, the Department of General Services, the State Board of Control, the State Department of Finance, and the Office of Administrative Law, and a proration of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to the various state agencies, other than those for which the Department of General Services may charge and collect pursuant to Article 3.

SEC. 2. Section 11340 of the Government Code is amended to read:

11340. The Legislature finds and declares as follows:

(a) There has been an unprecedented growth in the number of administrative regulations in recent years.

(b) The language of many regulations is frequently unclear and unnecessarily complex, even when the complicated and technical nature of the subject matter is taken into account. The language is often confusing to the persons who must comply with the regulations.

(c) Substantial time and public funds have been spent in adopting regulations, the necessity for which has not been established.

(d) There exists no central office in state government with the power and duty to review regulations to ensure that they are written in a comprehensible manner, are authorized by statute and are consistent with other law.

(e) Correcting the problems that have been caused by the unprecedented growth of regulations in California requires the direct involvement of the Legislature as well as that of the executive branch of state government.

SEC. 2.5. Section 11340 of the Government Code is amended to read:

11340. The Legislature finds and declares as follows:

(a) There has been an unprecedented growth in the number of administrative regulations in recent years.

(b) The language of many regulations is frequently unclear and unnecessarily complex, even when the complicated and technical nature of the subject matter is taken into account. The language is often confusing to the persons who must comply with the regulations.

(c) Substantial time and public funds have been spent in adopting regulations, the necessity for which has not been established.

(d) The imposition of prescriptive requirements upon private persons and entities through regulations where the establishment of performance standards could reasonably be expected to produce the same result has placed an unnecessary burden on California citizens and discouraged innovation, research, and development of improved means of achieving desirable social goals.

(e) There exists no central office in state government with the power and duty to review regulations to ensure that they are written in a comprehensible manner, are authorized by statute and are consistent with other law.

(f) Correcting the problems that have been caused by the unprecedented growth of regulations in California requires the direct involvement of the Legislature as well as that of the executive branch of state government.

SEC. 3. Section 11340.1 of the Government Code is amended to read:

11340.1. The Legislature therefore declares that it is in the public interest to establish an Office of Administrative Law which shall be charged with the orderly review of adopted regulations. It is the intent of the Legislature that the purpose of such review shall be to reduce the number of administrative regulations and to improve the quality of those regulations which are adopted It is the intent of the Legislature that neither the Office of Administrative Law nor the court should substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations. It is the intent of the Legislature that while the Office of Administrative Law will be part of the executive branch of state government, that the office work closely with, and upon request report directly to, the Legislature in order to accomplish regulatory reform in California.

SEC. 3.5. Section 11340.1 of the Government Code is amended to read:

11340.1. The Legislature therefore declares that it is in the public interest to establish an Office of Administrative Law which shall be charged with the orderly review of adopted regulations. It is the intent of the Legislature that the purpose of such review shall be to reduce the number of administrative regulations and to improve the quality of those regulations which are adopted, and to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive requirements wherever they can be reasonably expected to be as effective and less burdensome. It is the intent of the Legislature that neither the Office of Administrative Law nor the court should substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations. It is the intent of the Legislature that while the Office of Administrative Law will be part of the executive branch of state government, that the office work closely with, and upon request report directly to, the Legislature in order to accomplish regulatory reform in California.

SEC. 4. Section 11340.4 of the Government Code is repealed.

SEC. 5. Section 11343 of the Government Code is amended to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted by it except one which:

(1) Establishes or fixes rates, prices or tariffs.

(2) Relates to the use of public works, including streets and highways, under the jurisdiction of any state agency when the effect of such order is indicated to the public by means of signs or signals.

(3) Is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(4) Is a building standard, as defined in Section 18909 of the Health and Safety Code.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a) of this section.

(c) Deliver to the office at the time of transmittal for filing a regulation or order of repeal six duplicate copies of the regulation or order of repeal together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(e) Transmit to the State Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code.

SEC. 6. Section 11343.2 of the Government Code is amended to read:

11343.2. The office shall examine each regulation or order of repeal transmitted to it for filing and determine whether it complies with the office's prescribed form and style. If the office approves the regulation after reviewing it in accordance with the provisions of this chapter and determines that it or an order of repeal complies with the form and style prescribed by the Office of Administrative Law, it shall endorse on the certified copy thereof its approval for filing and shall transmit such copy to the Secretary of State.

SEC. 7. Section 11343.4 of the Government Code is repealed.

SEC. 8. Section 11343.5 of the Government Code is amended and renumbered to read:

11343.4. The Secretary of State shall endorse on the certified copy of each regulation or order of repeal filed with or delivered to him or her, the time and date of filing and shall maintain a permanent file of the certified copies of regulations and orders of repeal for public inspection.

No fee shall be charged by any state officer or public official for the performance of any official act in connection with the certification or filing of regulations pursuant to this article.

SEC. 9. Section 11343.6 of the Government Code is amended and renumbered to read:

11343.5. Within 10 days from the receipt of printed copies of the California Administrative Code or of the California Administrative Code Supplement from the State Printing Office, the office shall file one copy of the particular issue of the code or supplement in the office of the county clerk of each county in this state, or if the authority to accept filings on his behalf has been delegated by the county clerk of any county pursuant to Section 26803.5 of this code, in the office of the person to whom such authority has been delegated.

SEC. 10. Section 11343.7 of the Government Code is amended and renumbered to read:

11343.6. The filing of a certified copy of a regulation or an order of repeal with the Secretary of State raises the rebuttable presumptions that:

(a) It was duly adopted.

(b) It was duly filed and made available for public inspection at the day and hour endorsed on it.

(c) All requirements of this chapter and the regulations of the office relative to such regulation have been complied with.

(d) The text of the certified copy of a regulation or order of repeal is the text of the regulation or order of repeal as adopted.

The courts shall take judicial notice of the contents of the certified copy of each regulation and of each order of repeal duly filed.

SEC. 11. Section 11343.8 of the Government Code is amended and renumbered to read:

11343.7. The publication of a regulation in the California Administrative Code or California Administrative Code Supplement raises a rebuttable presumption that the text of the regulation as so published is the text of the regulation adopted.

The courts shall take judicial notice of the contents of each regulation or notice of the repeal of a regulation printed in the California Administrative Code or California Administrative Notice Register.

SEC. 12. Section 11343.9 of the Government Code is amended and renumbered to read:

11343.8. Upon the request of a state agency, the office may file with the Secretary of State and the office may publish in such manner as it believes proper, any regulation or order of repeal of a regulation not required by this article to be filed with the Secretary of State.

SEC. 13. Section 11344 of the Government Code is amended to read:

11344. The office shall:

(a) Provide for the continuing compilation and publication, with

periodic supplements, of notices of proposed action pursuant to Section 11346.4, and all regulations required to be filed with the Secretary of State, or of appropriate references to any regulations the printing of which the office finds to be impractical, such as detailed schedules or forms otherwise available to the public, or which are of limited or particular application.

The publication of compiled regulations shall be known as the "California Administrative Code," and the periodic supplements thereto shall be known as the "California Administrative Code Supplement."

The publication of notices of proposed action pursuant to Section 11346.4 shall be known as the "California Administrative Notice Register." Such publication may include in addition to the proposed regulatory actions, any of the following information:

(1) A registry of appointments in state agencies, including vacancies therein.

(2) Executive orders.

(3) Summaries of Attorney General's opinions.

(4) Notices of public meetings of state agencies.

(5) Miscellaneous notices of general interest to the citizens of California.

(b) Provide for the manner and form in which regulations, notice of the repeal of regulations and compilations shall be prepared, printed, and indexed, to the end that all regulations and compilations shall be prepared and published in a uniform manner and at the earliest practicable date and that each regulation published shall be accompanied by a reference to the statutory authority pursuant to which it was enacted.

SEC. 14. Section 11344.2 of the Government Code is amended to read:

11344.2. The office shall supply a complete set of the California Administrative Code, and of the California Administrative Code Supplement to the county clerk of any county or to the delegatee of the county clerk pursuant to Section 26803.5, provided the director makes the following two determinations:

(a) The county clerk or the delegatee of the county clerk pursuant to Section 26803.5 is maintaining the code and supplement in complete and current condition in a place and at times convenient to the public.

(b) The California Administrative Code and California Administrative Code Supplement are not otherwise reasonably available to the public in the community where the county clerk or the delegatee of the county clerk pursuant to Section 26803.5 would normally maintain the code and supplements by distribution to libraries pursuant to Article 6 (commencing with Section 14900) of Chapter 7 of Part 5.5 of this division.

SEC. 15. Section 11344.3 of the Government Code is amended to read:

11344.3. The office shall supply to each standing committee of

both houses and to each Member of the Legislature, a copy of each issue of the California Administrative Code Supplement.

SEC. 16. Section 11344.4 of the Government Code is amended to read:

11344.4. The California Administrative Code Supplement and the California Administrative Code shall be sold at such prices as will reimburse the state for all costs incurred for printing, publication and distribution.

The "California Administrative Notice Register" shall be sold by the Department of General Services at a maximum subscription rate of not more than fifty dollars ($50) per year.

All money received from the sale of the California Administrative Code Supplement and the California Administrative Code shall be deposited in the treasury and credited to the General Fund, except that an amount necessary to cover the distribution costs shall be credited to the fund from which such costs have been paid.

SEC. 17. Section 11344.5 of the Government Code is amended to read:

11344.5. The publication dates of the California Administrative Code, the California Administrative Code Supplement, and the California Administrative Notice Register shall be determined by the office.

SEC. 18. Section 11344.6 of the Government Code is repealed.

SEC. 19. Section 11344.6 is added to the Government Code, to read:

11344.6. The office may adopt, amend, or repeal regulations for the purpose of carrying out the provisions of this chapter.

SEC. 20. Section 11344.7 of the Government Code is amended to read:

11344.7. Nothing in this chapter precludes any state agency from purchasing copies of the California Administrative Code or of the California Administrative Code Supplement, or of any unit of either, nor from printing special editions of any such units and distributing the same at the cost or at less than the cost to the agency if it is authorized so to do by other provisions of law.

SEC. 21. Section 11344.8 of the Government Code is repealed.

SEC. 22. Section 11346.1 of the Government Code is amended to read:

11346.1. (a) The provisions of this article shall not apply to any regulation not required to be filed with the Secretary of State under this chapter, and only this section, Section 11346.2 and Section 11349.6 shall apply to any regulation prescribing an agency's organization or procedure or to an emergency regulation adopted pursuant to subdivision (b), or to any regulation adopted under Section 1227.1, 5500.5, or 7150.1 of the Financial Code.

(b) Except as provided in subdivision (c), if a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health and safety or general welfare, the regulation or order of repeal may

be adopted as an emergency regulation or order of repeal.

Any finding of an emergency shall include a written statement which contains the information required by Section 11346.5 and a description of the specific facts showing the need for immediate action. The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the Office of Administrative Law and the Rules Committees of both houses of the Legislature and shall be published in the next issue of the California Administrative Code Supplement.

(c) (1) Notwithstanding any other provision of the law, no board or commission shall have the power to adopt an emergency regulation to interpret, implement, or make specific provisions of the law relating to campaign disclosure except by a unanimous vote of all members of such board or commission present at the proceeding at which such regulation is adopted.

(2) Notwithstanding any other provision of law, no emergency regulation which is a building standard, as defined in Section 18909 of the Health and Safety Code, shall be filed, nor shall such building standard be effective, unless such building standards are submitted to the State Building Standards Commission, and are approved and filed pursuant to the provisions of Sections 18937 and 18938 of the Health and Safety Code.

(d) The emergency regulation or order of repeal shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as a part of, the regulation or order of repeal.

(e) No regulation adopted as an emergency regulation shall remain in effect more than 120 days unless the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the emergency regulation, or has, within the 120-day period, completed the regulation adoption process by formally adopting the emergency regulation or any amendments thereto, pursuant to the provisions of this chapter. The adopting agency shall transmit to the office for filing with the Secretary of State the adopted regulation, the rulemaking file, and a certification that either Sections 11346.4 to 11346.8, inclusive, were complied with prior to adoption, or that there was compliance with the provisions of this section within the 120-day period.

(f) In the event an emergency regulation was filed as an amendment to an existing regulation, upon failure of the adopting agency to comply with subdivision (e) as provided above, the regulation as it existed prior to such emergency amendment shall thereupon become effective and after notice to the adopting agency by the Office of Administrative Law shall be reprinted in the California Administrative Code in the place of such emergency amendment.

(g) In the event a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision

(e) as provided above, such failure shall constitute a repeal thereof and after notice to the adopting agency by the Office of Administrative Law, shall be deleted.

(h) A regulation adopted as an emergency regulation or, an emergency regulation substantially equivalent thereto, shall not be readopted as an emergency regulation except with the express prior approval of the Director of the Office of Administrative Law.

SEC. 23. Section 11346.2 of the Government Code is amended to read:

11346.2. A regulation or an order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after the date of filing unless:

(a) Otherwise specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by such statute.

(b) It is a regulation prescribing an agency's organization or procedure, or a regulation adopted under Section 1227.1, 5500.5, or 7150.1 of the Financial Code, in which event it shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(c) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(d) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

SEC. 24. Section 11346.4 of the Government Code is amended to read:

11346.4. At least 45 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be:

(a) Mailed to every person who has filed a request for notice of regulatory actions with the state agency.

(b) In cases in which the state agency is within a state department, mailed or delivered to the director of such department.

(c) When appropriate in the judgment of the state agency, (1) mailed to any person or group of persons whom the agency believes to be interested in the proposed action and, (2) published in such form and manner as the state agency shall prescribe.

(d) Published in the California Administrative Notice Register as prepared by the Office of Administrative Law.

The effective period of a notice issued pursuant to this section shall not exceed one year from the date thereof. If the adoption, amendment, or repeal of a regulation proposed in such notice is not completed and transmitted to the office within such period of one year, a notice of the proposed action shall again be issued pursuant to the provisions of this article.

Once the adoption, amendment, or repeal is completed and approved by the office, no further adoption, amendment or repeal

to the noticed regulation shall be made without subsequent notice being given.

The office may refuse to publish a notice submitted to it if the agency has failed to comply with the provisions of this article.

The Office of Administrative Law shall make the California Administrative Notice Register available to the public and state agencies at a nominal cost which is consistent with a policy of encouraging the widest possible notice distribution to interested persons.

The Office of State Printing shall provide the same priority for printing the California Administrative Notice Register as is provided for printing legislative publications.

Where the form or manner of notice is prescribed by statute in any particular case, in addition to filing and mailing notice as required herein, the notice shall be published, posted, mailed, filed or otherwise publicized as prescribed by that statute.

The failure to mail notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. The provisions of Article 5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the publication of newspaper notices under this section.

SEC. 25. Section 11346.5 of the Government Code is amended to read:

11346.5. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include:

(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific.

(3) An informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and the effect of the proposed action. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills. If the proposed action differs substantially from an existing comparable federal regulation or statute, the informative digest shall also include a brief description of the significant differences and the full citation of the federal regulations or statutes.

(4) Such other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) An estimate, prepared as prescribed by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this section, "cost or savings" means additional costs or savings, both direct and indirect, which a public agency necessarily incurs in reasonable compliance with regulations.

(6) The name and telephone number of the agency officer to whom inquiries concerning the proposed administrative action may be directed.

(7) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(8) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(9) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(b) The agency officer designated in paragraph (6) of subdivision (a) shall make available to the public upon request the express terms of the proposed action using underline to indicate additions to, and strikeout to indicate deletions from, the California Administrative Code. The officer shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action.

(c) The provisions of this section shall not be construed in any manner which results in the invalidation of a regulation because of the alleged inadequacy of the notice content or the summary or cost estimates if there has been substantial compliance with those requirements.

SEC. 26. Section 11346.6 of the Government Code is repealed.

SEC. 27. Section 11346.7 of the Government Code is amended to read:

11346.7. Every agency subject to the provisions of this chapter shall:

(a) Prepare, submit to the office with the notice of the proposed action, and make available to the public upon request, a copy of the express terms of the proposed action as described in subdivision (b) of Section 11346.5, and an initial statement of reasons for proposing the adoption or amendment of a regulation. The statement shall include but not be limited to the following criteria:

(1) The specific purpose of the regulation.

(2) The factual basis for the determination by the agency that the regulation is reasonably necessary to carry out the purpose for which it is proposed.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, on which the agency is relying in proposing the adoption or amendment of a regulation.

(b) Prepare and submit to the office with the adopted regulation a final statement of reasons which shall include a summary of each objection or comment made regarding the regulation, together with an explanation of how the proposed regulation has been amended to accommodate each objection or comment, or the reasons for rejecting each objection or comment.

(c) Prepare and submit to the office with the adopted regulation an updated informative digest containing a clear and concise summary of the immediately preceding laws and regulations, if any, relating directly to the adopted, amended, or repealed regulation and the effect of the adopted, amended, or repealed regulation. The informative digest shall be drafted in a format similar to the Legislative Counsel's digest on legislative bills.

A state agency which adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with the provisions of this section if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with the provisions of this chapter with respect to any provisions in the regulation which the agency proposes to adopt or amend which are different from the corresponding provisions of the federal regulation.

SEC. 28. Section 11346.8 of the Government Code is repealed.

SEC. 29. Section 11346.8 is added to the Government Code to read:

11346.8. (a) If a public hearing is held, statements, arguments, or contentions, either oral or in writing, or both, shall be permitted. If a pubic hearing is not scheduled the state agency shall, consistent with Section 11346.4, afford any interested person or his or her duly authorized representative the opportunity to present statements, arguments, or contentions, in writing. In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place, of the hearing by mailing the notice to every person who has filed a request for notice thereof with the state agency. The state agency shall consider all relevant matters presented to it before adopting, amending, or repealing any regulation.

(b) In any hearing under this section the state agency or its duly authorized representative shall have authority to administer oaths or affirmations. An agency may continue or postpone the hearing from time to time, until such time and at such place as it shall determine.

(c) No state agency may adopt, amend, or repeal any regulation,

unless the full text of the proposed adoption, amendment, or repeal has been made available to the public at least 45 days prior to the public hearing or close of the written comment period. A state agency may adopt, amend, or repeal a regulation which has been changed or modified from that which was made available to the public only if the change or modification is (1) nonsubstantial or solely grammatical in nature, or (2) the resulting adoption, amendment, or repeal is sufficiently related to the text made available to the public pursuant to the provisions of Section 11346.5 that the public was adequately placed on notice that the adoption, amendment, or repeal could result from the originally proposed regulatory action, and the full text of the resulting adoption, amendment, or repeal, with the change or modification clearly indicated, is made available to the public for at least 15 days prior to the date on which the agency adopts, amends, or repeals the resulting regulation.

(d) No state agency shall, after the close of the public hearing or comment period, add any material to the record of the rulemaking proceeding, unless adequate provision is made for public comment on that matter.

SEC. 29.2. Section 11346.11 of the Government Code is repealed.

SEC. 29.4. Section 11346 51 of the Government Code is repealed.

SEC. 29.6. Section 11346.81 of the Government Code is repealed.

SEC. 30. Section 11347.2 of the Government Code is amended to read:

11347.2. The updated informative digest submitted to the office pursuant to subdivision (c) of Section 11346.7, shall be printed in the California Administrative Notice Register.

SEC. 31. Section 11347.3 of the Government Code is amended to read:

11347.3 (a) Every agency shall maintain a file of each rulemaking which shall be deemed to be the record for that rulemaking proceeding. The file shall include:

(1) Any copies of petitions received from interested persons proposing the adoption, amendment or repeal of the regulation.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation and the statement required by Section 11346.7.

(3) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation.

(4) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying upon in the adoption, amendment, or repeal of a regulation.

(5) A transcript, recording or minutes of any public hearing connected with the adoption, amendment or repeal of the regulation.

(6) The statements required by Section 11346.7.

(7) Any other information, statement, report or data which the

agency is required by law to consider or prepare in connection with the adoption, amendment or repeal of a regulation.

(b) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking file. The rulemaking file or copy shall be accompanied by an index or table of contents which identifies each item contained in the rulemaking file. The index or table of contents shall include a sworn statement by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file and the copy, if submitted, is complete.

(c) The file shall be available to the public, and to the courts in connection with the review of the regulation.

SEC. 32. Section 11349.1 of the Government Code is amended to read:

11349.1. The Office of Administrative Law shall review all regulations adopted pursuant to the procedure specified in Article 5 (commencing with Section 11346) of Chapter 3.5 and submitted to it for publication in the California Administrative Code Supplement and for transmittal to the Secretary of State and make determinations using the following standards:

(a) Necessity.

(b) Authority.

(c) Clarity.

(d) Consistency.

(e) Reference

In reviewing regulations pursuant to this section the Office of Administrative Law shall restrict its review to the regulation and the record of the rulemaking proceeding. The Office of Administrative Law shall approve the regulation if it complies with the standards set forth in this section.

SEC. 33. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) The Office of Administrative Law shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 calendar days after the regulation has been submitted to the office for review. If the office fails to act within 30 days, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(b) If the Office of Administrative Law disapproves a regulation it shall return it to the adopting agency and specify in writing the reasons for disapproval. No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11349.1 or for failure to comply with the provisions of this chapter.

SEC. 34. Section 11349.4 of the Government Code is amended to read:

11349.4. A regulation returned to an agency because of failure to meet the standards of Section 11349.1, or because of an agency's failure to comply with the provisions of this chapter, may be

rewritten and resubmitted without complying with the notice and public hearing requirements of Sections 11346.4, 11346.5 and 11346.8 unless the substantive provisions of the regulation have been significantly changed. If the regulation has been significantly changed, the agency shall comply with the provisions of Article 5 (commencing with Section 11346) of this chapter prior to readopting the regulation.

SEC. 34.5. Section 11349.5 of the Government Code is amended to read:

11349.5. The Governor, within 30 days after the agency and the office have complied with the requirements of this article, may overrule the decision of the office disapproving a proposed regulation or a decision refusing to allow the readoption of an emergency regulation pursuant to Section 11346.1. In that event, the office shall immediately transmit the regulation to the Secretary of State for filing.

Upon overruling the decision of the office, the Governor shall immediately transmit to the Rules Committees of both houses of the Legislature a statement of his reasons for overruling the decision of the office, along with copies of the adopting agency's general statement issued pursuant to Section 11346.7 and the office's statement regarding the disapproval of a regulation issued pursuant to subdivision (b) of Section 11349.3.

SEC. 35. Section 11349.6 of the Government Code is amended to read:

11349.6. (a) In the event the adopting agency has complied with the provisions of Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the regulation as an emergency, the office shall approve or disapprove the regulation in accordance with the provisions of this article.

(b) Emergency regulations adopted pursuant to subdivision (b) of Section 11346.1 shall be reviewed by the office within 10 calendar days after their filing date. The office shall order the repeal of an emergency regulation if it determines that the regulation is not necessary for the immediate preservation of the public peace, health and safety, or general welfare, or if it determines that the regulation fails to meet the standards set forth in Section 11349.1, or if it determines the agency failed to comply with the provisions of this chapter. Within 30 days of the filing of a certificate of compliance, the office shall review the regulation and hearing record and approve or order the repeal of an emergency regulation if it determines that the regulation fails to meet the standards set forth in Section 11349.1.

SEC. 36. Section 11349.7 of the Government Code is amended to read:

11349.7. Every agency subject to the provisions of this chapter shall undertake a review of all regulations administered by it as of June 30, 1980, in accordance with the following:

(a) On or before December 31, 1980, each agency shall transmit

to the Office of Administrative Law a plan for the review of all regulations it is administering. The plan shall be prepared in the manner prescribed by the office and shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations, personnel required to evaluate all regulations, and such other information required by the office.

Time schedules shall further identify separate bodies of regulations within each title of the California Administrative Code which shall be evaluated by January 31 of each year. Review of each title shall be completed no later than the date specified in Section 11349.8.

(b) The Office of Administrative Law shall have final authority to determine the time allowed each agency for review of its regulations.

(c) All regulations shall be reviewed in accordance with the standards set forth in Section 11349.1.

(d) The Office of Administrative Law shall, on or before April 1, 1981, file with the Governor, the Senate Committee on Rules and the Speaker of the Assembly a master plan for regulation review. The master plan shall establish specific dates by which each agency shall have complied with this section, including interim review goals to be met each year in accordance with subdivision (a) of this section.

The office shall periodically publish in the California Administrative Notice Register a schedule for the review of existing bodies of regulations by each agency.

(e) The amount required to implement this section shall be included as part of the budget of each agency in the first Governor's Budget sent to the Legislature following the effective date of this section and shall be updated in each succeeding budget as appropriate.

(f) The Office of Administrative Law shall present to the Governor and the Legislature on January 31 of each year a report on the progress of each agency in complying with this section. The office, in addition, may make periodic recommendations directly to the Legislature for the repeal or amendment of statutory provisions that affect the operations of regulatory agencies.

(g) Within six months following the date that a regulation has been reviewed by the state agency and a Statement of Review Completion has been submitted to the office in accordance with time schedules adopted pursuant to this section, the office on its own motion, or upon the petition of any interested person in keeping with the requirements of Section 11347, may initiate the review of any regulation, group of regulations, or series of regulations. The office may request the agency that chose not to repeal the regulation to forward to it any information on which it relied in reaching its decision. Any such request shall be answered within 14 calendar days of its receipt.

If a state agency reports in a Statement of Review Completion that it will amend or repeal a regulation, the amendment or repeal shall be completed and submitted to the office within six months of the submission of the Statement of Review Completion unless extended

by the office for good cause shown.

If a state agency, in conjunction with its review of existing regulations pursuant to this section, submits a proposed adoption, amendment, or repeal of a regulation to the office, the time for approval or disapproval of that proposed adoption, amendment, or repeal shall also be six months from the date it is submitted to the office.

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, or that an agency has failed to meet the provisions of this chapter, the Office of Administrative Law shall order the adopting agency to show cause why the regulation should not be repealed. In issuing such an order, the Office of Administrative Law shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1 or the reasons for its determination that the agency failed to meet the provisions of this chapter. In the case of a regulation for which no, or inadequate, information relating to its necessity can be furnished by the adopting agency, the order shall specify the information which the Office of Administrative Law requires to make its determination.

(i) No later than 60 days following receipt of an order to show cause why a regulation should not be repealed, the agency shall respond in writing to the Office of Administrative Law. Upon written application by the agency, the office may extend the time for an additional 30 days.

(j) The Office of Administrative Law shall review all information available to it, including the information, if any, transmitted to it in a timely response to the order to show cause why the regulation should not be repealed, and determine whether the regulation meets the standards set forth in Section 11349.1. If the Office of Administrative Law determines that a regulation fails to meet the standards, it shall prepare a statement specifying the reasons for its determination. The statement shall be delivered to the adopting agency, the Legislature, and the Governor and shall be made available to the public and the courts. Thirty days after delivery of the statement required by this subdivision the Office of Administrative Law shall prepare an order of repeal of the regulation and shall transmit it to the Secretary of State for filing.

(k) The Governor, within 30 days after the agency and the office have complied with the requirements of this article, may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect.

The Governor shall transmit to the Rules Committees of both houses of the Legislature a statement of reasons for overruling the decision of the office, plus any other information that may be requested by either of the Rules Committees.

(*l*) In the event that the office orders the repeal of a regulation, it shall publish notice of its action in the California Administrative Notice Register.

(m) Notwithstanding any other subdivision of this section, the Office of Administrative Law, at the request of any standing, select, or joint committee of the Legislature, shall initiate a priority review of any regulation, group of regulations, or series of regulations which the committee believes does not meet the standards set forth in Section 11349.1. A review pursuant to this subdivision may be made at any time and shall be made without regard to the master plan review schedule in subdivision (d), or to the sequence for reviewing individual titles of the California Administrative Code as required by Section 11349.8.

The Office of Administrative Law shall complete each priority review made pursuant to this subdivision within 60 calendar days of the receipt of the committee's written request. In the event that the Office of Administrative Law determines that a regulation does not meet the standards set forth in Section 11349.1, it shall order the adopting agency to show cause why the regulation should not be repealed and shall proceed to seek repeal of the regulation as provided by this section.

(n) The power of a court to invalidate a regulation shall not be altered or barred by the fact that the office has not ordered the repeal of a regulation pursuant to this section The procedure adopted by this section allowing the office to order the repeal of a regulation shall not be considered an exhaustible administrative remedy.

SEC. 37. Section 11350 of the Government Code is amended to read:

11350. (a) Any interested person may obtain a judicial declaration as to the validity of any regulation by bringing an action for declaratory relief in the superior court in accordance with the provisions of the Code of Civil Procedure. The right to judicial determination shall not be affected by the failure to seek reconsideration of a petition filed pursuant to Section 11347.1 before the agency promulgating the regulations. The regulation may be declared to be invalid for a substantial failure to comply with the provisions of this chapter, or, in the case of an emergency regulation or order to repeal, upon the ground that the facts recited in the statement do not constitute an emergency within the provisions of Section 11346.1.

(b) In addition to any other ground which may exist, such regulation may be declared invalid if the court cannot find that the record of the rulemaking proceeding supports the agency's determination that the regulation is reasonably necessary to effectuate the purpose of the statute, court decision, or other provision of law which is being implemented, interpreted, or made specific by the regulation.

For purposes of this section, the record shall be deemed to consist of all material maintained in the file of the rulemaking proceeding as defined in Section 11347.3.

(c) The approval of a regulation by the office or the Governor's

overruling of a decision of the office disapproving a regulation shall not be considered by a court in any action for declaratory relief brought with respect to a regulation.

SEC. 38. Section 18911 of the Health and Safety Code is amended to read:

18911. "Codification" or "codify" means the publication in the code by the commission of a building standard, including an emergency standard.

SEC. 39. It is the intent of the Legislature, if this bill and Assembly Bill 1745 are both chaptered and become effective January 1, 1982, both bills amend Sections 11340 and 11340.1 of the Government Code, and this bill is chaptered after Assembly Bill 1745, that the amendments to Sections 11340 and 11340.1 proposed by both bills be given effect and incorporated in Sections 11340 and 11340.1 in the forms set forth in Sections 2.5 and 3.5 respectively of this act. Therefore, Sections 2.5 and 3.5 of this act shall become operative only if this bill and Assembly Bill 1745 are both chaptered and become effective January 1, 1982, both amend Sections 11340 and 11340.1, and this bill is chaptered after Assembly Bill 1745, in which case Sections 2 and 3 of this act shall not become operative.

SEC. 40. It is further the intent of the Legislature, if this bill and Senate Bill 498 are both chaptered and become effective on January 1, 1982, and this bill is chaptered after Senate Bill 498, that redundant provisions added to the law by Senate Bill 498 be removed. Therefore, Sections 29.2, 29.4, and 29.6 of this act shall become operative only if Senate Bill 498 is chaptered and this bill is chaptered after Senate Bill 498.

CHAPTER 866

An act to amend Section 14402.5 of, to add and repeal Chapter 13 (commencing with Section 4590) of Division 5 of Title 1 of, the Government Code, relating to public contracts.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Chapter 13 (commencing with Section 4590) is added to Division 5 of Title 1 of the Government Code, to read.

CHAPTER 13. WITHHELD CONTRACT FUNDS

4590. Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the contractor,

securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall pay such moneys to the contractor upon satisfactory completion of the contract.

Securities eligible for investment under this section shall include those listed in Section 16430 or bank or savings and loan certificates of deposit.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

This chapter shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 2. Section 14402.5 of the Government Code is amended to read·

14402.5. Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the contractor, securities equivalent to the amount withheld pursuant to Section 14402 shall be deposited with the State Treasurer or a state or federal chartered bank as the escrow agent, who shall pay such moneys to the contractor upon satisfactory completion of the contract.

Securities eligible for investment under this section shall include those listed in Section 16430 or bank or savings and loan certificates of deposit.

The contractor shall be beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain as a minimum, the following provisions:

(a) The amount of securities to be deposited;

(b) The terms and conditions of conversion to cash in case of the default of the contractor; and

(c) The termination of the escrow upon completion of the contract.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 867

An act to amend, repeal, and add Section 89046 to, and to add and repeal Sections 89031.5 and 89048 of, the Education Code, and to amend, repeal, and add Sections 11007.7, 14780, 14790, and 14824 to, the Government Code, relating to the California State University and Colleges, and making an appropriation therefor.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 89031.5 is added to the Education Code, to read:

89031.5. (a) The trustees shall perform inspections of all motor vehicles owned by the California State University and Colleges or under their jurisdiction. These inspections shall be provided for in the appropriate administrative manual of the California State University and Colleges.

(b) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2. Section 89046 of the Education Code is amended to read:

89046. In addition to their general authority to lease property of a state university or college, the trustees may lease any property of a state university or college for any of the following purposes:

(a) The lease of state university or college property to a nonprofit organization composed exclusively of students of the university or college or of members of the faculty of the university or college or both, for purposes related to the activities of the university or college or for the activities of student or faculty organizations;

(b) The lease of state university or college property to any nonprofit organization for the purpose of constructing and using thereon buildings as living quarters for students of the university or college and as meetingplaces;

(c) The lease to any student or faculty organization of the university or college of property for the purpose of establishing and maintaining cooperative stores, and cafeterias in connection with such stores.

Any rental received by the trustees under this or other leasing sections shall be deposited in the State Treasury and credited to the support appropriation of the California State University and Colleges current during the period of occupancy.

Any lease under this section extending for a term of more than 20 years shall be approved by the Department of General Services.

(d) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2.5. Section 89046 is added to the Education Code, to read:

89046. The trustees, with the approval of the Director of Finance, may lease any property of a state college for any purpose which they determine is not inconsistent with the functions of the California State University and Colleges, including, but not limited to:

(a) The lease of state university or college property to a nonprofit organization composed exclusively of students of the university or college or of members of the faculty of the university or college or both, for purposes related to the activities of the university or college or for the activities of student or faculty organizations;

(b) The lease of state university or college property to any nonprofit organization for the purpose of constructing and using thereon buildings as living quarters for students of the university or college and as meetingplaces;

(c) The lease to any student or faculty organization of the college of property for the purpose of establishing and maintaining cooperative stores and cafeterias in connection with such stores.

Any rental received under this section shall be deposited in the State Treasury and credited to the support appropriation of the California State University and Colleges current during the period of occupancy.

(d) This section shall become operative January 1, 1987.

SEC. 3. Section 89048 is added to the Education Code, to read:

89048. Notwithstanding Article 1 (commencing with Section 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section 14660) of Chapter 2 of Part 5.5, and Part 11 (commencing with Section 15850), of Division 3 of Title 2 of the Government Code, or any other provision of law to the contrary, the trustees may perform the following functions, without prior approval of any other state department or agency, when necessary to carry out the purposes of the California State University and Colleges

(a) Acquire easements or rights-of-way necessary for the proper utilization of real property of the California State University and Colleges.

(b) Grant and convey in the name of the California State University and Colleges easements and rights-of-way across property belonging to the California State University and Colleges subject to the conditions, limitations, restrictions, and reservations the trustees determine are in the best interests of the California State University and Colleges.

(c) Quitclaim the right, title, and interest of the California State University and Colleges in and to easements and rights-of-way owned by the California State University and Colleges which the trustees determine are no longer needed for California State University and Colleges purposes.

(d) Sell or exchange any personal property belonging to the California State University and Colleges if the trustees determine that the sale or exchange is in the best interests of the California State University and Colleges.

(e) Transactions under this subdivision shall be for consideration based on fair market values.

(f) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 4. Section 11007.7 of the Government Code is amended to read:

11007.7. The procurement of insurance or official bonds by any state agency shall be subject to approval of the Department of General Services. Any such procurement may, upon request of the state agency concerned, be made by the Department of General Services on behalf of such agency.

Whenever the procurement of insurance or official bonds for or on behalf of the state is authorized by law and no state agency is specifically authorized to purchase such insurance or official bonds, the Department of General Services may procure such insurance or official bonds.

This section shall not apply to (a) insurance procured by the Department of Transportation or the California Transportation Commission under Sections 100.7 and 30450 to 30453, inclusive, of the Streets and Highways Code; (b) workmen's compensation insurance procured under Section 11870 of the Insurance Code; (c) insurance procured by the Department of Veterans Affairs under Division 4 (commencing with Section 690) of the Military and Veterans Code; (d) insurance procured by the California State University and Colleges.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 5. Section 11007.7 is added to the Government Code, to read:

11007.7. The procurement of insurance or official bonds by any state agency shall be subject to approval of the Department of General Services. Any such procurement may, upon request of the state agency concerned, be made by the Department of General Services on behalf of such agency.

Whenever the procurement of insurance or official bonds for or on behalf of the state is authorized by law and no state agency is specifically authorized to purchase such insurance or official bonds, the Department of General Services may procure such insurance or official bonds.

This section shall not apply to (a) insurance procured by the Department of Transportation or the California Transportation Commission under Sections 100.7 and 30450 to 30453, inclusive, of the Streets and Highways Code; (b) workers' compensation insurance procured under Section 11870 of the Insurance Code; (c) insurance procured by the Department of Veterans Affairs under Division 4 (commencing with Section 690) of the Military and Veterans Code.

This section shall become operative January 1, 1987.

SEC. 6. Section 14780 of the Government Code is amended to read·

14780. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or of textbooks for use in the day and evening elementary schools of the state, (b) services, whether or not the same involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person, or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such approval. This section shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into transactions referred to herein. This section shall not apply to any contract let by the Trustees of the California State University and Colleges involving an expenditure of less than one hundred thousand dollars ($100,000) or by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

This section shall remain in effect only until Janaury 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date

SEC. 6 2. Section 14780 of the Government Code is amended to read:

14780. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or of textbooks for use in the day and evening elementary schools of the state, (b) services, whether or not the same involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person, or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such

approval. This section shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into transactions referred to herein. This section shall not apply to any contract let by the Trustees of the California State University and Colleges involving an expenditure of less than one hundred thousand dollars ($100,000) or by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 6.5. Section 14780 is added to the Government Code, to read:

14780. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or of textbooks for use in the day and evening elementary schools of the state, (b) services, whether or not the same involve the furnishing or use of equipment, materials, or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such approval. This section shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into transactions referred to herein. This section shall not apply to any contract let by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code

This section shall become operative January 1, 1987.

SEC. 6.7. Section 14780 is added to the Government Code, to read:

14780. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or of textbooks for use in the day and evening elementary schools of the state, (b) services, whether or not the same involve the furnishing or use of equipment, materials, or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair, or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such approval. This section shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into transactions referred to herein. This section shall not apply to any contract let by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

This section shall become operative January 1, 1987.

SEC. 7. Section 14790 of the Government Code is amended to read:

14790. Purchases by the Regents of the University of California or the Trustees of the California State University and Colleges are not subject to this article or to Article 2.5 (commencing with Section 14816). The Trustees of the California State University and Colleges, however, shall comply with the competitive bidding requirements prescribed by law and shall follow the purchasing criteria published by the Department of General Services.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 7.5. Section 14790 is added to the Government Code, to read:

14790. Purchases by the Regents of the University of California are not subject to this article or to Article 2.5 (commencing with Section 14816). Notwithstanding any other provision of law,

purchases by the Trustees of the California State University and Colleges not exceeding one thousand dollars ($1,000) are exempt from this article and Article 2.5 (commencing with Section 14816).

This section shall become operative January 1, 1987.

SEC. 8. Section 14824 of the Government Code is amended to read:

14824. This article shall not apply to the Regents of the University of California or to the Trustees of the California State University and Colleges.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 8.5. Section 14824 is added to the Government Code, to read:

14824. This article shall not apply to the Regents of the University of California.

This section shall become operative January 1, 1987.

SEC. 9. It is the intent of the Legislature that this act shall result in greater economy or efficiency in the operation of the California State University and Colleges. Should the California State University and Colleges determine that greater economy or efficiency would be served by contracting with the Department of General Services or another department or agency of the state for the performance of any service or function, the Department of General Services or other department or agency shall contract with the California State University and Colleges to perform the service or functions.

SEC. 10. It is the intent of the Legislature in enacting this act that none of its provisions shall impact upon the provisions of Chapter 12 of Division 4 of Title 1 of the Government Code regarding higher education employer-employee relations.

SEC. 11. The Trustees of the California State University and Colleges shall report to the Joint Legislative Budget Committee by January 1, 1986, on the cost effectiveness of the authority provided them by this act. The report shall, to the extent possible, present data verifying the dollar savings resulting from that authority.

SEC. 11.5. The sum of two hundred thirty thousand dollars ($230,000) is hereby appropriated from the General Fund to the Trustees of the California State University and Colleges for the purpose of offering upper division and graduate level courses in Contra Costa County. Funds received by the trustees pursuant to this section shall not be expended unless the expenditure is approved by the California Postsecondary Education Commission in the manner provided by Section 66904 of the Education Code.

SEC 12. It is the intent of the Legislature, if this bill and Senate Bill 295 are both chaptered and become effective January 1, 1982, both bills amend Section 14780 of the Government Code, and this bill is chaptered after Senate Bill 295, that the amendments to Section 14780 proposed by both bills be given effect and incorporated in Section 14780 in the form set forth in Section 6.2 of this act.

Therefore, Section 6.2 of this act shall become operative only if this bill and Senate Bill 295 are both chaptered and become effective January 1, 1982, both amend Section 14780, and this bill is chaptered after Senate Bill 295, in which case Section 6 of this act shall not become operative.

SEC. 13. It is the intent of the Legislature, if this bill and Senate Bill 295 are both chaptered and become effective January 1, 1982, both bills add Section 14780 to the Government Code, and this bill is chaptered after Senate Bill 295, that Section 14780 proposed by both bills be given effect and incorporated in Section 14780 in the form set forth in Section 6.7 of this act. Therefore, Section 6.7 of this act shall become operative only if this bill and Senate Bill 295 are both chaptered and become effective January 1, 1982, both add Section 14780, and this bill is chaptered after Senate Bill 295, in which case Section 6.5 of this act shall not become operative.

CHAPTER 868

An act to amend Section 22200 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 26, 1981. Filed with Secretary of State September 26, 1981.]

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

SECTION 1. Section 22200 of the Education Code is amended to read:

22200. The system is managed by the Teachers' Retirement Board. The members of the board are as follows:

(a) The Superintendent of Public Instruction.

(b) The Controller.

(c) The Director of Finance.

(d) One member who, at the time of appointment, is a member of the governing board of a school district or a community college district.

(e) Two members of the State Teachers' Retirement System who, at time of appointment, are classroom teachers in grades kindergarten through 14.

(f) One member or retirant of the system.

(g) One officer of a life insurance company appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(h) One officer of a bank or a savings and loan institution who has had at least five years of broad professional investment experience handling various asset classes such as stocks, bonds, and mortgage investments and who shall be appointed by the Governor for a term of four years, subject to confirmation by the Senate.

The members of the board provided by subdivisions (d), (e), and (f) shall be appointed by the Governor for four-year terms from a list submitted by the Superintendent of Public Instruction.

The members of the board shall annually elect a chairperson and vice chairperson.

CHAPTER 869

An act to add Sections 437.112 and 437.114 to the Health and Safety Code, relating to health.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 437.112 is added immediately following Section 437.11 of the Health and Safety Code, to read:

437.112. (a) In addition to the exemption required by Section 437.11, the office director shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects if the project is to add not more than 10 percent of licensed bed capacity or 10 beds, whichever is less, to an existing general acute care hospital, and where the applicant has shown and the office director has found that:

(1) The applicant hospital has not been granted a certificate of exemption pursuant to this subdivision within the last preceding 24 months.

(2) The applicant hospital has had an occupancy rate for the classification of beds to be added, and for the facility as a whole, for the preceding 12-month period, of not less than 85 percent.

(3) The project does not exceed the capital expenditure threshold identified in subdivision (e) of Section 437.10 as adjusted to reflect changes in the cost of living.

(4) The facility is accessible to persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) A certificate of exemption issued pursuant to this section shall for all purposes have the same effect as a certificate of need issued pursuant to this part.

SEC. 2. Section 437.114 is added immediately following Section 437.112 of the Health and Safety Code, as added by Section 1 of this act, to read:

437.114. (a) In addition to the exemption required by Section 437.11, the office director shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of exemption for those projects where the applicant has shown, and the office director has found, all of the following.

(1) The conversion of a freestanding skilled nursing facility to a chemical dependency recovery hospital, as defined in Section 1250.3, where the project was commenced on or before September 15, 1981, and provided that the person or entity proposing such a project was, prior to June 1, 1981, operating in this state a health facility, or distinct part thereof, that provided 24 hours' chemical dependency recovery hospital in-patient services as enumerated in Section 1250.3 under a direction of a medical director, and that the person or entity was the owner or lessee of the facility to be converted prior to June 1, 1981. As used in this paragraph, "person" or "entity" shall include collectively a corporation and any wholly owned subsidiaries thereof. "Commencement" means the submission of drawings for the project to the local government having jurisdiction containing substantially sufficient detail for the issuance of a building permit or permits as required and submission of a written declaration of intent for such a project to the Department of Health Services on or before September 15, 1981.

(2) The project does not meet the construction standards established by law or regulation for general acute care hospitals.

(3) The applicant has filed a notice of the project with the office director on or before September 15, 1981.

(4) The applicant has filed a notice of the project with the office director on forms supplied by the office director within 90 days of the effective date of this section. The office director shall inform the applicant in writing of his or her determination as to eligibility of the application for a certificate of exemption under this section within 60 days of receipt of a complete application.

(b) A certificate of exemption issued pursuant to this section shall for all purposes have the same effect as a certificate of need issued pursuant to this part.

CHAPTER 870

An act to add Section 14133.5 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 14133.5 is added to the Welfare and Institutions Code, to read:

14133.5. There shall be established a two-year pilot program, whereby in Alameda County, utilization controls shall not be required when, pursuant to Title XVIII of the federal Social Security Act, a county hospital based utilization review committee has been established to determine the level of authorization for payment and

a utilization plan has been filed with the department and approved by it. The department shall adopt rules and regulations to implement this section, within 60 days of the effective date of this act, including requirements that a hospital's utilization review committee shall demonstrate that it is more cost effective than the Medi-Cal utilization control function.

No later than 18 months following the commencement of the pilot program, the department shall submit a report to the Legislature on the program.

CHAPTER 871

An act to add and repeal Chapter 1.5 (commencing with Section 19050) of Part 1 of Division 10 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Chapter 1.5 (commencing with Section 19050) is added to Part 1 of Division 10 of the Welfare and Institutions Code, to read:

CHAPTER 1.5. PROGRAM MANAGERS

19050. There is in the department a program manager for the blind and partially sighted and a program manager for the deaf and hearing-impaired. The program managers shall, as determined by the director, be responsible for development and coordination of policy with respect to programs for the blind and partially sighted and deaf and hearing-impaired.

19050.5. The program manager for the blind and partially sighted and the program manager for the deaf and hearing-impaired shall have demonstrated experience and sensitivity in working with these disabilities.

19051. The program manager for the blind and partially sighted shall report annually by June 30 to the director and the Legislature on accomplishments, service needs, and plans to meet those rehabilitation needs for persons who are blind or partially sighted, including independent living, habilitation, and vocational rehabilitation services.

19052 The program manager for the deaf and hearing-impaired shall report annually by June 30 to the director and the Legislature on the service needs and plans to meet those rehabilitation needs for persons who are deaf or hearing-impaired, including independent living, habilitation, and vocational rehabilitation services.

19053 The provisions of this chapter shall be effective only to the extent permitted under federal law.

19054. This chapter shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends this date.

CHAPTER 872

An act to amend Section 4213 of, and to add Section 4213.1 to, the Civil Code, to amend Sections 26840.1 and 26840.8 of the Government Code, and to amend Section 360 of the Penal Code, relating to marriage.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 4213 of the Civil Code is amended to read:

4213. (a) When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife they may without a license, be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. Except as provided in Section 4213.1, an authorization for the performance of a marriage pursuant to this section shall be issued by the county clerk, the clerk of the court, or a judge in private chambers, upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840 3 of the Government Code. The authorization shall be presented to the person performing the ceremony. Upon performance of the ceremony, the certificate of marriage shall be filled out by the parties to the marriage and authenticated by the person performing the ceremony. The certificate shall be filed by the person performing the ceremony with the office of the county clerk in the county in which the authorization was issued within four days after the performance of the ceremony. The county clerk shall maintain the certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

Upon performance of the ceremony, the person performing the ceremony shall give a copy of the confidential marriage certificate to the parties who were married. The person performing the ceremony shall also provide the parties who were married with an application for a certified copy of the confidential marriage certificate which shall be filled out by the parties and sent by the

person performing the marriage to the county clerk.

The form of the authorization and of the certificate of marriage, which shall be incorporated in one document, shall be prescribed by the State Registrar of Vital Statistics. The form shall be designed in a manner such that the parties to be married must declare or affirm that they meet all of the requirements of this section.

The county clerk shall quarterly file copies of all confidential marriage certificates filed with him or her after January 1, 1982, with the State Registrar of Vital Statistics. The registrar may destroy the copies so filed after they have been recorded and indexed. Notwithstanding any other provision of law, the records shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this section, but shall not disclose the date of such a marriage.

(b) In addition to those persons enumerated in subdivision (a), an authorization for the performance of a marriage pursuant to this section may also be issued by any other person authorized by law to administer oaths, upon the personal appearance of the parties. The county clerk shall provide an authorization form for the performance of a marriage upon the request of any person so authorized and his or her payment of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse the person authorizing the marriage for the amount of the fees

SEC. 2. Section 4213.1 is added to the Civil Code, to read:

4213.1 If either or both of the parties to be married is physically unable to appear in person before the county clerk, the clerk of the court, a judge in private chambers, or a person authorized to administer oaths because he or she is incarcerated in prison or the county jail or confined to a health care facility, an authorization for the performance of a marriage shall be issued to the person performing the ceremony upon that person's presenting an affidavit to the county clerk signed by the person and the parties to be married, explaining the reason for the inability to appear.

SEC. 3. Section 26840.1 of the Government Code is amended to read:

26840.1. (a) The fee for filing a marriage certificate pursuant to Section 4213 of the Civil Code is fourteen dollars ($14), to be collected at the time an authorization for the performance of the marriage is issued or a blank authorization form is obtained from the county clerk pursuant to subdivision (b) of Section 4213. Four dollars ($4) of the fee shall be paid to the State Registrar of Vital Statistics. One dollar ($1) of the fee shall be paid to the county treasurer and shall be used to defray any local costs incurred pursuant to Section 4213.

(b) Notwithstanding the provisions of subdivision (a), in addition to the amount authorized by subdivision (a) the county clerk may impose an additional amount, not to exceed three dollars ($3), if he or she determines that the additional amount is necessary to defray

local costs.

SEC. 4. Section 26840.8 of the Government Code is amended to read:

26840.8. In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage or the county clerk, upon providing a blank authorization form pursuant to subdivision (b) of Section 4213, shall collect a fee of eight dollars ($8) at the time of filing the certificate. The fee shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 5. Section 360 of the Penal Code is amended to read:

360. Every person authorized to solemnize any marriage, who solemnizes a marriage without first being presented with the marriage license, as required by Section 4207 of the Civil Code; or who solemnizes a marriage pursuant to Section 4213 of the Civil Code without the authorization required by that section; or who willfully makes a false return of any marriage or pretended marriage to the recorder or clerk; or who, having solemnized a marriage, fails for more than 30 days, to file with the recorder or clerk the marriage license with the certificate indorsed thereon, as required by Section 4208 of the Civil Code; or who having solemnized a marriage pursuant to Section 4213 of the Civil Code, fails for more than 30 days to file the certificate required to be filed by that section, and every person who willfully makes a false record of any marriage return, is guilty of a misdemeanor.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 873

An act to add Section 11502.1 to the Government Code, and to amend Sections 437.6, 437.7, 437.9, 437.10, 437.11, 437.13, 438.4, and 438.5 of, to add Sections 437.15, 439.6, and 439.7 to, and to repeal and add Section 438.2 to, the Health and Safety Code, relating to health planning.

[Approved by Governor September 26, 1981 Filed with Secretary of State September 26, 1981]

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

SECTION 1. Section 11502.1 is added to the Government Code, to read:

11502.1. There is hereby established in the Office of Administrative Hearings a unit of hearing officers who shall preside over hearings conducted pursuant to Part 1.5 (commencing with Section 437) of Division 1 of the Health and Safety Code. In addition to meeting the qualifications of hearing officers as prescribed in Section 11502, the hearing officers in this unit shall have a demonstrated knowledge of health planning and certificate-of-need matters. As many hearing officers as are necessary to handle the caseload shall be permanently assigned to this unit. In the event there are no pending certificate of need of health planning matters, hearing officers in this unit may be assigned to other matters pending before the Office of Administrative Hearings. Health planning matters shall be given priority on the calendar of hearing officers assigned to this unit.

SEC. 2. Section 437.6 of the Health and Safety Code is amended to read:

437.6. (a) The office director shall adopt regulations for the implementation of the provisions of this part.

(b) Notwithstanding any other provision of this part to the contrary, the director may suspend the operation of any or all of the following provisions or requirements of this part:

(1) The administrative appeals process for certificate-of-need applications established by Sections 438.8 to 438.12, inclusive. Nothing in this section shall be construed, however, to limit the availability of judicial review of a decision of the director or of the Advisory Health Council as provided in Section 438.13.

(2) The notification of intent required by Section 438.3.

(3) The requirements of paragraphs (7) through (9) of subdivision (a) and subdivisions (b) and (c) of Section 437.13.

(4) The requirements of subdivision (a) of Section 437.14.

(5) The requirements of subdivision (e) of Section 437.10 with respect to some or all projects not directly related to patient care.

(c) The director may establish categories of the projects described in subdivision (b) to which suspensions may apply. Such categories shall be limited to classifications based on estimated project cost and type of projects. All suspensions proposed pursuant to this section, and all categories of projects for which suspensions may apply, shall be adopted by regulation

(d) It is the intent of the Legislature that the office and the area health planning agencies shall not implement the requirements of subdivisions (g) and (h) of Section 1513 of the Public Health Service Act. To the extent required by federal law, the office and area health planning agencies shall request from the Secretary of the United States Department of Health and Human Services a waiver from such requirements.

(e) The Governor shall not execute an agreement with the Secretary of the United States Department of Health and Human

Services pursuant to the provisions of Section 1122 of Public Law 92-603 as such section existed on January 1, 1981.

(f) If Congress repeals, allows to terminate, fails to appropriate funds, or allows the lapse of funding of the National Health Planning and Resources Development Act of 1974 (Public Law 93-641), as amended, the certificate-of-need provisions of this part shall be incapable of implementation in accordance with the intent of the Legislature, and therefore, on the first day of January following the 12th month after the effective date of such federal action or inaction, a project requiring a certificate of need issued by the office pursuant to Section 437.10, except as exempted or not covered under then existing state law, shall be limited to the following:

(1) A project described in subdivision (a) of Section 437.10.

(2) A project for a surgical clinic described in subdivision (b) of Section 437.10 as such clinic is defined in paragraph (1) of subdivision (b) of Section 1204.

(3) A project described in subdivision (c) of Section 437.10 except a project for the establishment of a chronic dialysis service.

(4) A project for the expansion of a special service, enumerated in subdivision (c) of Section 437.10, if the estimated cost of the project exceeds the capital expenditure threshold in effect pursuant to subdivision (e) of Section 437.10 on the date this subdivision becomes operative. For purposes of this paragraph "expansion of a special service" shall not include a chronic dialysis service or an emergency center which provides basic or comprehensive emergency medical services as defined by regulation of the Department of Health Services adopted pursuant to subdivision (c) of Section 1255. In addition, "expansion of a special service" shall not extend to the transfer of beds within the same bed classification as set forth in Section 1250.1 or the remodeling or replacement of a special service in whole or in part, or the replacement of the equipment of such special service.

(5) A project for the construction of a new health facility or speciality clinic to replace in whole any existing health facility or speciality clinic.

(6) Any project for a speciality clinic required to be reviewed by subdivision (e) of Section 437.10 if the total cost of such project exceeds two million dollars ($2,000,000). The threshold exemptions from certificate-of-need requirements provided for in this paragraph shall not apply to projects for expanded outpatient surgical capacity.

(7) A project for a health facility required to be reviewed by subdivision (e) of Section 437.10 if the total cost of such project exceeds the lesser of:

(A) Thirty-five thousand dollars ($35,000) multiplied by the health facility's total bed capacity, or one million five hundred thousand dollars ($1,500,000), whichever is greater; or

(B) Seven million two hundred fifty thousand dollars ($7,250,000).

The threshold exemptions from certificate-of-need requirements provided for in this paragraph shall not apply to projects for

expanded outpatient surgical capacity.

(g) The office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects which were not previously subject to review under Section 437.10 prior to July 1, 1981, but become subject to review subsequent to that date, where the applicant shows and the director finds:

(1) The applicant has, prior to the date the project became subject to review, expended funds or committed or incurred a financial obligation, including any obligation payable by force account, which is certified by a licensed architect or engineer to be 10 percent of the cost of the total project, or seventy-five thousand dollars ($75,000), whichever is less; and

(2) The project cannot be terminated without substantial economic loss to the applicant; and

(3) The project was commenced prior to it becoming subject to review; and

(4) The applicant has filed a notice of such project with the office on forms supplied by the department within 60 days of the issuance of the forms.

Within 30 days of the receipt of the notice, the office shall determine which applications are entitled to a certificate of need under this subdivision.

SEC. 3. Section 437.7 of the Health and Safety Code is amended to read:

437.7. In order to assure availability of objective and impartial review by planning groups (referred to as area health planning agencies) of proposals for health facility projects as set forth in Section 437.10, the Advisory Health Council shall evaluate and shall designate annually no more than one area health planning agency for any area of the state designated by the council, provided such agency shall be incorporated as a nonprofit corporation and be controlled by a board of directors consisting of a majority representing the public and local government as consumers of health services with the balance being broadly representative of the providers of health services and the health professions, or alternatively be a health systems agency established pursuant to Public Law 93-641. The functions of area health planning agencies shall be the following:

(a) To review information on utilization of hospitals and related health facilities.

(b) To develop area plans to be used for the determination of community need and desirability of projects specified in Section 437.10, consistent with the regulations adopted by the Office of Statewide Health Planning and Development pursuant to Section 437.8. Each such plan shall become effective upon a determination by the council that the plan is in conformance with regulations adopted pursuant to Section 437.8. The council shall integrate all such area plans into a single Statewide Health Facilities and Services Plan, which shall become effective upon formal adoption by the council.

(c) To conduct public meetings in which providers of health care

and consumers will be encouraged to participate.

(d) To review applications for certificates of need as required by Section 437.10 and make recommendations to the office as to the need and desirability for the project proposed in the application, based upon the statewide and area plans adopted pursuant to subdivision (b) or, prior to the adoption of such plans, based upon the existing plans specified in Section 437.9. However, an area health planning agency may, with the concurrence of the office, waive participation in the review of all or any applications or class of applications.

(e) To make written findings of fact and recommendations to be delivered to applicant and filed with the office as a public record.

Area health planning agencies shall comply with the following requirements:

(1) The governing body of such agency shall, to the extent feasible, be composed of individuals representative of the major social, economic, linguistic, and racial populations, and geographic areas, within the area served by the agency.

(2) The agency shall hold public meetings and hearings only after reasonable public notice. Such notice shall, to the extent feasible, be publicized directly to those who, as determined by the director, are medically underserved and are in other ways denied equal access to good medical care.

(3) The agency shall file with the Advisory Health Council an affirmative action employment plan approved by the office.

Area health planning agencies may divide their areas into local areas for purposes of more effective health facility planning, with the approval of the Advisory Health Council. Such local areas shall be of a geographic size and contain adequate population to insure a broad base for planning decisions. Each local area shall contain a local health planning agency which shall meet the requirements of this section.

An organization which meets the requirements of this section may make application to its area health planning agency for designation as a local health planning agency for a designated area. Within 45 days after a complete application for designation has been received, the area agency shall reach a decision concerning the application.

Each area health planning agency existing on the operative date of amendments to this section enacted during the 1976 portion of the 1975–76 Regular Session of the Legislature shall continue to function as an area planning agency pursuant to this part, and shall provide review and recommendations on applications for certificates of need until such time as one or more designated health systems agencies are fully operational, as determined by the Advisory Health Council in the area served, or formerly served, by the respective area health planning agency.

If the Advisory Health Council determines that an area health planning agency approved under this section is dissolved or unable to carry out the functions required by this part, the office shall fulfill

the responsibilities of an area health planning agency pursuant to this part in the area until such time as another area health planning agency is designated by the Advisory Health Council for such area and becomes fully operational.

Adoption of regulations setting forth administrative procedures for area and local area health planning agencies shall be made by the office pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 437.9 of the Health and Safety Code is amended to read:

437.9. (a) The basis for decisions by the Office of Statewide Health Planning and Development on applications for certificates of need filed pursuant to this part shall be:

(1) The Statewide Health Facilities and Services Plan specified in subdivision (b) of Section 437.7.

(2) The statewide policies developed pursuant to Section 437.8.

(b) The office shall annually update the statistical information used in the determination of resource requirements in the Statewide Health Facilities and Services Plan and shall update this statistical information more frequently when new data is available. These data updates shall include, but not be limited to, population estimates, utilization data, changes in the inventory, and other statistical information used in the determination of resource requirements. This data shall be incorporated into the Statewide Health Facilities and Services Plan by operation of law and without the necessity of following the procedures set forth in Chapter 3.5 (commencing with Section 11340) of Title 2 of Division 3 of the Government Code.

SEC. 5. Section 437.10 of the Health and Safety Code is amended to read:

437.10. Except as otherwise exempted by Sections 437.11, 437.13, or this section, projects requiring a certificate of need issued by the Office of Statewide Health Planning and Development are the following:

(a) Construction of a new health facility, the increase of bed capacity in an existing health facility, the conversion of an existing health facility from one license category to another, or the conversion of a health facility's existing beds in one bed classification to a different bed classification. As used in this section, "license category" means any category of health facility set forth in Section 1250 and "bed classification" means any classification set forth in Section 1250.1. A facility may use beds in one bed classification which, pursuant to the facility's license, have been designated in another bed classification, if all such bed classification changes do not at any point in time exceed 5 percent of the total number of the facility's beds as set forth by the facility's license and if such use meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2.

In addition, a facility may use an additional 5 percent of its beds in such manner if the director finds that seasonal fluctuations justify

it.

(b) Establishment of a new specialty clinic, as defined in subdivision (b) of Section 1204, the conversion of an existing primary care clinic to a specialty clinic, or the conversion of an existing specialty clinic to a different category of specialty-clinic licensure. It shall not constitute a project and no certificate of need shall be required for the establishment of a primary care clinic, as defined in subdivision (a) of Section 1204, the conversion of an existing specialty clinic to a primary care clinic, or the conversion of an existing primary care clinic to a different category of primary-care-clinic licensure. Any capital expenditure involved in the establishment of a primary care clinic shall also not constitute a project, except as provided in subdivision (d).

(c) The establishment of a new special service delineated in subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 1255, or the establishment, pursuant to subdivision (c) of Section 1255, of an emergency center which provides basic or comprehensive emergency medical services, as defined by regulation of the Department of Health Services, or the establishment by a specialty clinic, as defined in subdivision (b) of Section 1204, of a new special service identified by or pursuant to Section 1203.

(d) The initial purchase or lease by a facility or by a clinic subject to licensure under Chapter 1 (commencing with Section 1200) of Division 2, of diagnostic or therapeutic equipment with a value in excess of four hundred thousand dollars ($400,000) in a single fiscal year, or for which the cumulative cost exceeds such amount in more than one fiscal year. For purposes of this subdivision, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the office, shall be considered together.

(e) Any project requiring a capital expenditure for a health facility, or for a specialty clinic as defined in subdivision (b) of Section 1204, or for the services, equipment or modernization of such facility or clinic in excess of six hundred thousand dollars ($600,000) in the current fiscal year or cumulation to an expenditure of six hundred thousand dollars ($600,000) in the same fiscal year or subsequent fiscal years for a single project.

The threshold exemptions from certificate-of-need requirements provided for in this subdivision shall not apply to projects for expanded outpatient surgical capacity.

For the purposes of this subdivision, a "capital expenditure" shall mean any of the following:

(1) An expenditure, including an expenditure for a construction project undertaken by the facility or clinic as its own contractor, which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance and which exceeds six hundred thousand dollars ($600,000). The cost of studies, surveys, legal fees, land, offsite improvements, designs, plans, working drawings, specifications, and other activities essential

to the acquisition, improvement, expansion, or replacement of the physical plant and equipment with respect to which such expenditure is made shall be included in determining whether such cost exceeds six hundred thousand dollars ($600,000). Where the estimated cost of a proposed project, including cost escalation factors appropriate to the area in which the project is located, is, within 60 days of the date on which the obligation for such expenditure is incurred, certified by a licensed architect or engineer to be six hundred thousand dollars ($600,000) or less, such expenditure shall be deemed not to exceed six hundred thousand dollars ($600,000) regardless of the actual cost of such project. However, in any such case where the actual cost of the project exceeds six hundred thousand dollars ($600,000) the health facility or clinic on whose behalf such expenditure is made shall provide written notification of such cost to the state department not more than 30 days after the date on which such expenditure is incurred. Such notification shall include a copy of the certified estimate.

(2) The acquisition, under lease or comparable arrangement, or through donation, of any facility or part thereof, or equipment for a facility or clinic, the expenditure for which would have been considered a capital expenditure if the person had acquired it by purchase. For the purposes of this paragraph, "donation" shall not include a bequest.

(3) Any change in a proposed capital expenditure which itself meets the criteria set forth in this subdivision.

A "capital expenditure" shall include the total cost of the proposed project as certified by a licensed architect or engineer based on preliminary plans or specifications and concurred in by the state department. For the purposes of this subdivision, "project" shall not include the purchase of real property for future use or the transfer of ownership, in whole or part, of an existing health facility or clinic or the acquisition of all or substantially all of the assets or stock thereof.

For the purposes of this subdivision, "modernization" means the alteration, expansion, repair, remodeling, replacement, or renovation of existing buildings, including initial equipment thereof, and the replacement of equipment of existing buildings.

The office shall annually adjust the dollar thresholds set forth in subdivisions (d) and (e) and in paragraphs (6), (7), and (8) of subdivision (a) of Section 437.13 to reflect changes in the cost of living, as determined by the Department of Finance, using 1982 as the base year, and the dollar thresholds set forth in paragraph (9) of subdivision (a) of Section 437.13 using 1981 as the base year. Notwithstanding the amount of such dollar thresholds, in the event Congress increases or repeals the amount or amounts of such thresholds, the dollar thresholds set forth in subdivisions (d) and (e) of Section 437.13 shall be the highest amount or amounts permitted by Public Law 93-641, as amended, or one million dollars ($1,000,000), whichever is less, on the date such congressional action

is effective.

SEC. 5.5. Section 437.11 of the Health and Safety Code is amended to read:

437.11. (a) The office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of exemption for those projects which were not previously subject to review under Section 437.7 prior to the effective date of this section where the applicant has shown and the office director has found that:

(1) The applicant has, prior to the effective date of this section, committed or incurred a financial obligation, including any obligation payable by force account, which is certified by a licensed architect or engineer to be 10 percent of the cost of the total project, or seventy-five thousand dollars ($75,000), whichever is less; and

(2) The project cannot be terminated without substantial economic loss to the applicant; and

(3) Except with respect to projects set forth in subdivision (d) of Section 437.10, the project was commenced prior to the effective date of this section and is being diligently pursued to completion; and

(4) The applicant has filed a notice of such project with the office on forms supplied by the office within 60 days of the effective date of this section.

For the purposes of this subdivision, "project" shall mean any project set forth in Section 437.10, and the term "financial obligation" shall include cost factors set forth in the definition of "capital expenditure" in Section 437.10.

Within 120 days of the effective date of this section, the office shall determine in public hearing which applications are entitled to an exemption under this subdivision.

(b) In addition, the office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects where the applicant has shown and the office director has found that:

(1) The project is necessary solely to replace health care services that are no longer available at the facility because of a disaster or other emergency.

(2) The project is solely for the purpose of complying with requirements of law or regulations.

(3) The project was the subject of an application submitted to an area health planning agency prior to the effective date of this section. Such applications shall be processed and decided in the manner prescribed by this part as it existed immediately prior to the operative date of this section, except that any petition for appeal of a decision or lack of decision of such an area health planning agency rendered after the effective date of this section shall be made directly to the Advisory Health Council.

(4) The project is to add not more than 10 percent of licensed bed capacity or 10 beds, whichever is less, to an existing general acute care hospital, where the applicant has shown and the office director has found that:

(A) The applicant hospital has not been granted a certificate of exemption pursuant to this subdivision within the last preceding 24 months.

(B) The applicant hospital has had an occupancy rate for the classification of beds to be added, and for the facility as a whole, for the preceding 12-month period, of not less than 85 percent.

(C) The project does not exceed the capital expenditure threshold identified in subdivision (e) of Section 437.10 as adjusted to reflect changes in the cost of living.

(D) The facility is accessible to persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) A certificate of exemption issued pursuant to this section or Section 1268 shall for all purposes have the same effect as a certificate of need issued pursuant to this part.

SEC. 6. Section 437.13 of the Health and Safety Code is amended to read:

437.13. (a) Notwithstanding any other provision of law, no proposal for the remodeling of any health facility licensed on or before September 9, 1976, or for the construction of any new health facility to replace in whole or in part any existing health facility licensed on or before September 9, 1976, or for the replacement of the equipment or services of any health facility licensed on or before September 9, 1976, shall be required to be approved as provided in this part, unless the proposal involves one of the following:

(1) An increase in bed capacity.

(2) The conversion of a facility in one category of licensure to a different category of licensure.

(3) The conversion of any of a health facility's existing beds from one classification set forth in Section 1250.1 to another classification, except as authorized by Section 437.10.

(4) A significant expansion or addition of diagnostic or therapeutic capability, or a significant expansion or addition of services.

(5) Location of the health facility on a site which is not the same site or immediately adjacent thereto.

(6) The remodeling or replacement of any special service set forth in subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of Section 1255, which exceeds a cost of six hundred thousand dollars ($600,000), unless a certificate of need has been obtained for such remodeling or replacement of such special service.

(7) The replacement of any diagnostic or therapeutic equipment at a cost in excess of four hundred thousand dollars ($400,000), when such equipment has been in operation for five years or less. For the purposes of this paragraph, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the state department, shall be considered together.

(8) The replacement or remodeling of patient rooms and nursing stations costing in excess of six hundred thousand dollars ($600,000),

unless such replacement or remodeling meets the requirements of subdivision (b).

(9) Except as provided in subdivision (c), a project for the remodeling or replacement of all or any portion of a health facility or equipment thereof which is not limited to a project specified in paragraph (6), (7), or (8) of this subdivision and the cost of which exceeds the lesser of one million five hundred thousand dollars ($1,500,000) or four thousand dollars ($4,000) multiplied by the health facility's total authorized bed capacity, excluding the cost of projects covered in paragraph (6), (7), or (8).

(b) Any project specified in paragraph (8) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if any of the following conditions are met:

(1) Where the health facility has over the previous three years experienced an average licensed bed occupancy rate of over 80 percent, the licensed bed capacity shall not be required to be reduced by a remodeling or replacement proposal.

(2) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 76 nor more than 80 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 95 percent of the licensed bed capacity prior to the project.

(3) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 71 nor more than 75 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the licensed bed capacity prior to the project.

(4) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 66 nor more than 70 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 85 percent of the licensed bed capacity prior to the project.

(5) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not more than 65 percent, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 80 percent of the licensed bed capacity prior to the project.

(6) Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the facility's average bed occupancy rate over the previous three years was in excess of 65 percent, the licensed bed capacity shall not be required to be reduced. Where the health facility serves a medically underserved

population in a medically underserved area as determined by the Health Manpower Policy Commission and the health facility's average bed occupancy rate is below 65 percent over the previous three years, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the facility's licensed bed capacity prior to the project.

(c) Any project specified in paragraph (9) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if the applicant demonstrates to the satisfaction of the director that the project is necessary in order for the facility to be able to continue the provision of service in a manner consistent with current standards of practice, and that the project meets all of the following criteria:

(1) The proposed space in square feet for the project, upon completion, is not more than 5 percent net above the statewide average number of square feet per licensed bed in services or departments of comparably sized facilities approved in California during the previous two years pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5 unless the applicant demonstrates to the satisfaction of the director special requirements for additional space.

(2) Financial resources exist to successfully complete and implement the project, and the financing will not result in an undesirable increase in patient charges in the facility.

(3) The project promotes fiscal economies through measures that assure efficiency and effectiveness, which may include the operation of joint cooperative or shared facility health resources and maximum utilization of facilities.

(4) Less costly alternatives for the project were evaluated by the applicant and found not to be as desirable as the proposed project.

(5) The cost of equipment and construction is within reasonable limits and range for the area, type of project, and projected operational cost.

(6) The size of the project is based on historical or reasonably projected utilization of the service, equipment, or facility.

The state department shall adopt regulations further defining the specifics of the criteria set forth in this subdivision.

(d) In reviewing a proposal for a certificate of exemption for remodeling a health facility or for the replacement of equipment or services of a health facility which is not eligible for a certificate of exemption because of paragraph (8) of subdivision (a), or for remodeling or replacing a basic emergency center or its equipment which is not eligible for a certificate of exemption because of paragraph (6) of subdivision (a), when the health facility has been purchased for the purpose of providing services to existing members and reasonably anticipated members of a comprehensive group practice prepayment health care service plan, the medical services, of which, are provided by at least 200 physicians in group practice,

who provide at least 75 percent of the medical services they deliver to members of the comprehensive group health care service plan, and which is licensed under the Knox-Keene Health Care Service Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) and qualified as a health maintenance organization under Title XIII of the federal Public Health Service Act (42 U.S.C., Sec 300e et seq.), the state department, after a public hearing thereon, shall grant a certificate of exemption if the applicant: (1) demonstrates that the project is necessary to meet the needs of such members; (2) meets the criteria in paragraphs (1) to (6), inclusive, of subdivision (c); (3) does not violate paragraphs (1) to (7), inclusive, of subdivision (a), except that remodeling or replacing a basic emergency center shall not be considered a violation of paragraph (6) of subdivision (a) for such purpose, (4) submits a letter of intent to undertake the proposed project within two years of the date of purchase of the facility; and (5) records in the office of the county recorder of the county in which the health facility is located a written agreement not to sell, lease, or rent the facility for five years without the permission of the state department, and which shall particularly describe the real property subject to the agreement and be indexed in the grantor index to all record owners of the real property and to the grantee index to the state department. The failure to so record such an agreement gives any person who becomes a purchaser, lessee, or renter of the facility during the term of the agreement the right of rescission or damages for one year from the date of discovery of the failure to record.

(e) For all purposes, including those specified in Section 14105.5 of the Welfare and Institutions Code and in Section 1268 of this code, it shall be deemed that a certificate of need has been issued for any proposal issued a certificate of exemption under this section.

Health facilities desiring an exemption under this section shall, pursuant to regulations of the state department, submit an application and plans to the state department The state department shall inform the applicant in writing of its determination as to eligibility of the applicant's proposal for such exemption within 60 calendar days of receipt of the application. If the state department determines that the proposal is not eligible for such exemption, the applicant may reapply for a certificate of need as provided in Section 438 or seek judicial review.

This section shall remain in effect only until July 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends such date

SEC. 7. Section 437.15 is added to the Health and Safety Code, to read:

437.15. (a) It is the intent of the Legislature that projects not directly related to patient care be processed as expeditiously as possible, consistent with the purposes of this part For purposes of this section, "project not directly related to patient care" means a project which is subject to certificate of need solely because it is a

project described in subdivision (e) of Section 437.10 and which will not directly involve any diagnostic or therapeutic service. Such projects may include, but are not limited to, telephone systems, data processing systems, parking structures, employee housing, administrative offices, and projects for the provision of energy.

(b) In reviewing an application for a project not directly related to patient care, the office director shall consider only financial feasibility, effect on patient charges, expected utilization if applicable, compliance with applicable laws and regulations, benefit to the population to be served, availability of equally desirable less costly alternatives to the project, and the effect, if any, of the project upon the indigent population of the area served.

(c) The following exceptions to the procedural provisions of this part shall apply to applications for projects not directly related to patient care:

(1) The notification of intent specified in Section 438.3 shall not be required prior to the filing of an application.

(2) Upon a determination that an application is complete pursuant to Section 438.2, the office shall promptly publish notice in a newspaper of general circulation in the geographical area to be served by the project. Such notice shall describe the project and provide that any affected person may request, in writing, that the office hold a public hearing in the course of its review. The notice shall state the address at which such request shall be made and the time period in which it shall be made. Such written request shall be based upon the applicable review criteria and shall specify the criteria upon which it is based.

(3) No hearing need be held by the office in the course of its review unless requested by an affected person within 30 days of the publication of the notice required by paragraph (2), or unless requested by the appropriate area agency within 45 calendar days, or unless ordered by the office within 60 calendar days after the application is determined to be complete. In those cases in which no hearing is required to be held, the office shall, within 90 calendar days after the application is determined to be complete, issue a decision approving the project in its entirety or with such modifications or conditions as have been agreed to in writing by the office and the applicant.

(4) It is the intent of the Legislature that the review of projects not directly related to patient care be accomplished without formal area agency review and participation.

To effectuate that intent, area agencies may waive the public meeting required by Section 438.4 and need not conduct or participate in reviews of projects not directly related to patient care.

(d) The office shall amend its regulations and application forms as may be necessary to effectuate the purposes of this section.

SEC. 8. Section 438.2 of the Health and Safety Code is repealed.

SEC. 9. Section 438.2 is added to the Health and Safety Code, to read:

438.2. (a) The office, within 15 days of its receipt of an application for a certificate of need submitted pursuant to Section 438, shall make a determination as to whether the application is complete. If the office determines that the applicant has not submitted an application which adequately addresses the information requirements of the application form, it shall provide the applicant and the appropriate area health planning agency a written notification of incompleteness specifying the additional information required to render the application complete. After receipt of this additional information, the office, within 15 days, shall make a determination as to whether the application is complete.

(b) If, after review of additional information pursuant to subdivision (a), the office determines that the application is still incomplete, it shall provide the appropriate area health planning agency and the applicant a written notification of incompleteness, advising the applicant of the additional information needed and the options available to the applicant to render the application complete. Following receipt of such notification, the applicant shall exercise one of the following options:

(1) Submit the additional information required by the office.

(2) Request in writing, with or without submitting the additional information, that the review commence notwithstanding the determination of incompleteness.

Upon receipt of a written statement requesting that the review commence, the application shall be deemed complete on the fifth business day following receipt unless the office determines, and notifies the applicant in writing, by the fifth business day, that the lack of information is so material that it would render meaningful analysis of the application impossible and that the application is therefore incomplete. Such a determination shall be based solely on the failure to provide information specifically requested by the application form.

If the applicant submits the requested additional information and does not submit a written statement requesting the office to commence the review notwithstanding its determination of incompleteness, the office, within 15 days after receipt of the additional information, shall make a determination as to whether the application is complete.

Upon the receipt of any additional notifications of incompleteness, the applicant shall exercise one of the options enumerated in paragraphs (1) and (2). The office, in its second or subsequent completeness inquiry, shall not request information beyond the scope of the preceding request.

(c) If the office does not give the notification of incompleteness within the 15-day period required for review of completeness, the application shall be deemed complete on the 15th day following the receipt of the material submitted and the office shall then proceed with its review.

(d) The office shall publish notice of the commencement of the

review promptly after the application review process commences pursuant to subdivision (b) or (c).

(e) A completed application may be amended or withdrawn by the applicant at any time without prejudice, but any amendment to an application, except as the office and the applicant may otherwise agree, shall cause the amended application to be treated as a new application for purposes of the time limits prescribed by this part and for the determination of the amount of the fee.

(f) A filed application shall be a public document and shall be available for inspection at the offices of the area health planning agency and the office. A copy of any filed application shall be furnished to any person upon request and payment of a reasonable fee, to be established by the office in an amount sufficient to defray the costs of reproduction.

(g) Applications filed by any state agency or the Board of Regents of the University of California shall be exempt from a filing fee.

SEC. 10. Section 438.4 of the Health and Safety Code is amended to read:

438.4. The Office of Statewide Health Planning and Development shall promptly transmit a copy of each application for a certificate of need determined by it to be complete, or otherwise deemed complete pursuant to Section 438.2, to the appropriate area health planning agency. Within 30 calendar days after receiving a copy of an application, the area health planning agency shall hold one or more public meetings for review and comment upon the application. Within 45 days after receiving an application, the area health planning agency shall submit to the office any recommendations or comments concerning the application.

For purposes of this section, "a person affected by the application" means any of the following:

(a) The applicant.

(b) The health systems agency for the health service area in which the proposed project is to be located.

(c) Health systems agencies serving contiguous health service areas.

(d) Members of the public who are to be served by the proposed project.

(e) Health care facilities and health maintenance organizations located in the health service area where the project is proposed to be located and which provide services similar to the services of the facility under review.

(f) Health care facilities and health maintenance organizations which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future.

SEC. 11. Section 438.5 of the Health and Safety Code is amended to read:

438.5. (a) Within 90 calendar days of the receipt of the complete application, or an application otherwise deemed complete pursuant

to Section 438.2, the Office of Statewide Health Planning and Development shall do one of the following:

(1) Approve the application. The office may approve the application pursuant to this subdivision with modifications or conditions, provided that the applicant agrees in writing to any such modifications or conditions.

(2) Order a hearing if the office determines that substantial questions exist as to the eligibility of the proposed project for certificate-of-need approval or if requested to do so by the area health planning agency. If the office orders a hearing, the hearing shall be commenced within 30 days of the date of the order. Except as otherwise provided in this section, the hearing shall be held in the geographical area served by the area health planning agency reviewing the project.

(b) The office shall order a hearing by the service of a copy of the order on the applicant, the area agency and the Office of Administrative Hearings. The order shall include the intended position of the Division of Certificate of Need of the office. Upon receipt of the order, the Office of Administrative Hearings shall promptly consult with the parties to the hearing in order to determine the time and place of hearing. Except as otherwise agreed by the parties and the Office of Administrative Hearings, the hearing shall commence within 30 days of the date of the order. Upon the scheduling of the hearing, the Office of Administrative Hearings shall promptly serve notice of the date, location, and time of the hearing upon the parties to the hearing. The Office of Administrative Hearings shall also publish a notice of the date, location, and time of the hearing in at least one newspaper of general circulation in the health service area served by the applicant. Such notice shall also include the name and address of the applicant, the nature of the proposed project, and other information, deemed relevant by the Office of Administrative Hearings

(c) The hearing shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this part. The hearing shall be conducted by a hearing officer assigned by the Office of Administrative Hearings who shall rule on the admission and exclusion of evidence and may exercise all other powers relating to the conduct of the hearing With the concurrence of the parties to the hearing, law and motion matters pertaining to the hearing may be heard by the hearing officer in a location other than the geographic location of the hearing.

(d) Within 30 days after closing the record of the hearing, the hearing officer shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing, and conclusions of law. Such proposed decision, findings of fact, and conclusions of law shall be served upon the parties to the hearing, and such service shall constitute the conclusion of the hearing.

(e) The director shall make a final decision on an application

within 15 days after conclusion of the hearing at which the application was considered. The director, upon notification to the parties to the hearing, may extend the deadline for making a final decision for an additional 15 days from the date of receipt of the record of the hearing. The decision shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. Failure of the office to render a decision within such time shall be deemed approval of the application and the office shall issue a certificate of need for the project described in the application The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of such certificate of need.

(f) Notice of the substance of the office's decision shall be published in a newspaper of general circulation within the area served by the area health planning agency which reviewed the application, within 10 calendar days following the decision If the decision differs from the recommendation of the area health planning agency, the office shall submit to the area health planning agency a detailed, explanatory statement

SEC. 12. Section 439.6 is added to the Health and Safety Code, to read:

439.6 The Legislature finds that funds available to the office, the health systems agencies, and the area health planning agencies for the implementation of this part may prevent the office, the health systems agencies and the area health planning agencies from fully complying with their statutorily mandated functions.

In the event that the health systems agencies lose all, or substantially all, federal funding which is not replaced by other funding at a level which allows them to fulfill their major responsibilities under this part and in order to ensure continuity of the certificate-of-need process, the Governor is hereby authorized to request that the Secretary for Health and Human Services eliminate federal designation and funding of some or all health systems agencies located within the state and to terminate some or all duties assigned to area health system planning agencies and to assign the office to conduct some or all functions heretofore designated to the health systems agencies and area health planning agencies.

SEC. 13. Section 439 7 is added to the Health and Safety Code, to read:

439.7 (a) There is hereby established the Health Planning Law Revision Commission. The commission shall be composed of 11 members. Two members shall be appointed by the Speaker of the Assembly and two members shall be appointed by the Senate Rules Committee Five members shall be appointed by the Governor. Of the members appointed by the Governor one shall be appointed from a list of three nominees submitted to the Governor by the California Medical Association. The Director of the State Department of Health Services and the Director of the Office of

Statewide Health Planning and Development shall be members of the commission. Of the members appointed by the Speaker and the Senate Rules Committee, one shall be an actively practicing physician and surgeon, one shall be an administrator of a general acute-care hospital, one shall be a representative of providers of long-term care, and one shall be a representative of health maintenance organizations. Of the members appointed by the Governor, one shall be a representative of major purchasers of health services, one shall be a representative of business, one shall be a representative of organized labor, one shall be a representative of consumers of health services, and one shall be a representative of local health planning agencies.

(b) The commission shall meet by March 1, 1982, and shall cease to exist on March 1, 1983.

(c) The commission shall elect a chairperson from among its members.

The commission shall meet as often as is necessary to fulfill its duties.

The commission shall have the authority to appoint technical advisory committees.

Members of the commission and technical advisory committees shall be reimbursed for actual and necessary expenses incurred in connection with attendance at meetings of the commission.

(d) The office shall provide necessary staff and support to the commission. However, the commission shall also have the authority to utilize staff members made available by interested professional associations.

(e) The Legislature finds that changes in federal health policy including impending changes in the funding of health planning and health care delivery and continuing public interest in the cost, the quality, and the accessibility of health services require review and amendment of existing health planning law. In accordance with this intent the commission shall recommend to the Legislature and the Governor alternatives for assuring rational planning for the efficient distribution and use of health resources in a manner which assures equal access to quality health care at a reasonable cost.

SEC. 14. Hearing officers employed by the Office of Statewide Health Planning and Development on the effective date of this act shall be transferred to the unit in the Office of Administrative Hearings established by Section 1 of this act.

SEC. 15. By deleting subdivision (d) of Section 438.5 of the Health and Safety Code as that subdivision was added by SB 930 as amended on August 27, 1981, the Legislature does not intend either affirmatively or negatively to decide the question of whether intervention in certificate-of-need hearings is valid

CHAPTER 874

An act to amend Sections 8 and 9 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities, and declaring the urgency thereof, to take effect immediately

[Became law without Governor's signature Filed with Secretary of State September 27, 1981]

The people of the State of California do enact as follows

SECTION 1. Section 8 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 8 An authority may incur indebtedness by contract other than by voting bonds or expenditure of bond proceeds up to a total amount equal to one-tenth of 1 percent of the assessed valuation, as defined in Section 135 of the Revenue and Taxation Code, or as otherwise hereafter defined by act of the Legislature, of property taxable for authority purposes by a vote of three-fourths or more of the aggregate number of votes of all members of the board of directors. Any proposal to incur an indebtedness in excess of an amount equal to one-tenth of 1 percent of the assessed valuation, as defined in Section 135 of the Revenue and Taxation Code, or as otherwise hereafter defined by act of the Legislature, of property taxable for authority purposes by contract other than by voting bonds or expenditure of bond proceeds, and any proposal to purchase, lease, or otherwise acquire rights, privileges, or services by contract, the compensation for which shall be payable over a period of time exceeding 20 years, shall be submitted to the qualified electors of the authority for their approval and shall be voted upon at an election wherein proceedings shall be had, insofar as applicable, in the manner provided in this act for the authorization and issuance of the bonds of the authority, except that the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the incurring of such indebtedness Notice of the election herein provided for shall contain, in addition to the information required in the case of bond elections, a statement of the maximum amount of money to be paid under said contract, exclusive of penalties and interest, for what purposes the money is to be expended, and the property, improvements, works, rights, privileges or services to be acquired thereby The ballots at such election shall contain a brief statement of the general purposes of said contract and the amount of the obligation to be assumed as aforesaid, with the words "Contract—Yes" and "Contract—No." The board of directors may submit such contract or proposed contract to the superior court of the county wherein the authority is located to determine the validity thereof and the legal authority of the board to enter into such contract, whereupon the same proceedings shall be held as are

herein provided in the case of the judicial determination of the validity of bonds issued pursuant to this act, and with like effect.

SEC. 2. Section 9 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 9. (a) Immediately after equalization and not later than the 15th day of August of each year, it shall be the duty of the auditor of the county wherein such authority shall lie, to prepare and deliver to the controller of the authority a certificate showing the assessed valuation of all property within the authority, and also such assessed valuation segregated according to public agencies, the areas of which lie within the authority.

(b) On or before the 20th day of August the board of directors of the authority shall by resolution determine the amount of money necessary to be raised by taxation during the fiscal year beginning the first day of July next preceding and shall fix the rate of taxation of the authority, designating the number of cents upon each one hundred dollars ($100) assessed valuation of taxable property and shall levy a tax accordingly:

(1) Sufficient, when taken with other revenues available for the purpose, to meet interest and sinking fund requirements on all outstanding bonded indebtedness of said authority; and sufficient, when taken with other revenues available for the purpose, to meet the payment of the principal and interest on any refunding bonds, or any bonds the issuance of which may have been authorized by the electors and which bonds have not been sold but which, in the judgment of the board of directors, will be sold prior to the time when money will be available from the next subsequent tax levy, and in case such bonds are not so issued and sold or such tax for any other reason is not required for said purpose, the tax so levied shall be applied to the payment of interest and/or principal on any refunding bonds, or on any bonds authorized by the electors, then outstanding or subsequently issued and/or sold; and

(2) For all other authority purposes.

(c) The board of directors shall also cause to be computed and shall declare in said resolution the amount of money to be derived from the area of the authority lying within each separate public agency by virtue of the tax levy In such resolution the board shall also fix and determine the times and proportional amounts of installments in which any public agency may elect to make payment in lieu of taxes as hereinafter provided. The board shall immediately cause certified copies of such resolution to be transmitted to the presiding officer of the governing body of each such public agency.

(d) On or before the 15th day of December of each year the governing body of each such public agency may elect to pay out of its funds available for that purpose, other than funds derived from ad valorem property taxes, all or any portion of the amount of tax which would otherwise be levied upon property within such public agency Such election shall be made by order upon motion, which order shall recite that such payment shall be made in cash concurrently with the

certification of such order to the controller of the authority, or that such payment shall be made in installments and the times wherein such installments shall be payable and the amounts thereof, which amounts shall be in accordance with the requirements of the board of directors of the authority as approved by resolution. In the event that any public agency shall elect to pay in cash, or by deferred installments, money or any part thereof which would otherwise be levied upon property within the public agency, it shall immediately certify to the controller of the authority a copy of such order and a statement showing its financial condition, the funds from which such payments shall be made and the sources of revenue to be used therefor; provided, however, that in the event any public agency shall elect to pay in cash all or any portion of the amount of tax which would otherwise be levied upon property within such public agency to meet interest and sinking fund requirements on the outstanding bonded indebtedness of said authority, such amount so elected to be paid shall be deposited with the treasurer of said authority on or before the 27th day of August next following such election; and provided, also, that unless such payment is so made in the case of interest and sinking fund requirements, and unless such election, as to all other taxes, shall provide for payments in accordance with the resolution of the board of directors as hereinbefore provided for, then such election shall be ineffective for any purpose.

(e) Before the first day of September the controller of the authority shall cause to be prepared and transmitted to the auditor of the county in which the authority shall lie, a statement showing the tax rate to be applied to assessed property in each public agency, which rate shall be the rate fixed by resolution of the board of directors modified to the extent necessary to produce from each public agency only the amount of money apportioned thereto in said resolution, less any amount paid or undertaken to be paid by such public agency, or credited thereto as herein provided.

(f) Upon receipt by the auditor of the county in which such authority shall lie, of a certified copy of the controller's statement showing the tax rate to be applied to assessed property in each public agency, and showing the public agencies, the assessed property in which is exempt therefrom, if any, it shall be the duty of the county officers to collect taxes for the benefit of the authority at the rate specified as herein provided. The taxes so levied shall be computed and collected at the same time and in the same manner required by law for the assessment, computation and collection of taxes for county purposes, and the property subject to such tax shall be subject to the same penalties for delinquency, and the same provisions of law relating to the sale of property for nonpayment of county taxes and redemption thereof shall apply to the tax herein authorized. When so collected, such taxes shall be paid over to the treasurer of the authority, subject to the deduction herein authorized.

In consideration of services rendered hereunder, any county shall annually be entitled to deduct and retain for its own use and benefit

an amount not exceeding 1 percent on the first twenty-five thousand dollars ($25,000) collected hereunder, and one-fourth of 1 percent of any amount in excess of twenty-five thousand dollars ($25,000) collected hereunder. The board of supervisors of each such county may provide such extra help as in their judgment may be necessary for the proper performance of duties hereunder.

(g) Whenever any real property situated in any authority organized hereunder and upon which a tax shall have been levied, as herein provided, shall be sold for taxes and shall be redeemed, the money paid for such redemption, except advertising costs, shall be apportioned and paid in part to such authority in the proportion which the tax due to such authority shall bear to the total tax for which such property shall have been sold. All taxes levied together with penalties, interests and costs under the provisions of this act shall be a lien upon the property upon which levied, and the enforcement of the collection of such tax shall be had in the same manner and by the same means as is or shall be provided by law for the enforcement of liens for county taxes, and all of the provisions of law relating to the enforcement of such taxes are hereby made a part of this act so far as applicable

(h) Public agencies, the areas of which are included within any county water authority incorporated hereunder, are hereby authorized to pay to any such authority, out of funds derived from the sale of water or other funds not appropriated to some other use, such amounts as may be determined upon by the governing bodies thereof, respectively. Such payments may be made in avoidance of taxes as herein provided, or otherwise, and are hereby declared to be for a public purpose and shall not be deemed gratuitous or in the nature of gifts, but shall be deemed payments for water or services in connection with the distribution of water Any public agency making any such payment to any authority incorporated hereunder, whether in avoidance of taxes or otherwise, shall receive credit therefor and the amount of the payment so made by any public agency shall be deducted from the amount of taxes which would otherwise be levied against property lying therein as herein provided. In the event that payment so made by any public agency shall exceed the amount of taxes which would otherwise have been levied against property within such public agency, the amount of such excess without interest shall be carried over and applied in reduction of taxes levied, or which would otherwise have been levied during the ensuing year or years

Any public agency, including a county, which shall have incurred expenses in negotiating contracts or in the investigation of or preliminary work upon any works or projects or in making payments on account of any such contracts, works or projects, taken over by the authority, may receive, and the authority so taking over any such contracts, works or projects may make to such public agency, reimbursement for all such sums so expended, or to be expended, for expenses incurred in such negotiations for, investigation of,

preliminary work upon, or payments made on account of the contracts, works or projects so taken over by the authority, to the extent that the board of directors of the authority shall find that such expenditures have benefited such authority, it being the intention of this provision to permit the authority to purchase, and the public agency to sell, assign and transfer such contracts, works or projects taken over by such authority. The sum so to be paid by such authority to such public agency shall be such amount as may be mutually agreed upon.

As an alternative to the purchase and sale of any contracts, works or projects taken over by the authority, as hereinabove provided, any public agency which shall have incurred expenses in negotiating contracts or in the investigation of or preliminary work upon any such works or projects or in making payments on account of any such contracts, works or projects taken over by the authority, may certify the amount thereof, without interest, to the board of directors of said authority at any time within four (4) years from the date of the incorporation of such authority, or the incurring of such expenses, if such authority be already incorporated, and if allowed by the board of directors, such amount shall be credited to the public agency which incurred the same, and such expenditures shall be considered as a payment of money made as herein provided for which deduction shall be made from the amount of taxes which would otherwise be levied against property lying within such public agency.

Any public agency which shall incur expenses in preliminary work in preparing for the incorporation of or in the incorporation of any authority hereunder likewise may certify the amount thereof, without interest, to the board of directors of said authority at any time within four (4) years from the date of the incorporation of such authority, and if allowed by the board of directors, such amount shall be credited to the public agency incurring the same, and shall be considered as a payment of money made as herein provided, for which deduction shall be made from the amount of taxes which would otherwise be levied against property lying within such public agency

No such payments of money made in lieu of taxes or otherwise, or such credit allowed by such board of directors, as hereinabove provided, shall apply to reduce the amount of taxes which would otherwise be levied against the property within such public agencies respectively, to meet interest and sinking fund requirements on outstanding bonded indebtedness of such authority.

Such certification and allowance shall be made on or before the first Monday in July, and the amount of money to be raised by taxation shall be computed with reference to the credit to be allowed as herein provided, but such credit may, in the discretion of the board of directors, be considered in connection with the amount of money to be raised by the next tax levy, or may be spread over subsequent years, not to exceed five.

(i) If any public agency shall fail to comply with the terms of the

order relating to payments to be made to the authority in lieu of taxation, or if any public agency annexed to the authority shall fail to comply with the terms and conditions fixed by the board of directors and upon which such annexation occurred, the amount of the delinquency, plus a penalty of 8 percent shall be added to the taxes to be collected during the ensuing fiscal year, from the property within such delinquent public agency, and thereafter for a period of two (2) years no order or ordinance shall be sufficient to exempt the property in said public agency from taxation hereunder unless it be accompanied by payment in cash of the amount which would otherwise be collected from owners of property within the public agency, together with all moneys due but unpaid under any previous order, or annexation provision.

(j) All provisions herein, or in any ordinance adopted pursuant hereto, relating to the respective times when the various acts pertaining to the levy of taxes are to be performed, are directory only, and failure to perform any such act or acts within the time so specified shall not impair the legal authority herein conferred to perform all subsequent acts relating to the levy of such taxes. In the event that any of the provisions of law respecting the time and manner of assessing property for purposes of taxation, of equalizing such assessments, of certifying such assessed valuations to the taxing authorities, of making the tax levies, of certifying such tax levies to the proper authorities for extension upon the tax rolls, and for enforcement and collection of such taxes or of performing any other act regarding the assessment, levy or collection of taxes be amended, changed, repealed or newly enacted, and as a result thereof, it should appear to the board of directors of the authority that the time schedule provided herein respecting the levy of authority taxes be no longer consistent with such modified tax procedure, then said board of directors by ordinance may prescribe a new schedule setting forth the times when the various acts herein required to be done in levying authority taxes shall be performed. Nothing contained in this paragraph shall relieve the board of directors of its duty to provide adequate funds, by annual tax levies if necessary, to meet the interest and principal requirements of the bonded debts as they fall due.

(k) For the purpose of assessing and collecting, under the provisions of Section 9(a) of Article XIII of the Constitution of the State of California, the taxes levied by any authority incorporated hereunder, the rate for taxes levied for the preceding tax year, as such phrase is employed in said section of the Constitution, shall be the rate fixed for such preceding tax year by the board of directors of such authority pursuant to Section 9, subdivision (b) of this act. In the event that any public agency, pursuant to the provisions of Section 9, subdivision (d) of this act, shall elect to pay the whole or any portion of the amount of taxes to be derived from the area of the authority within such public agency, as such amount shall have been fixed by resolution of the board of directors, a refund shall be made

by the authority to each taxpayer thereof who shall have theretofore paid any tax collected under the provisions of said section of the Constitution, in the proportion that such public agency shall have so elected to pay the amount so to be derived. The board of directors shall adopt regulations providing for the presentation and audit and payment of claims for such refunds. No claim for such refund shall be granted unless such claim shall have been filed within one year from the date when the right to such refund shall have accrued.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Effective with the 1981–82 fiscal year, the definition of "assessed value" in Section 135 of the Revenue and Taxation Code is defined to mean 100 percent of full value, rather than 25 percent of full value. If the full cent requirement is not deleted, the San Diego County Water Authority, which was formed under the County Water Authority Act, will probably have to overlevy certain of its taxes, such as for general obligation bonds approved by its voters prior to July 1, 1978, in order to obtain at least the amount deemed necessary, such as for annual bond debt service requirements. Each full cent per one hundred dollars ($100) of "assessed valuation" under the 100 percent of full value definition, would aggregate over $4 million based on the authority's total assessed valuations for fiscal year 1980–81, which exceed $10 billion. Under subdivision (b) of Section 9 of the act, the tax rate must be determined by the authority on or before August 20 of each year. If the full cent requirement is not removed prior to that date, the tax rate will result in excessive payments from property taxpayers. It is necessary, therefore, that this act take effect immediately.

CHAPTER 875

An act to amend Sections 328 and 328.5 of the Welfare and Institutions Code, relating to minors

[Became law without Governor's signature Filed with Secretary of State September 27, 1981]

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

SECTION 1. Section 328 of the Welfare and Institutions Code is amended to read:

328. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 300, the probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

The probation officer shall interview any minor four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the minor's view of the home environment. If proceedings are commenced, the probation officer shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the probation officer shall include the substance of the interview in the social study required by Section 358.

SEC. 2. Section 328.5 of the Welfare and Institutions Code is amended to read:

328.5. Whenever the probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272 has cause to believe that there is within the county or residing therein, a person within the provisions of Section 300, the probation officer or social worker shall immediately make such investigation as he or she deems necessary to determine what services should be offered to the family and whether proceedings in the juvenile court should be commenced. If any such services are deemed appropriate, the probation officer or social worker shall make a referral to state protective services for children pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9.

The probation officer or social worker shall interview any minor four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the minor's view of the home environment. If proceedings are commenced, the probation officer or social worker shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the probation officer or social worker shall include the substance of the interview in the social study required by Section 358.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 876

An act to add and repeal Section 17958.3 of the Health and Safety Code, relating to building standards.

[Became law without Governor's signature Filed with Secretary of State September 27, 1981]

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

SECTION 1. Section 17958.3 is added to the Health and Safety Code, to read:

17958.3. Every city or county, or city and county, including chartered cities, shall obtain and maintain with all revisions on a current basis at least one copy of the building standards and other state regulations relating to buildings published in Titles 8, 19, 20, 24, and 25 of the California Administrative Code. These codes shall be maintained in the office of the building official charged with the administration and enforcement of the provisions of this part.

This section shall not apply to any city or county which contracts for the administration and enforcement of the provisions of this part with another local government agency which complies with this section.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 2 Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to those sections because the duty of cities and counties to obtain and maintain building codes is a presently existing duty which is part of their normal operating procedure, and is not a new or increased level of services under a state-mandated local program.

CHAPTER 877

An act to amend Section 1753 of the Business and Professions Code, relating to dentistry.

[Became law without Governor's signature Filed with Secretary of State September 27, 1981]

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

SECTION 1. Section 1753 of the Business and Professions Code is amended to read:

1753. The board shall license as a registered dental assistant a person who submits written evidence, satisfactory to the board, of either one of the following:

(a) Graduation from an educational program in dental assisting approved by the board, and satisfactory performance on a written examination required by the board. On and after January 1, 1984, every applicant seeking licensure as a registered dental assistant pursuant to this subdivision shall provide evidence of his or her satisfactory performance on a written and practical examination

required by the board.

(b) Satisfactory work experience of more than 18 months' as a dental assistant and satisfactory performance on a written examination required by the board. The board shall give credit toward the 18 months' work experience referred to in this subdivision to persons who have graduated from a dental assisting program in a postsecondary institution approved by the Department of Education that is not, however, approved by the board pursuant to subdivision (a). Such credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks. The board, in cooperation with the Superintendent of Public Instruction, shall establish the minimum criteria for the curriculum in such non-board-approved programs. In addition, on and after January 1, 1984, every applicant seeking licensure as a registered dental assistant pursuant to this subdivision shall provide evidence of his or her satisfactory performance in a written and practical examination required by the board.

CHAPTER 878

An act to amend Sections 69895, 69900, 74502, 74503 and 74504 of the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State September 27, 1981]

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

SECTION 1. Section 69895 of the Government Code is amended to read·

69895 In the City and County of San Francisco, the superior court shall appoint an executive officer who shall act as a secretary to the judges of the superior court and perform the duties of jury commissioner pursuant to Section 69893. The salary of the executive officer shall be a minimum salary of three thousand six hundred nineteen dollars ($3,619) monthly during his first year of service, three thousand eight hundred one dollars ($3,801) monthly during his second year of service, three thousand nine hundred eighty-four dollars ($3,984) monthly during his third year of service, and four thousand one hundred sixty-six dollars ($4,166) monthly during his fourth year of service and thereafter

In the city and county, on the authorization of the judges, the executive officer shall have three administrative assistants, one of whom shall receive a salary of two thousand nine hundred eighty dollars ($2,980) monthly during his first year of service, three thousand one hundred twenty-nine dollars ($3,129) monthly during his second year of service, three thousand two hundred seventy-nine dollars ($3,279) monthly during his third year of service, and three

thousand four hundred twenty-seven dollars ($3,427) monthly during his fourth year of service and thereafter; and two of whom shall each receive a salary of two thousand five hundred seventy-eight dollars ($2,578) monthly during their first year of service, two thousand seven hundred eighteen dollars ($2,718) monthly during their second year of service, two thousand eight hundred forty-nine dollars ($2,849) monthly during their third year of service, and two thousand nine hundred eighty dollars ($2,980) monthly during their fourth year of service and thereafter.

The increment shall be paid commencing on the first day of the month following the first, second, and third anniversary of the incumbent's appointment. All service included prior to the effective date of the amendment to this section enacted during the 1981–82 Regular Session of the Legislature shall constitute service for purpose of determining entitlement to increments.

The administrative assistants shall assist also in the performance of the duties of jury commissioner. The salaries of the executive officer and administrative assistants shall be paid by the city and county.

The court may delegate to the executive officer any administrative powers and duties as are now or hereafter by law may be vested in or required to be exercised by such court.

SEC. 2. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

	Step 1	Step 2	Step 3	Step 4
Four judicial secretaries	$1,322	$1,374	$1,427	$1,478
Seven judicial clerks, senior	1,322	1,374	1,427	1,478
Four assistant court commissioners	2,625	2,757	2,885	3,020
One legal research assistant to presiding judge	1,550	1,625	1,700	1,775
Two court assistants	1,349	1,439	1,528	1,618
Ten judicial clerks	991	1,042	1,082	1,129
Two information clerks	1,159	1,208	1,257	1,306
One chief assistant to calendar clerk	1,649	1,743	1,837	1,929
One chief calendar clerk	2,001	2,139	2,276	2,412
One criminal jury coordinator	1,818	1,935	2,051	2,168
One director family court services	2,230	2,330	2,430	2,530
Four counselors family court services	1,987	2,067	2,147	2,229
One mental health coordinator	2,291	2,421	2,551	2,681
Six court commissioners	3,290	3,454	3,620	3,786

One civil courts coordinator	2,291	2,421	2,551	2,681
One criminal courts coordinator	2,291	2,421	2,551	2,681
One pretrial clerk and statistician	2,291	2,421	2,551	2,681
Four legal research assistants	1,500	1,575	1,650	1,725
Three court investigators	1,900	1,977	2,055	2,132
One secretary to executive officer	1,446	1,499	1,551	1,603
One calendar control clerk	1,093	1,146	1,198	1,249
One calendar control clerk, senior	1,198	1,256	1,313	1,370
Three probate examiners	1,900	1,977	2,055	2,132
One court assistant, senior	1,608	1,663	1,718	1,773
Twenty-seven court reporters	2,373	2,505	2,643	2,788

All figures in the above columns represent the salaries to be paid monthly to each of the employees so appointed. All original appointments shall be at step 1, provided that on the first of the month following the first anniversary of the employee's appointment he shall advance to the second step, and thereafter on the first of the month following the second anniversary of the employee's appointment he shall advance to step 3, and thereafter on the first of the month following the third anniversary of the employee's appointment he shall advance to step 4, and thereafter shall be paid at the rate established by step 4. Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1981–82 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the county for miscellaneous employees.

With the approval of the board of supervisors the court may establish such additional titles and pay rates as are required and with the approval of the board of supervisors may appoint and employ such additional commissioners, officers and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers and assistants and other employees may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1

of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of such employees shall be paid by the city and county.

SEC. 3. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk-executive officer who shall also serve as secretary to the judges and who shall be paid a salary of three thousand one hundred fifty-four dollars ($3,154) monthly during the first year of service, a salary of three thousand three hundred twelve dollars ($3,312) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, a salary of three thousand four hundred seventy-five dollars ($3,475) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, and a maximum salary of three thousand seven hundred sixty-six dollars ($3,766) monthly after the third year of service commencing on the first day of the month following the third anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one clerk-executive officer who shall also serve as secretary to the judges, and who shall hold office at their pleasure and who shall receive the salary provided in this section.

(b) Notwithstanding the provisions of Section 72400, the judges, or a majority of them, shall appoint two traffic referees who shall hold office at their pleasure. The traffic referees shall have the powers and duties specified in Sections 72401, 72402 and 72403 and shall receive the salary specified in Section 72404.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of two thousand three hundred sixty-three dollars ($2,363) monthly during the first year of service, a salary of two thousand four hundred eighty-three dollars ($2,483) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand six hundred two dollars ($2,602) monthly after the second year of service, commencing on the first day of the month following the second year of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary provided in this section. When the executive assistant to the presiding judge is a member of the state bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(d) There shall be one executive secretary to the presiding judge who shall be paid the salary of one thousand five hundred nine

dollars ($1,509) monthly during the first year of service, a salary of one thousand five hundred eighty-five dollars ($1,585) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand six hundred sixty-nine dollars ($1,669) monthly after the second year of service, commencing on the first day of the month following the second year of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as provided in this section.

SEC. 4. Section 74503 of the Government Code is amended to read:

74503. (a) There shall be one chief deputy, who shall also serve as jury commissioner and who shall exercise the powers of jury commissioner of superior courts insofar as they are applicable to the municipal court and who shall perform such other duties as assigned by the judges of the court and who shall be paid a minimum salary of two thousand eight hundred seventy-one dollars ($2,871) monthly during the first year of service, a salary of two thousand nine hundred ninety-two dollars ($2,992) monthly after the first year of service, commencing on the first day of the month following the anniversary of his appointment, and a maximum salary of three thousand one hundred twenty-one dollars ($3,121) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one chief deputy, who shall also serve as jury commissioner and who shall hold office at their pleasure, and who shall perform such other duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(b) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, two deputy clerks who shall be the court systems coordinators and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand two hundred sixty dollars ($2,260) monthly during the first year of service, a salary of two thousand three hundred sixty-four dollars ($2,364) monthly after the first year of service commencing on the first day of the month following the anniversary of his appointment, and a maximum salary of two thousand four hundred seventy-two dollars ($2,472) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk who shall be court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court,

and who shall receive the salary hereinabove provided.

(c) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be assistant court systems coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand nine hundred sixty-eight dollars ($1,968) monthly during the first year of service, a salary of two thousand sixty-one dollars ($2,061) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand one hundred sixty-seven dollars ($2,167) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the assistant court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(d) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint a court fiscal officer who shall be paid a minimum salary of two thousand four hundred four dollars ($2,404) monthly during the first year of service, a salary of two thousand five hundred thirteen dollars ($2,513) monthly during the second year of service commencing on the first day of the month following the first anniversary of his appointment, and a salary of two thousand six hundred twenty-six dollars ($2,626) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(e) The clerk shall appoint three deputy clerks who shall be the chief division clerks in the civil, criminal and traffic departments of the court, and who shall be paid a minimum salary of two thousand two hundred sixty dollars ($2,260) monthly during the first year of service, a salary of two thousand three hundred sixty-four dollars ($2,364) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand four hundred seventy-two dollars ($2,472) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(f) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be criminal courts calendar coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand two hundred sixty dollars ($2,260) monthly during the first year of service, a salary of two thousand three hundred sixty-four dollars ($2,364) monthly after the first year of service commencing

on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand four hundred seventy-two dollars ($2,472) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the criminal courts calendar coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(g) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges may appoint, one court program analyst manager who shall be paid a salary of two thousand two hundred ninety-seven dollars ($2,297) monthly during the first year of service, a salary of two thousand four hundred seventeen dollars ($2,417) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, a salary of two thousand five hundred thirty-eight dollars ($2,538) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, a salary of two thousand six hundred sixty-five dollars ($2,665) monthly after the third year of service commencing on the first day of the month following the third anniversary of his appointment, and a maximum salary of two thousand seven hundred ninety-eight dollars ($2,798) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(h) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one assistant court program analyst manager who shall be paid a salary of one thousand eight hundred thirty-six dollars ($1,836) monthly during the first year of service, a salary of one thousand nine hundred thirty-four dollars ($1,934) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, a salary of two thousand thirty dollars ($2,030) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, a salary of two thousand one hundred thirty-two dollars ($2,132) monthly after the third year of service commencing on the first day of the month following the third anniversary of his appointment, and a maximum salary of two thousand two hundred thirty-nine dollars ($2,239) monthly after the

fourth year of service, commencing on the first day of the month following the fourth anniversary of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one assistant court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

SEC. 5. Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid a minimum salary of one thousand nine hundred sixty-eight dollars ($1,968) monthly during the first year of service, a salary of two thousand sixty-one dollars ($2,061) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of two thousand one hundred sixty-seven dollars ($2,167) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(b) Thirty-four deputy clerks who shall be paid a minimum salary of one thousand six hundred seven dollars ($1,607) monthly during the first year of service, a salary of one thousand seven hundred nine dollars ($1,709) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand eight hundred forty-four dollars ($1,844) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(c) Twenty-three deputy clerks who shall be paid a minimum salary of one thousand three hundred ninety-three dollars ($1,393) monthly during the first year of service, a salary of one thousand four hundred forty-one dollars ($1,441) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand four hundred ninety-three dollars ($1,493) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(d) Two deputy clerks who shall be paid a minimum salary of one thousand three hundred four dollars ($1,304) monthly during the first year of service, a salary of one thousand three hundred thirty-eight dollars ($1,338) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand three hundred seventy-six dollars ($1,376) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(e) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one administrative legal stenographer who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand four hundred twenty-two dollars ($1,422) monthly during the first year of service, a salary of one thousand four hundred seventy-one dollars ($1,471) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand five hundred fifty dollars ($1,550) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one administrative legal stenographer who shall hold such position at their pleasure, and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(f) Thirty-seven deputy clerks who shall be paid a minimum salary of one thousand one hundred seventy-five dollars ($1,175) monthly during the first year of service, a salary of one thousand two hundred forty-four dollars ($1,244) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand three hundred fifteen dollars ($1,315) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(g) Seventy-eight deputy clerks who shall be paid a minimum salary of nine hundred twenty-seven dollars ($927) monthly during the first year of service, a salary of one thousand four dollars ($1,004) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand one hundred nine dollars ($1,109) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(h) Two deputy clerk-information clerks who shall be paid a minimum salary of nine hundred ninety-two dollars ($992) monthly during the first year of service, a salary of one thousand one hundred twenty-eight dollars ($1,128) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, a salary of one thousand two hundred sixty-seven dollars ($1,267) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, and a maximum salary of one thousand three hundred nine dollars ($1,309) monthly after the third year of service commencing on the first day of the month following the third anniversary of his appointment. Whenever any vacancy occurs, the clerk, with the approval of the judges, or a majority of them, notwithstanding any other provisions of this code, shall

appoint a deputy clerk-information clerk, who shall perform such duties as assigned by the clerk and who shall receive the salary hereinabove provided.

(i) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the court fiscal officer shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(k) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(*l*) Five deputy clerks designated in Section 74504 and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(m) Two deputy clerks designated in Section 74504 who shall serve as master jury calendar clerk, civil, and master jury calendar clerk, criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(n) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(o) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 879

An act to amend Section 41514 of the Health and Safety Code, relating to air pollution.

[Became law without Governor's signature Filed with Secretary of State September 27, 1981.]

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

SECTION 1. Section 41514 of the Health and Safety Code is amended to read:

41514. (a) The state board shall prepare and submit to the Legislature its recommendations with regard to the regulation of marine vessels on or before July 1, 1982. The report shall be prepared in consultation with the maritime industry, the districts, and members of the public.

(b) The state board shall not adopt any regulation to implement the study recommendations or otherwise establish emission requirements for marine vessels prior to July 1, 1982.

(c) Nothing in this chapter shall be construed to prohibit enforcement of any rule or regulation governing marine vessels which had been adopted by any district prior to July 1, 1979, or is amended thereafter.

CHAPTER 880

An act to repeal and add Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State September 27, 1981]

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

SECTION 1. Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 2. Article 2 (commencing with Section 73340) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 2. Municipal Courts in Contra Costa County

73340. This article applies only to municipal courts established in judicial districts in Contra Costa County.

73341. Except as otherwise provided in this article, each municipal court district established in Contra Costa County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Bay Judicial District	5
Delta Judicial District	2
Mt. Diablo Judicial District	4
Walnut Creek-Danville Judicial District	3

73342. There shall be one marshal's office in Contra Costa County which shall serve all of the judicial districts of the county and shall maintain a branch at each judicial district.

73343. Official reporters shall be appointed by the judges of each municipal court district pursuant to the provisions of Section 72194 and shall serve at the pleasure of the judges.

The salary of each official reporter shall be at the rates provided for by Section 73348, which shall be a charge against the general fund of the county.

73344. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases receive seventy-five dollars ($75) a day, which shall upon order of the court be a charge against the general fund of the county.

73345. Any official reporter may be assigned by the presiding judge of his district to act as official reporter pro tempore in any municipal court in Contra Costa County. During any such assignment he shall continue to receive his regular salary in lieu of any other compensation provided by law.

73346. Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive, which shall be paid from the county treasury.

73347. The official reporters of the court shall be members of any retirement system maintained by the county. For the purposes of such retirement system, the salary provided for reporters in this article shall be deemed their entire compensation.

The official reporter shall perform the duties required of him by law. When not actually engaged in the performance of any other duty imposed on him by law, he shall render stenographic or clerical assistance, or both, to the judge or judges of the district to which he is assigned as such judge or judges may direct.

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step. 1. Twenty-thousand seven hundred forty-eight dollars ($20,748).

Step. 2. Twenty-one thousand seven hundred ninety-two dollars ($21,792).

Step. 3. Twenty-two thousand eight hundred seventy-two dollars

($22,872).

Step. 4. Twenty-four thousand twenty-four dollars ($24,024).

Step. 5. Twenty-five thousand two hundred twenty-four dollars ($25,224).

The step of entry to the above schedule shall be step 1. However, the judges of the court may appoint any such court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, and if such higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. The compensation of each official reporter pro tempore shall be at the rate of seventy-five dollars ($75) a day for the days he actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and intermediate typist-clerk. Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate of seventy-five dollars ($75) a day for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

73349. Except as provided in this article, all paid employments of any municipal court and the marshal's office now established or which may subsequently be established in Contra Costa County shall be under the merit system established in the county. The merit board of the county shall exercise the same jurisdiction over municipal court employments as it exercises over other county employments in the same manner as they apply to other merit system employments in the Contra Costa County service.

In the event that one or more eligibles are not certified to a vacancy within six months of the date the position became vacant, the appointing authority may fill the vacancy by appointing any

candidate who meets the minimum qualifications for the class as set forth in the class specification. Such appointee shall thereby obtain merit system status as described above.

73350. Except as otherwise provided in this article, all employments of any municipal court and marshal's office now established or which may be established in Contra Costa County shall be compensated and receive other benefits in accordance with the provisions of the salary ordinance of the county governing other county employments. Any subsequent change in benefits provided by the salary ordinance to employees of the county shall apply equally to employees of the municipal courts and marshal's office, and shall have the same effective date. These benefits may also be retroactively applied. References hereafter to range allocation and salary steps apply to the basic salary schedule set forth in Section 73352.

Within range step increases shall be granted only upon the affirmative recommendation of the appointing authority.

Overtime payments must bear the same approval as within range step increases.

73351. There are the following classes of positions into which each of the positions of the municipal courts and marshal's office shall be assigned as prescribed in the section pertaining to each court or to the marshal's office.

(a) Deputy clerk I, which shall include all municipal courts and marshal's office employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk II, which shall include all municipal courts and marshal's office employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-criminal process, which shall include all municipal court employments assigned complex clerical work in the criminal section of a municipal court involving responsibility for the establishment, maintenance, calendaring, issuance of process and updating of criminal case records using manual and automated systems.

(f) Deputy clerk III, which shall include all municipal court employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on

policy matters. Positions of this class may assign and review the work of several deputy clerks I, deputy clerks II, or deputy clerks-criminal process.

(g) Process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I or deputy clerks II.

(h) Supervising process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes and supervises the work of several deputy clerks I, deputy clerks II and process clerks.

(i) Deputy clerk IV, which shall include clerical duties of a complex and varied nature in which the incumbent works independently, such as an employment having as a primary assignment the discharge of a court's orders and the maintenance of court minutes.

(j) Chief deputy clerk, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and subject to the designation of the clerk-administrator, being responsible for court operations in the absence of the clerk-administrator.

(k) Clerk-administrator of the court, which shall include any municipal court position in a multijudge court (schedule A in court with five through seven judges, schedule B in court with two through four judges) charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

(*l*) Deputy marshal-recruit, which shall not be a peace officer, and shall only be assigned to attend a basic academy course of study to gain P.O.S.T. approved peace officer status.

(m) Deputy marshal, which shall include all marshal's office employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and acting as bailiff when the municipal court is in session.

(n) Deputy marshal sergeant, which shall include any position in a marshal's office responsible for assigning and reviewing the work of several deputy marshals in serving court processes and other peace officer activities.

(o) Assistant marshal, which shall include any position in the marshal's office responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities or, who, under direction of the marshal, shall be responsible for day-to-day operation of the marshal's office.

(p) Marshal, which shall be the nonelective position responsible for the management and supervision of the duties of the office of marshal for all the judicial districts.

73352. Whenever reference is made to a numbered salary level

in any section of this article, the salary schedule applicable to equivalent employees of Contra Costa County as set forth in Section 73354 shall apply. If the board of supervisors adopts a revised salary schedule for equivalent county employees the new schedule shall apply equally to municipal courts and the marshal's office and conversion to the new schedule shall be effected for employees of the municipal courts or the marshal's office in the same manner and on the same date as for county employees, but any adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

(a) Deputy clerk I	Level 257 A5
(b) Deputy clerk-data entry operator I	Level 289 A5
(c) Deputy clerk II	Level 303 A5
(d) Deputy clerk-data entry operator II	Level 321 A5
(e) Deputy clerk-criminal process	Level 322 A5
(f) Deputy marshal recruit	Level 868 H7
(g) Deputy clerk III	Level 367 A5
(h) Process clerk	Level 367 A5
(i) Supervising process clerk	Level 415 A5
(j) Deputy clerk IV	Level 430 A5
(k) Deputy marshal	Level 289 H2
(*l*) Chief deputy clerk	Level 518 A5
(m) Deputy marshal sergeant	Level 435 H2
(n) Clerk-administrator of the court-Sch. B	Level 590 A5
(o) Assistant marshal	Level 690 H2
(p) Clerk-administrator of the court-Sch. A	Level 626 A5
(q) Marshal	Level 787 H2

73354. Certain classifications in the municipal courts and marshal's office are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts or marshal's office shall be adjusted a commensurate number of levels on the salary schedule. Such adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but such adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk I is equivalent in job and salary level to the class of typist-clerk in the service of Contra Costa County. The class of deputy clerk II is equivalent to intermediate typist-clerk.

(b) The class of deputy clerk-data entry operator I is equivalent in job and salary level to the class of data entry operator I in the service of Contra Costa County. The class of deputy clerk-data entry

operator II is equivalent to data entry operator II

(c) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of deputy clerk-criminal process, deputy clerk III and process clerk shall be adjusted an equivalent number of levels on the salary schedule.

(d) The class of deputy marshal-recruit is equivalent in job and salary level to the class of deputy sheriff-recruit in the service of Contra Costa County.

(e) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County. The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County. The class of assistant marshal shall be allocated to a salary level which is 67 levels on the H2 salary schedule above that of lieutenant in the service of Contra Costa County. The class of marshal shall be allocated to a salary level which is 97 levels on the H2 salary schedule above that of assistant marshal.

(f) The position of municipal court reporter is equivalent in job responsibility to positions described and functioning as superior court reporters in Contra Costa County. Whenever the superior court reporters are authorized a basic salary adjustment, the salary of municipal court reporters shall be adjusted. Such adjustment shall be effective on the same date as the superior court reporter salaries are adjusted.

(g) The class of supervising process clerk shall be allocated to a salary level which is 48 salary levels on the salary schedule above that of process clerk.

(h) The class of deputy clerk IV shall be allocated to a salary level which is 16 salary levels on the salary schedule below the county class of superior court clerk. Whenever the salary of the class of superior court clerk is adjusted by the board of supervisors, the class of deputy clerk IV shall be adjusted an equivalent number of levels on the salary schedule.

(i) The class of chief deputy clerk shall be allocated to a salary level which is 88 salary levels on the salary schedule above that of deputy clerk IV.

(j) The class of clerk-administrator of the court (schedule B and schedule A) shall be allocated to a salary level which is 72 and 108 salary levels, respectively, on the salary schedule above that of chief deputy clerk.

73355. There shall be one clerk-administrator of the court for each court who shall be appointed by the presiding judge in a two-judge district, or a majority of the judges in districts having more than two judges.

Except as provided in Section 73356, the clerk-administrator of the particular municipal court shall appoint all other employments in the municipal court offices.

73356. A majority of the municipal court judges in Contra Costa County shall appoint the marshal, whose position shall be exempt

from the merit system. The marshal, who shall serve at the pleasure of the judges, may be removed by a majority of the municipal court judges in their discretion. The marshal shall be the appointing authority for all other employments in the marshal's office.

73357. In Contra Costa County, the following positions are authorized:

(a) One marshal.

(b) Three assistant marshals.

(c) Four deputy marshal sergeants.

(d) Forty-eight deputy marshals or deputy marshal-recruits, not to exceed a combined total of 48 positions at any one time.

(e) Three supervising process clerks.

(f) Five process clerks.

(g) Twenty-six deputy clerks II or deputy clerks I, not to exceed a combined total of 26 positions at any one time.

(h) Fifty deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining merit system status or any other benefits of this article.

73358. In a municipal court district having five judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule A).

(b) Two chief deputy clerks.

(c) Fourteen deputy clerks IV.

(d) Twenty deputy clerks III.

(e) Fourteen deputy clerks-criminal process.

(f) Five deputy clerks-data entry operator II or I, not to exceed a combined total of five positions at any one time.

(g) Forty deputy clerks II or deputy clerks I, not to exceed a combined total of 40 positions at any one time.

73359. In a municipal court district having four judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule B).

(b) One chief deputy clerk.

(c) Ten deputy clerks IV.

(d) Twelve deputy clerks III.

(e) Ten deputy clerks-criminal process.

(f) Eight deputy clerks-data entry operator II or I, not to exceed a combined total of eight positions at any one time.

(g) Twenty-two deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

73360. In a municipal court district having three judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule B).

(b) One chief deputy clerk.

(c) Nine deputy clerks IV.

(d) Ten deputy clerks III.

(e) Eight deputy clerks-criminal process.

(f) Six deputy clerks-data entry operator II or I, not to exceed a combined total of six positions at any one time.

(g) Twenty-two deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

73361. In a municipal court district having two judges, the following positions are authorized:

(a) One clerk-administrator of the court (schedule B).

(b) One chief deputy clerk.

(c) Five deputy clerks IV.

(d) Ten deputy clerks III.

(e) Four deputy clerks-criminal process.

(f) Four deputy clerks-data entry operator II or I, not to exceed a combined total of four positions at any one time.

(g) Eighteen deputy clerks II or deputy clerks I, not to exceed a combined total of 18 positions at any one time.

73362. Approval of the board of supervisors shall be obtained prior to filling any such position in Section 73357, 73358, 73359, 73360 or 73361 which has never been filled.

73363. In an increase in the business of the court or any other emergency that requires a greater number of employees for the prompt and faithful discharge of the business of the court than the number expressly provided by law or requires the performance of duties of positions in the lowest salary bracket where all such positions have been filled, with the approval of the judge in a single-judge district, the presiding judge in a two-judge district, and the majority of the judges in a three-or-more-judge district, and in all cases with the approval of the board of supervisors, the clerk or the marshal may appoint as many additional deputies as are needed. The additional deputies shall be appointed at the entrance level classification and shall be selected in the same manner as those for whom express provision is made, and they shall receive compensation on the basis of the hourly equivalent to the base rate of pay as provided in the salary schedule in the same amount as the lowest salary bracket provided for such class of employee. Employees may continue in such positions not longer than 90 days after the adjournment of the next regular session of the Legislature.

73364. Except as provided in this article (commencing with Section 73340), all persons presently serving as permanent employees of the municipal courts or marshal's office shall be assigned to the positions authorized in this article in accordance with the duties and responsibilities of their present permanent assignments and their position classifications. Such assignments will be made by the appointing authority in accordance with the rules under the merit system.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 881

An act to add Section 18611 to the Health and Safety Code, relating to housing.

[Became law without Governor's signature Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 18611 is added to the Health and Safety Code, to read:

18611. Factory-built housing bearing an insignia of approval pursuant to Section 19980, mobilehomes as defined in Section 18008, or manufactured homes as defined in Section 18007.5 may be affixed to a foundation system within a mobilehome park, provided the installation conforms to the rules of the mobilehome park, the installation is approved pursuant to Section 19992, or in the case of mobilehomes or manufactured homes the installation is in accordance with Section 18551, and no single structure exceeds two stories in height or contains more than four dwelling units. Any factory-built housing, mobilehomes, or manufactured homes included in a mobilehome park pursuant to this section shall be located on lots especially designated for that purpose in accordance with the rules of the mobilehome park.

This section shall be applicable only to mobilehome parks (1) for which the permit to construct the park is issued on or after January 1, 1982, and (2) which are additionally granted a zone designation or conditional use permit that authorizes permanent occupancies of the type and to the extent established pursuant to this section. Nothing in this section shall be construed to create an exemption from the requirements of Division 2 (commencing with Section 66410) of Title 7 of the Government Code.

CHAPTER 882

An act to add Article 18 (commencing with Section 74020) to Chapter 10 of Title 8 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Article 18 (commencing with Section 74020) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 18. Placer County

74020. This article shall be applicable to the municipal court hereby established for the geographical area within the County of Placer formerly consisting of the Roseville-Rocklin, Loomis-Lincoln, Auburn-Colfax, and Foresthill Judicial Districts. Such consolidated court districts shall hereby be known as the Placer Municipal Court District.

74021. There shall be three judges. The court shall provide circuit judge services to all branch courts established by the board of supervisors. The frequency and extent of such services shall be dependent upon the needs of the community and shall lie within the sound discretion of the court.

74022. The judges shall appoint, in accordance with Placer County civil service rules, one clerk/administrator who shall be secretary of the court.

74023. The clerk/administrator shall appoint, in accordance with Placer County civil service rules, all of the following:

(a) Two supervising deputy clerks for the court, who shall perform such duties as may be required by the court or the judges.

(b) Three principal deputy clerks.

(c) Twelve deputy clerks, who shall be municipal court clerks I or II.

(d) One deputy clerk, who shall be an account clerk I, II, or III.

74024. (a) There shall be one marshal. Commencing January 1, 1985, the Placer County sheriff shall be ex officio marshal.

(b) Notwithstanding any other provision of law, the first appointment to the office of marshal shall be made by the Placer County executive officer, with the approval of the board of supervisors, from the present elected constables of the County of Placer. From and after January 1, 1983, and until January 1, 1985, all such appointments shall be by the Placer County executive officer, with the approval of the board of supervisors, in accordance with Placer County civil service rules.

74025. The marshal shall appoint, in accordance with Placer County civil service rules, five deputy marshals.

74026. Upon recommendation of the judges of the court and with approval of the board of supervisors, the court may appoint such additional employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members Any appointment made pursuant to this

section shall be on an interim basis and shall expire January 1st of the second calendar year following the year in which such appointment is made unless ratified by the Legislature. This section shall not affect the application of Section 72150.

74027. A judge automatically succeeding a judgeship in any district hereafter consolidated with the Placer Municipal Court District shall continue to hold office in such district for the term to which he was elected or appointed in either of the component districts and until his successor is elected within the municipal court district and qualifies; but in no event shall such judge or his successor be elected at any election held within 10 months of the operative date or effective date, whichever is later, of the ordinance adopted by the board of supervisors fixing for the first time the boundaries of the consolidated district.

74028. The deputy clerks and deputy marshals of the Placer Municipal Court District on the effective date of the consolidation shall automatically transfer to at least the same or comparable positions in the consolidated district upon the effective date of consolidation. However, any classifications established with a higher rate of compensation shall be filled through the civil service promotional examination process.

74029. Compensation and other benefits provided by law for the clerks, marshals, and other attachés of the component districts shall not be affected and shall in no event be diminished by the consolidation of the judicial court districts.

74030. (a) The positions enumerated in Sections 74022 to 74026, inclusive, shall receive a biweekly salary at Step A of the range set forth below, as provided in Chapter 14 of the Placer County Code. Step increases shall be 5 percent at the end of the first six months, 5 percent at the end of 12 months and thereafter annually for the next 48 months to a maximum of 25 percent over the amount specified as Step A·

Position	Salary Range
Clerk/Administrator	36.0
Supervising deputy clerks	33.0
Principal deputy clerks	31.0
Deputy Clerk, Municipal Court Clerk I	28.0
Deputy Clerk, Municipal Court Clerk II	30.0
Deputy Clerk, Account Clerk I	27.0
Deputy Clerk, Account Clerk II	29.0
Deputy Clerk, Account Clerk III	31.0
Marshal	41.0
Deputy Marshal	38.0

(b) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and marshals' offices and conversion

of the new schedule shall be made for such employees in the same manner on the same date as for such other county employees. Also, employees and officers of the municipal court shall be entitled to all employee benefits as they are now provided and made applicable to positions within county service. All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provisions of state law shall be governed by the personnel provisions of the Placer County Code. Any changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire January 1, of the second calendar year following such changes unless ratified by the Legislature.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 3. This act shall become operative upon the expiration of the terms of office of the justice court judges in office when this act takes effect.

CHAPTER 883

An act to amend Section 74132 of, and to repeal and add Sections 74134, 74135, 74136, 74137, 74138, 74139, 74141, 74142, 74143, and 74144 of, the Government Code, relating to municipal courts.

[Became law without Governor's signature Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 74132 of the Government Code is amended to read:

74132. The provisions of this section shall apply to the clerks, marshals and their respective assistants, deputies and other employees of each clerk and marshal of each judicial district.

(a) Each employee shall receive a salary computed upon a biweekly rate in accordance with the range and step for his position specified in or pursuant to this article, as determined by the salary schedule in the salary ordinance of Riverside County, in effect July 1, 1981.

(b) Except as otherwise provided in this article, each new employee shall for the first 1,040 hours of continuous service receive a salary at the rate specified for step 1 of the applicable range; on the first day of the next biweekly period thereafter, his salary may

increase to the rate for step 3; after 2,080, 4,160, and 6,240 additional hours of continuous service, his salary may increase to the rates for steps 5, 7 and 9, respectively.

(c) Notwithstanding any other provisions of law, the salary of any employee may, upon approval by the board of supervisors, be increased or decreased within the limits of the applicable range and 22 percent above or below said limits, in order to provide compensation that is comparable to that of county employees of similar qualifications and experience, holding equal or comparable positions in the Riverside County classified service, as the comparability is determined by the board; or the board of supervisors may increase or decrease the salary of any marshal set pursuant to Section 74135 or Section 74137 to an amount equal to 22 percent greater or lesser than the amount stated in such sections. The board of supervisors, with the concurrence of the municipal court, may also allow or delete any such appointive positions as are necessary to perform the work of the offices of each clerk and marshal. Any salary adjustment made or additional appointive position established pursuant to this subdivision shall be effective only until January 1 following the adjournment of the next regular session of the Legislature unless ratified by the Legislature.

(d) Such employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and may be appointed, promoted, demoted, terminated or transferred, or their status otherwise adjusted, in the same manner and with the same effect as is or may be provided by the current salary ordinances of Riverside County for other employees of the county, and they shall be subject to such employment qualifications as may be fixed by or pursuant to said ordinance for their positions, in the same manner as for other positions in the employment of said county.

SEC. 2. Section 74134 of the Government Code is repealed

SEC. 3. Section 74134 is added to the Government Code, to read:

74134. In the Riverside Judicial District, the salary of the clerk shall be on range 249 and the clerk may appoint:

(a) One assistant clerk on range 194.

(b) One release investigator on range 178.

(c) Three assistant release clerks on range 162

(d) Three municipal court clerks III on range 168.

(e) One accounting technician on range 149.

(f) Eight municipal court clerks II on range 144

(g) One senior stenographer-clerk on range 124

(h) One senior accounting clerk on range 119.

(i) Seven municipal court clerks I on range 109.

(j) Six data terminal operators II on range 88

(k) One accounting clerk on range 88

(*l*) Twelve typist-clerks II on range 78.

SEC. 4. Section 74135 of the Government Code is repealed.

SEC 5 Section 74135 is added to the Government Code, to read:

74135. In the Riverside Judicial District, the salary of the marshal

shall be thirty-five thousand four hundred ninety dollars ($35,490) per year, and the marshal may appoint:

(a) One assistant marshal on range 748.

(b) One marshal's sergeant on range 740.

(c) Five deputy marshals II on range 831.

(d) One senior accounting clerk on range 119.

(e) Five deputy marshals I on range 825.

(f) Three typist-clerks II on range 78.

(g) Fifty special deputy marshals who shall be custodians at the fee allowed by law for keeping property taken under legal process and shall be paid out of the funds deposited by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 6. Section 74136 of the Government Code is repealed.

SEC. 7. Section 74136 is added to the Government Code, to read:

74136. In the Desert Judicial District, the salary of the clerk shall be on range 249 and the clerk may appoint:

(a) One assistant clerk on range 194

(b) One release investigator on range 178.

(c) Three municipal court clerks III on range 168.

(d) One accounting technician on range 149.

(e) Nine municipal court clerks II on range 144.

(f) One senior accounting clerk on range 119.

(g) Four municipal court clerks on range 109.

(h) One accounting clerk on range 88.

(i) Five data terminal operators II on range 88.

(j) Fifteen typist-clerks II on range 78.

SEC. 8. Section 74137 of the Government Code is repealed.

SEC. 9. Section 74137 is added to the Government Code, to read:

74137. In the Desert Judicial District, the salary of the marshal shall be thirty-five thousand four hundred ninety dollars ($35,490) per year and the marshal may appoint·

(a) One assistant marshal on range 748.

(b) One marshal's lieutenant on range 744.

(c) One marshal's sergeant on range 740

(d) Nine deputy marshals II on range 831.

(e) Five deputy marshals I on range 825.

(f) One senior accounting clerk on range 119.

(g) One accounting clerk on range 88.

(h) Five typist-clerks II on range 78.

(i) Thirty special deputy marshals who shall be custodians at the fee allowed by law for keeping property taken under legal process and shall be paid out of the funds deposited by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 10. Section 74138 of the Government Code is repealed.

SEC. 11 Section 74138 is added to the Government Code, to read:

74138. In the Corona Judicial District, the salary of the clerk shall be on range 219 and the clerk may appoint:

(a) One municipal court clerk III on range 168.
(b) Two municipal court clerks II on range 144.
(c) One senior accounting clerk on range 119.
(d) Two municipal court clerks I on range 109.
(e) Four typist-clerks II on range 78.

SEC. 12. Section 74139 of the Government Code is repealed.

SEC. 13. Section 74139 is added to the Government Code, to read:

74139. In the Corona Judicial District the marshal may appoint:

(a) One marshal's lieutenant on range 744.
(b) Two deputy marshals II on range 831.
(c) Two deputy marshals I on range 825.
(d) One accounting clerk on range 88
(e) One typist-clerk II on range 78.

SEC. 14. Section 74141 of the Government Code is repealed.

SEC. 15. Section 74141 is added to the Government Code, to read:

74141. In the Mt. San Jacinto Judicial District the salary of the clerk shall be on range 229 and the clerk may appoint:

(a) One traffic referee-assistant clerk on range 224.
(b) Two municipal court clerks III on range 168.
(c) Three municipal court clerks II on range 144.
(d) One senior accounting clerk on range 119.
(e) Four municipal court clerks I on range 109.
(f) One bail clerk on range 103.
(g) Two accounting clerks on range 88.
(h) One data terminal operator II on range 88.
(i) Ten typist-clerks II on range 78.

SEC. 16. Section 74142 of the Government Code is repealed.

SEC. 17. Section 74142 is added to the Government Code, to read:

74142. In the Mt. San Jacinto Judicial District the marshal may appoint:

(a) One marshal's lieutenant on range 744.
(b) Three deputy marshals II on range 831.
(c) Three deputy marshals I on range 825.
(d) Two accounting clerks on range 88.
(e) One typist-clerk II on range 78.

SEC. 18. Section 74143 of the Government Code is repealed.

SEC. 19. Section 74143 is added to the Government Code, to read:

74143. In the Three Lakes Judicial District, the salary of the clerk shall be on range 219 and the clerk may appoint:

(a) Two municipal court clerks II on range 144.
(b) One senior accounting clerk on range 119.
(c) Three municipal court clerks I on range 109.
(d) Five typist-clerks II on range 78.

SEC. 20. Section 74144 of the Government Code is repealed.

SEC. 21. Section 74144 is added to the Government Code, to read:

74144. In the Three Lakes Judicial District, the marshal may appoint:

(a) One marshal's sergeant on range 740.
(b) Two deputy marshals II on range 831.
(c) One deputy marshal I on range 825.
(d) One accounting clerk on range 88.
(e) One typist-clerk II on range 78.

SEC. 22. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 884

An act to amend Section 194 of, and to add Section 194.5 to, the Code of Civil Procedure, relating to jurors.

[Became law without Governor's signature Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 194 of the Code of Civil Procedure is amended to read:

194. Except as provided in Section 194.5, a trial jury shall consist of twelve persons; provided, that in civil actions and cases of misdemeanor, it may consist of twelve or any number less than twelve, upon which the parties may agree in open court.

SEC. 2 Section 194.5 is added to the Code of Civil Procedure, to read:

194.5. (a) A trial jury in civil actions in municipal and justice courts shall consist of eight persons in the County of Los Angeles as an experimental project, from July 1, 1982, until July 1, 1985.

(b) The Judicial Council shall, prior to July 1, 1982, make the necessary arrangements for collecting and evaluating data on the use of eight-person juries.

(c) The Judicial Council shall provide the Legislature with a report on the use of eight-person juries on or before December 30, 1985. The report shall discuss the effect, if any, of the smaller jury upon the representation of women and members of minority groups on jury panels, and the effect, if any, that the use of the smaller jury has on the administration of justice.

(d) Any costs imposed on the Judicial Council by this section shall be paid from existing appropriations for the support of the Judicial Council.

(e) Los Angeles County shall provide information as needed and requested by the Judicial Council for the evaluation of the use of eight-person juries.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 885

An act to amend Sections 39807.5 and 41852 of, and to add Section 41852.2 to, the Education Code, relating to schools.

[Became law without Governor's signature Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 39807.5 of the Education Code is amended to read:

39807.5. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 39800, or between the regular full-time day schools they would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board. The amount determined by the board shall be no greater than the statewide average nonsubsidized cost of providing such transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent of Public Instruction, in cooperation with the Department of Transportation. For the purposes of this section, "nonsubsidized cost" means actual operating costs less federal subventions. The governing board shall exempt from such charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of handicapped children. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

This section shall remain in effect only until July 1, 1982, and as of such date is repealed, unless a later enacted statute which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 2. Section 41852 of the Education Code is amended to read:

41852. (a) "Transportation" as used in this article means, unless

the context otherwise requires:

(1) The transportation of pupils between their homes and the regular full-time day schools attended by them as provided by a school district.

(2) The payment of moneys by a school district to parents or guardians of pupils in lieu of providing for the transportation of such pupils between their homes and the regular full-time day schools attended by them.

(3) The providing of board and lodging to pupils by a school district in lieu of providing for the transportation of such pupils between their homes and the regular full-time day schools attended by them.

(4) The transportation of pupils between the regular full-time day schools they would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program.

(b) "Pupils" as used in this article does not include pupils for whom the Superintendent of Public Instruction determines excess costs under Section 56721.

(c) "Total current expenses of transportation" as used in Section 41856 does not include:

(1) Current expenses for the transportation of pupils for whose transportation the Superintendent of Public Instruction makes an allowance to the district under Article 8 (commencing with Section 56770) of Chapter 7 of Part 30; or

(2) Any amount of rental of schoolbuses which is in excess of the amount allowable to school districts for replacement of district-owned buses in accordance with regulations of the Superintendent of Public Instruction relating to allowances for pupil transportation. Renting or leasing a schoolbus does not include a lease with option to purchase.

(d) For the purposes of this article, the computation of the allowance provided to a regional occupational center or program shall be subject to the following:

(1) A regional occupational center or program shall receive no allowance for 50 percent of the total transportation costs.

(2) A regional occupational center or program shall be eligible for a transportation allowance only if the total transportation costs exceed 10 percent of the total operational budget of the regional occupational center or program.

(3) A regional occupational center or program eligible for a transportation allowance pursuant to paragraph (2) shall receive an amount equal to one-third of the transportation costs subject to reimbursement.

SEC. 3. Section 41852.2 is added to the Education Code, to read:

41852.2. It is the intent of the Legislature that the transportation provided by regional occupational centers or programs for which they receive state aid pursuant to Section 41852, utilize, to the greatest extent possible, existing schoolbuses and personnel.

SEC. 4. This act shall be deemed operative for the entire 1981–82 fiscal year as though it had been enacted into law and become operative on July 1, 1981. The Superintendent of Public Instruction and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

CHAPTER 886

An act to amend Sections 12.40 and 19.93 of the Budget Act of 1981 (Chapter 99 of the Statutes of 1981), to make an appropriation in augmentation of Item 119-016-769 and Item 818-101-001 of the Budget Act of 1981, and to amend Section 6217 of the Public Resources Code, relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 6217 of the Public Resources Code is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and such sums shall be applied to the following obligations in the following order:

(a) To the General Fund such revenue as necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1979–80, 1980–81, 1981–82, 1982–83, and 1983–84 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this subdivision, by the Secretary of the Resources Agency or his designee. During the fiscal year 1983–84, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

The Secretary of the Resources Agency shall appoint an advisory panel, which shall do all of the following:

(1) Identify state needs which might be met through sea grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination.

(2) Review all applications for funding under this subdivision and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on sea grant research projects subsequent to their approval and funding under this subdivision.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this subdivision.

The members of such advisory panel shall serve at the pleasure of the Secretary of the Resources Agency. The advisory panel shall consist of 11 members composed of the following persons:

(1) A representative of the Department of Navigation and Ocean Development.

(2) A representative of the Department of Conservation.

(3) A representative of the Department of Fish and Game.

(4) The executive director of the California Coastal Zone Conservation Commission or his designee.

(5) A representative of the fish industry.

(6) A representative of the aquaculture industry.

(7) A representative of the ocean engineering industry.

(8) A representative of the University of California.

(9) A representative of the California State University and Colleges.

(10) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(11) A representative of the State Lands Commission. The Secretary of the Resources Agency shall designate one member of

the panel to serve as its chairman. Panel members shall serve without compensation.

The sea grant research projects selected for state support under this subdivision shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this subdivision is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this subdivision shall be construed to preclude the application for funding of any project which would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the fiscal year 1980–81, the amount necessary to provide for an unencumbered balance available for appropriation on July 1, 1980, of one hundred twenty-five million dollars ($125,000,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each such year of one hundred twenty-five million dollars ($125,000,000).

(f) To the State School Building Lease-Purchase Fund for the fiscal year 1980–81, the amount of one hundred million dollars ($100,000,000), and for each fiscal year thereafter, the amount of two hundred million dollars ($200,000,000).

(g) To the Energy and Resources Fund, the amount of one hundred twenty million dollars ($120,000,000) for the fiscal year 1980–81, and for each fiscal year thereafter, the amount necessary to provide for a balance available for appropriation on July 1 of each such fiscal year of one hundred twenty million dollars ($120,000,000).

Notwithstanding this subdivision, after June 30, 1982, no funds shall be transferred to the Energy Account created by Section 26401 unless a reorganization of the State Energy Resources Conservation and Development Commission has been enacted by the Legislature.

(h) To the State Parks and Recreation Fund, the amount of thirty-five million dollars ($35,000,000) for the fiscal year 1980–81 and for each fiscal year thereafter.

(i) To the Transportation Planning and Development Account in the State Transportation Fund to finance capital outlay costs of exclusive public mass transit guideway projects, including the acquisition of rolling stock, the amount of twenty-five million dollars ($25,000,000) for fiscal year 1981–82 and for each fiscal year thereafter.

(j) To the Special Account for Capital Outlay in the General Fund, the balance of all revenue in excess of that distributed pursuant to subdivisions (a), (b), (c), (d), (e), (f), (g), (h), and (i) of this section.

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be

filed with the Controller and the Controller shall draw his warrant against the General Fund in payment of such refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

This section shall remain in effect only until the later of the following dates, and on that date is repealed, unless a later enacted statute changes the requirements of this paragraph:

(1) The operative date of the Budget Act for the 1984–85 fiscal year.

(2) The operative date of the Budget Act for a fiscal year after the 1983–84 fiscal year which does not contain a section authorizing this section to remain operative for that fiscal year.

SEC. 2. Section 12.40 of the Budget Act of 1981 (Chapter 99 of the Statutes of 1981) is amended to read:

Sec. 12.40. The Director of Finance may direct the State Controller to make transfers between the Energy Account of the Energy and Resources Fund, the Resources Account of the Energy and Resources Fund, and the Energy and Resources Fund for the purpose of meeting cash flow needs. However, if a reorganization of the State Energy Resources Conservation and Development Commission has not been enacted by the Legislature by June 30, 1982, the Director of Finance's authority to direct any transfers after June 30, 1982, from the Energy and Resources Fund or the Resources Account to the Energy Account shall be limited to amounts necessary to fund increases in employee compensation, price increases, and augmentations of appropriations pursuant to Section 16352 of the Government Code.

The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations 10 days prior to taking any action pursuant to this section.

SEC. 3. Section 19.93 of the Budget Act of 1981 (Chapter 99 of the Statutes of 1981) is amended to read:

Sec. 19.93. Notwithstanding any other provision of law, the sum of eight million one hundred seventy-two thousand five hundred twenty-nine dollars ($8,172,529) shall be transferred to the General Fund from the amounts continuously appropriated under Section 16409 of the Government Code

SEC. 4 Notwithstanding any other provision of law, each state agency requesting funds from the State Energy Resources Conservation and Development Special Account in the Governor's Budget for the 1982–83 fiscal year shall prepare a program budget for those programs proposed to receive those funds. The program budget shall include the information requested by the Director of Finance in implementing Section 13336.5 of the Government Code, a detailed description of the program, a justification of its continuation, and a detailed analysis of its implementation of the provisions of Division 15 (commencing with Section 25000) of the

Public Resources Code.

SEC. 5. The sum of two million seventy-six thousand nine hundred twenty-two dollars ($2,076,922) is hereby appropriated from the following funds to meet contingencies and emergencies during the 1981–82 fiscal year, as follows:

(a) From the General Fund, one million seven hundred eighty-three thousand seven hundred seventeen dollars ($1,783,717) for expenditure in the 1981–82 fiscal year in augmentation of, and for the purposes of, Item 818-101-001 of the Budget Act of 1981.

(b) From the Private Investigator Fund, two hundred ninety-three thousand two hundred five dollars ($293,205) to the Bureau of Collection and Investigative Services in augmentation of, and for the purposes of, Item 119-016-769 of the Budget Act of 1981.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

A balance in the appropriation made by Section 16409 of the Government Code is necessary for the completion of various capital outlay projects which are funded through the General Fund. In order to provide for that balance at the earliest possible time and to provide for the completion of these projects in a timely and cost-effective manner, it is necessary that this act take effect immediately.

Further, in order to provide for the administration of certain energy conservation programs and to provide state agencies with adequate time to prepare program budget proposals for programs to be funded from the State Energy Resources Conservation and Development Special Account during the 1982–83 fiscal year, it is necessary that this act take effect immediately.

In addition, the costs to counties for the conduct of homicide trials has exceeded the estimates that were used when the Budget Act of 1981 was enacted. In order to provide state financial assistance to counties to help defray these costs and prevent unnecessary delay due to the lack of funds in the prosecution and conduct of trials of persons accused of homicide, it is necessary that this act take effect immediately.

CHAPTER 887

An act to add Section 65852.1 to the Government Code, relating to land use regulation.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. The Legislature finds and declares that:

(1) Steps must be taken to encourage the creation of more residential units for persons over the age of 60.

(2) There is a serious shortage of housing units for persons over the age of 60.

(3) There is an important need to maintain senior citizens in independent living situations and also to encourage housing arrangements that prevent isolation of elderly persons and reunites families.

SEC. 2. Section 65852.1 is added to the Government Code, to read·

65852.1. Notwithstanding Section 65906, any city, including a charter city, county, or city and county may issue a zoning variance, special use permit, or conditional use permit for a dwelling unit to be constructed, or attached to, a primary residence on a parcel zoned for a single-family residence, if the dwelling unit is intended for the sole occupancy of one adult or two adult persons who are 60 years of age or over, and the area of floor space of the dwelling unit does not exceed 640 square feet.

CHAPTER 888

An act to amend Section 1717 of the Civil Code, relating to attorney's fees.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 1717 of the Civil Code is amended to read:

1717. (a) In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce the provisions of that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the prevailing party, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

Reasonable attorney's fees shall be fixed by the court, upon notice and motion by a party, and shall be an element of the costs of suit.

Attorney's fees provided for by this section shall not be subject to waiver by the parties to any contract which is entered into after the effective date of this section. Any provision in any such contract which provides for a waiver of attorney's fees is void.

(b) (1) The court, upon notice and motion by a party, shall

determine who is the prevailing party, whether or not the suit proceeds to final judgment. Except as provided in paragraph (2), the prevailing party shall be the party who is entitled to recover costs of suit.

(2) Where an action has been voluntarily dismissed or dismissed pursuant to a settlement of the case, there shall be no prevailing party for purposes of this section.

Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party within the meaning of this section.

CHAPTER 889

An act to amend Section 409 of the Code of Civil Procedure, relating to lis pendens.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 409 of the Code of Civil Procedure is amended to read:

409. (a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing a cross-complaint, or at any time afterwards, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to notices of action pending in courts of this state. From the time of filing such notice for record only, shall a purchaser or encumbrancer of the property affected thereby be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) The person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be served upon the other party, by first class mail, return receipt requested, mailed to all known addresses of the adverse parties and all owners of record as shown by the county assessor's office. A copy of the notice of the

pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made immediately upon each adverse party who is later brought into the action pursuant to Section 472 or 473.

(c) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (b) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (b) above, then as to that party a declaration under penalty of perjury to such effect shall be recorded instead of the proof of service described above and the service on that party shall not be required.

CHAPTER 890

An act to amend Sections 44234 and 44235 of the Education Code, relating to credentials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 44234 of the Education Code is amended to read:

44234. (a) There is in the State Treasury the Teacher Credentials Fund. All fees levied and collected by the commission shall be deposited in the Teacher Credentials Fund, and are hereby continuously appropriated to support the activities and functions of the commission.

(b) It is the intent of the Legislature that the commission shall, in consultation with the Department of Finance, levy fees for the issuance and renewal of teaching and service credentials in such a manner that all persons applying for teaching or service credentials shall contribute to the production of revenue sufficient to offset the cost of all activities of the commission, including any necessary services provided by other state agencies.

(c) Notwithstanding any other provision of law, if at the end of any fiscal year the commission has unencumbered funds in an amount which is in excess of its operating budget plus a prudent reserve, as determined by the Department of Finance, for the following two fiscal years, it shall reduce credential or other fees, whether fixed by statute or determined by this commission within limits fixed by statute, in an amount which will reduce any surplus funds of the commission to an amount less than its operating budget

for the next two fiscal years.

SEC. 2. Section 44235 of the Education Code is amended to read:

44235. Fees shall be levied by the commission for the issuance and renewal of teaching and service credentials. The fees shall be set by the commission in such a manner that revenues sufficient to support all activities and functions, including continuing research and evaluation activities, shall be produced. In no case shall a fee exceed forty dollars ($40) without express legislative approval.

SEC. 3. In the analysis of the proposed 1982–83 budget, the Legislative Analyst shall include recommendations for alternatives to funding the Commission on Teacher Preparation and Licensing solely from fees on new credential applications, in recognition of the varied workload of the commission.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To prevent depletion of the Teacher Credentials Fund and severe limitations upon the ability of the Commission for Teacher Preparation and Licensing to issue credentials to applicants for service in the public school system at the earliest possible time, it is necessary that this act take effect immediately

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CHAPTER 891

An act to amend Sections 81809, 81821, 81822, 81831, 81833, and 81837 of, and to repeal Section 81840 of, the Education Code, relating to community colleges.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1 Section 81809 of the Education Code is amended to read:

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the project and the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

SEC. 2 Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following·

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction

needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

SEC. 3. Section 81822 of the Education Code is amended to read:

81822. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

SEC. 4. Section 81831 of the Education Code is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. Such review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

SEC. 5. Section 81833 of the Education Code is amended to read:

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding May 1st of each year.

SEC. 6. Section 81837 of the Education Code is amended to read:

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred fifty thousand dollars ($150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

SEC. 7. Section 81840 of the Education Code is repealed.

CHAPTER 892

An act to amend Sections 19826, 19831, and 19832 of the Health and Safety Code, relating to building permits.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 19826 of the Health and Safety Code is amended to read:

19826. No city or county, whether general law or chartered, shall issue a building permit which does not contain all applicable declarations required by Section 19825 properly executed by the owner, applicant, contractor, or agent of the owner, contractor, or applicant. The properly executed declarations shall be a condition for issuance of the building permit. However, no city or county or its employees shall be responsible for determining the truth or accuracy of the declarations, and no monetary liability on the part of, and no cause of action for damages against them, shall arise from their failure to verify the truth or accuracy of the declarations.

SEC. 2. Section 19831 of the Health and Safety Code is amended to read:

19831. A city or county, which is required to give notice pursuant to Section 19830, shall attach to such notice, and, as a condition precedent to issuing a building permit, require the completion and require the return of, an owner-builder verification in substantially the following form:

"OWNER-BUILDER VERIFICATION

"Attention Property Owner:

"An 'owner-builder' building permit has been applied for in your name and bearing your signature.

"Please complete and return this information in the envelope provided at your earliest opportunity to avoid unnecessary delay in processing and issuing your building permit. No building permit will be issued until this verification is received.

1. I personally plan to provide the major labor and materials for construction of the proposed property improvement (yes or no) _____.

2. I (have/have not) _____ signed an application for a building permit for the proposed work.

3. I have contracted with the following person (firm) to provide the proposed construction:

Name _____

Address _____ City _____

Phone _____ Contractors License No. _____

4. I plan to provide portions of the work, but I have hired the following person to coordinate, supervise, and provide the major work:
Name _____
Address _____ City _____
Phone _____ Contractors License No. _____

5. I will provide some of the work but I have contracted (hired) the following persons to provide the work indicated:

Name	Address	Phone	Type of Work

Signed:
Property owner _____
Date: _____".

SEC. 3. Section 19832 of the Health and Safety Code is amended to read:

19832. A city or county, whether general law or chartered, shall transmit the notice required pursuant to Section 19830 and the owner-builder verification required pursuant to Section 19831 by mail to the property owner applying for the owner-builder building permit or may provide the notice or the verification in person to the person applying for the building permit only if that applicant presents identification sufficient to identify himself or herself as the property owner. The return of the owner-builder verification shall be a condition precedent to issuance of the building permit.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 893

An act to add Section 56607.5 to the Education Code, relating to special education.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 56607.5 is added to the Education Code, to read.

56607.5. (a) The State Department of Education shall contract for a study to examine the process of identification of individuals with exceptional needs to determine the extent of misdiagnosis of individuals with perceptual problems resulting in placement of those individuals into classes. The intent to issue the contract shall be included in the department's 1982–83 fiscal year state plan for federal assistance under subdivision (a) of Section 1413 of Title 20 of the United States Code. The department may utilize any funds that are available for the purposes of this section.

(b) The contract shall specifically provide for the creation of an evaluation team consisting of one neurologist, one pediatrician, one ophthalmologist, one audiologist (each trained and experienced in the diagnosis of perceptual handicaps); one optometrist trained and experienced in the identification of visual perceptual handicaps and vision therapy; and one educator trained and experienced in areas of special education dealing with perceptual learning disabilities. Each of the team members shall be selected by the Superintendent of Public Instruction after consultation with independent experts in the area of perceptual handicap identification and therapy.

(c) The contract shall specifically provide that the team shall select and examine children currently placed in special day classes for the children identified as learning handicapped or severely handicapped, with emphasis on mentally retarded and the seriously emotionally handicapped children.

(d) The contract shall specifically provide that all children determined by the team to have perceptual handicaps or problems shall be placed in appropriate classes designed for children with their learning disabilities according to the recommendations of a majority of the team witn the concurrence of the individualized education program team, for a period of not less than one year. The team, at the end of this period, shall again examine each of these children to determine their progress, if any, in terms of their learning experience.

(e) The contract shall specifically provide that the team, in conjunction and cooperation with the State Department of Education, shall prepare a report to the department and the Legislature which shall, among other things, include the number of children examined, the number of children determined to have perceptual learning disabilities, the number of those children placed in new classes, and the academic progress of those children, if any, in their new placement at the expiration of one year.

(f) The contract shall specifically provide that the team shall, from time to time as it sees fit, check on each of the children for which a new placement is made to ensure that the children are properly placed and are receiving all of the appropriate training and

therapy to which they are entitled under current California law.

(g) The purpose of this section and of the contract required by this section is to examine a sufficient number of children now placed in special day classes for the children identified as learning handicapped or severely handicapped, with emphasis on mentally retarded and the seriously emotionally handicapped children, to determine if, in fact, a significant number of children are currently being misdiagnosed and misplaced. The team shall therefore select a sufficient number of special day classes and students now placed in special day classes to be of value in a statistical sense, but sufficiently small in number to be manageable in terms of the resources, personnel, and money available for the study. The team shall specifically select at least one class of their choice in each of the following school districts: the San Diego Unified School District, the Los Angeles Unified School District, and the San Francisco Unified School District. In addition, one class shall be selected from a rural school district and one class shall be selected from a suburban school district. Each of the classes and all of the children selected for diagnosis shall be selected at the sole discretion of the evaluation team as determined by a majority of the team.

CHAPTER 894

An act to amend Sections 3716, 3716.1, 3716.2, 3717, 4753.5, and 4754.5 of, and to add Sections 3700.5, 3732, 4903.3 and 5814.1 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 3700.5 is added to the Labor Code, to read:

3700.5. The failure to secure the payment of compensation as required by this article by one who knew, or because of his business knowledge or experience should be reasonably expected to have known, of the obligation to secure the payment of compensation, is a misdemeanor.

SEC. 2. Section 3716 of the Labor Code is amended to read:

3716. (a) If the employer fails to pay the compensation required by Section 3715 to the person entitled thereto, or fails to furnish the bond required by Section 3715 within a period of 10 days after notification of such award, the award, upon application by the person entitled thereto, shall be paid by the director from the Uninsured Employers Fund, which fund is hereby created in the State Treasury. The money in the Uninsured Employers Fund is hereby continuously appropriated for this purpose and to pay the expenses of the director in administering these provisions. Refunds may be

paid from the Uninsured Employers Fund for amounts remitted erroneously to the fund, or the director may authorize offsetting subsequent remittances to the fund.

(b) It is the intent of the Legislature that the Uninsured Employers Fund is created to ensure that workers who happen to be employed by illegally uninsured employers are not deprived of workers' compensation benefits, and is not created as a source of contribution to insurance carriers, or self-insured, or legally insured employers. The Uninsured Employers Fund has no liability for claims of occupational disease or cumulative injury unless no employer during the period of the occupational disease or cumulative injury during which liability is imposed under Section 5500.5 was insured for workers' compensation, was permissibly self-insured, or was legally uninsured. No employer has a right of contribution against the Uninsured Employers Fund for the liability of an illegally uninsured employer under an award of benefits for occupational disease or cumulative injury, nor may an employee in a claim of occupational disease or cumulative injury elect to proceed against an illegally uninsured employer.

(c) The Uninsured Employers Fund has no liability to pay for medical, surgical, chiropractic, hospital, or other treatment, the liability for which treatment is imposed upon the employer pursuant to Section 4600, and which treatment has been provided or paid for by the State Department of Health Services pursuant to the California Medical Assistance Program.

SEC. 3. Section 3716.1 of the Labor Code is amended to read:

3716.1. In any hearing, investigation, or proceeding, the Attorney General, or attorneys of the Department of Industrial Relations, shall represent the director and the state. Expenses incident to representation of the director and the state, before the appeals board and in civil court, by the Attorney General or Department of Industrial Relations attorneys, shall be reimbursed from funds appropriated to the Uninsured Employers Fund; however, the injured claimant shall have first priority to be paid from such funds. Reimbursement of expenses incident to representation by the Attorney General or attorneys of the Department of Industrial Relations incurred in attempts to recover moneys pursuant to Section 3717 of the Labor Code shall not exceed the total amounts recovered by the director on behalf of the Uninsured Employers Fund pursuant to this chapter.

The director shall assign investigative and claims' adjustment services respecting matters concerning uninsured employers injury cases. The director or his representative may make such service assignments within the department, or he may contract therefor with the State Compensation Insurance Fund, except insofar as such matters might conflict with the interests of the State Compensation Insurance Fund. The costs thereof shall be reimbursed from funds appropriated to the Uninsured Employers Fund.

SEC. 4. Section 3716.2 of the Labor Code is amended to read:

3716.2. Notwithstanding the precise elements of an award of compensation benefits, and notwithstanding the claim and demand for payment being made therefor to the director, the director, as administrator of the Uninsured Employers Fund, shall pay the claimant only such benefits allowed, recognizing proper liens thereon, that would have accrued against an employer properly insured for workers' compensation liability The Uninsured Employers Fund shall not be liable for any penalties or for the payment of interest on any awards. However, in civil suits by the director to enforce payment of an award, including procedures pursuant to Section 3717, the total amount of the award, including interest, other penalties and attorney fees granted by the award, shall be sought. Recovery, by the director, in a civil suit, or other means, of awarded benefits in excess of amounts paid the claimant by the Uninsured Employers Fund, shall be paid over to the injured employee, or his representative as the case may be.

SEC. 5. Section 3717 of the Labor Code is amended to read:

3717. (a) A findings and award which is the subject of a demand on the Uninsured Employers Fund, shall constitute a liquidated claim for damages against an employer in the amount so ascertained and fixed by the appeals board, and the appeals board shall certify the same to the director who may institute a civil action against the employer in the name of the director, as administrator of the Uninsured Employers Fund, for the collection of such award, or may obtain a judgment against the employer pursuant to Section 5806. In the event that the appeals board finds that a corporation is the employer of an injured employee, and that the corporation has not secured the payment of compensation as required by this chapter, the following persons shall be jointly and severally liable with the corporation to the director in the action:

(1) All persons who are a parent, as defined in Section 175 of the Corporations Code, of the corporation.

(2) All persons who are substantial shareholders, as defined in subdivision (b), of the corporation or its parent. In such action it shall be sufficient for plaintiff to set forth a copy of the findings and award of the appeals board relative to such claims as certified by the appeals board to the director and to state that there is due to plaintiff on account of such finding and award of the appeals board a specified sum which plaintiff claims with interest. The director shall be further entitled to costs and reasonable attorney fees, and to his investigation and litigation expenses for the appeals board proceedings, and a reasonable attorney fee for litigating the appeals board proceedings. A certified copy of such findings and award in such claim shall be attached to the complaint. The contents of the findings and award shall be deemed proved. The answer or demurrer to such complaint shall be filed within 10 days, the reply or demurrer to the answer within 20 days, and the demurrer to the reply within 30 days after the return day of the summons or service by publication. All motions and demurrer shall be submitted to the court within 10 days after the

same are filed. As soon as the issues are made up in any such case, it shall be placed at the head of the trial docket and shall be first in order for trial.

Nothing in this chapter shall be construed to preclude informal adjustment by the director of a claim for compensation benefits before the issuance of findings and award wherever it appears to the director that the employer is uninsured and that informal adjustment will facilitate the expeditious delivery of compensation benefits to the injured employee.

(b) As used in this section, "substantial shareholder" means a shareholder who owns at least 15 percent of the total value of all classes of stock, or, if no stock has been issued, who owns at least 15 percent of the beneficial interests in the corporation.

(c) For purposes of this section, in determining the ownership of stock or beneficial interest in the corporation, in the determination of whether a person is a substantial shareholder of the corporation, the rules of attribution of ownership of Section 17384 of the Revenue and Taxation Code shall be applied.

(d) For purposes of this section, "corporation" shall not include:

(1) Any corporation which is the issuer of any security which is exempted by Section 25101 of the Corporations Code from the provisions of Section 25130 of the Corporations Code.

(2) Any corporation which is the issuer of any security exempted by subdivision (c), (d), or (i) of Section 25100 of the Corporations Code from the provisions of Sections 25110, 25120, and 25130 of the Corporations Code.

(3) Any corporation which is the issuer of any security which has qualified either by coordination, as provided by Section 25111 of the Corporations Code, or by notification, as provided by Section 25112 of the Corporations Code.

SEC. 6. Section 3732 is added to the Labor Code, to read:

3732. (a) If compensation is paid or becomes payable from the Uninsured Employers Fund, whether as a result of a findings and award, award based upon stipulations, compromise and release executed on behalf of the director, or payments voluntarily furnished by the director pursuant to Section 4903.3, the director may recover damages from any person or entity, other than the employer, whose tortious act or omission proximately caused the injury or death of the employee. The damages shall include any compensation, including additional compensation by way of interest or penalty, paid or payable by the director, plus the expense incurred by the director in investigating and litigating the workers' compensation claim and a reasonable attorney fee for litigating the workers' compensation claim.

(b) Except as otherwise provided in this section, the provisions of Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 shall be applicable to such actions, the director being treated as an employer within the meaning of Chapter 5 to the extent not inconsistent with this section.

(c) Actions brought under this section shall be commenced within one year after the director pays or becomes obligated to pay any compensation from the Uninsured Employers Fund.

(d) In the trial of such actions, any negligence attributable to the employer shall not be imputed to the director or to the Uninsured Employers Fund, and the damages recoverable by the director shall not be reduced by any percentage of fault or negligence attributable to the employer.

(e) In determining the credit to the Uninsured Employers Fund provided by Section 3861, the appeals board shall not take into consideration any negligence of the employer, but shall allow a credit for the entire amount of the employee's recovery either by settlement or after judgment, as has not theretofore been applied to the payment of expenses or attorney's fees.

SEC. 7. Section 4753.5 of the Labor Code is amended to read:

4753.5. In any such hearing, investigation or proceeding, the state shall be represented by the Attorney General, or the Division of Industrial Accidents' attorneys appointed pursuant to Sections 117 and 119. Expenses incident to such representation, including costs for investigation, medical examinations, and other expert reports, fees for witnesses, and other necessary and proper expenses, but excluding the salary of any of the Attorney General's deputies, shall be reimbursed from appropriations for the payments of the special additional compensation specified in Section 4751. No such witness fees or fees for medical services shall exceed those fees prescribed by the appeals board for the same services in those cases where the appeals board, by rule, has prescribed such fees. Such reimbursement shall be in addition to and in augmentation of any other appropriations made or funds available for the use or support of the Attorney General or the Division of Industrial Accidents' attorneys.

SEC. 8. Section 4754.5 of the Labor Code is amended to read:

4754.5. Nothing in this article shall impair the right of the Attorney General or the Department of Industrial Relations to release by compromise any claims brought under the provisions of this article. No such compromise and release agreement is valid unless it is approved by the appeals board; however, the provisions of Sections 5000 to 5004, inclusive, of this code, shall not apply to such compromise and release agreements.

SEC. 9. Section 4903.3 is added to the Labor Code, to read:

4903.3. The director, as administrator of the Uninsured Employers Fund, may, in his discretion, provide compensation, including medical treatment, from the Uninsured Employers Fund in cases to which the director is a party before the issuance of any award, if such compensation is not being provided to the applicant.

The appeals board shall determine and allow as a first lien against any sum to be paid as compensation the amount of compensation, including the cost of medical treatment, provided by the director pursuant to this section.

SEC. 10. Section 5814.1 is added to the Labor Code, to read:

5814.1. When the payment of compensation has been unreasonably delayed or refused prior to the issuance of an award, and the director has provided discretionary compensation pursuant to Section 4903.3, the appeals board shall award to the director a penalty to be paid by the employer in the amount of 10 percent of the compensation so provided by the director, such penalty to be in addition to the penalty imposed by Section 5814. The question of delay and the reasonableness of the cause therefor shall be determined by the appeals board in accordance with the facts.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 895

An act to amend Section 800 of the Penal Code, relating to commencing of criminal actions

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 800 of the Penal Code is amended to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286 or subdivision (c), (d), or (f) of Section 288a, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f), of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission.

(c) An indictment for grand theft, forgery, voluntary

manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

SEC. 2. Section 1 of this act shall become operative only if both Senate Bill No. 276 and Assembly Bill No. 303 are chaptered on or before January 1, 1982, and amend Section 800 of the Penal Code in the form set forth in Section 1 of this act.

CHAPTER 896

An act to amend Sections 286, 288a, and 289 of the Penal Code, relating to sexual assault.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for five, seven or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in

a county jail for a period of not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(g) Any person who commits an act of sodomy, and the victim is at the time incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 2. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(g) Any person who commits an act of oral copulation, and the victim is at the time incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent,

and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 3. Section 289 of the Penal Code is amended to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person, by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Every person who causes the penetration, however slight, of the genital or anal openings of another person by any foreign object, substance, instrument, or device when the victim is at the time incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent, and this is known or reasonably should be known to the person committing the act, for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonmnet in the state prison, or in a county jail for a period of not more than one year.

(c) As used in this section, "foreign object, substance, instrument, or device" shall not include any part of the body.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 897

An act to amend Sections 651, 655. and 668 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 651 of the Harbors and Navigation Code is amended to read:

651. As used in this chapter, unless the context clearly requires a different meaning:

(a) "Department" means the Department of Boating and Waterways.

(b) "Director" means the Director of Boating and Waterways.

(c) "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on water, except the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to or guided on such permanently fixed course by means of a mechanical device on a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled, or by means of a mechanical device attached to the watercraft itself.

(d) "Boat" means any vessel which is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

(e) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion but shall not include a vessel which has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(f) "Owner" is a person having all the incidents of ownership, including the legal title, of a vessel whether or not such person lends, rents, or pledges such vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. "Owner" does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(g) "Legal owner" is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(h) "Registered owner" is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(i) "Waters of this state" means any waters within the territorial limits of this state.

(j) "Person" means an individual, partnership, firm, corporation, association or other entity, but does not include the United States, the state or a municipality or subdivision thereof.

(k) "Operator" means the person on board who is steering the vessel while underway.

(*l*) "Undocumented vessel" means any vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(m) "Use" means operate, navigate, or employ.

(n) "State" means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(o) "State of principal use" means the state on which waters a vessel is used or intended to be used most during a calendar year.

(p) "Passenger" means every person carried on board a vessel other than any of the following:

(1) The owner or his representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage

(q) "Associated equipment" means any of the following, excluding radio equipment:

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component.

(2) Any accessory or equipment for, or appurtenance to, a boat.

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

(r) "Manufacturer" means any person engaged in any of the following:

(1) The manufacture, construction, or assembly of boats or associated equipment.

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(3) The importation into this state for sale of boats, associated equipment, or components thereof.

(s) "Drug" means any substance or combination of substances other than alcohol which could so affect the nervous system, brain, or muscles of a person as to impair to an appreciable degree his ability to operate a vessel in the manner that an ordinarily prudent man, in full possession of his faculties, using reasonable care, would operate a similar vessel under like conditions.

SEC. 2 Section 655 of the Harbors and Navigation Code is amended to read:

655. (a) No person shall use any boat or vessel or manipulate any water skis, aquaplane, or similar device in a reckless or negligent

manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of boats or vessels, water skis, aquaplanes, or similar devices in a manner which will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any boat or vessel or manipulate any water skis, aquaplane, or similar device while under the influence of intoxicating liquor, any drug, or the combined influence of intoxicating liquor and any drug.

(c) No person shall operate any boat or vessel or manipulate any water skis, aquaplane, or similar device while under the influence of intoxicating liquor, any drug, or under the combined influence of intoxicating liquor and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the boat, vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes death or serious bodily injury to any person other than himself.

SEC. 3. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates any provisions of Section 652, 654, 654.05, 654.06, 655.2, 655.3, 659, or 663.6, or any regulations adopted by the department pursuant thereto, is guilty of a misdemeanor and shall be subject to a fine of not to exceed fifty dollars ($50) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

(b) Any person who violates any provisions of subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) for each violation.

(c) Any person who violates any provision of Section 652.5, subdivision (a) or (b) of Section 655, Section 656, or subdivision (d) or (e) of Section 658, or any special rules and regulations adopted by the department pursuant to the provisions of subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars ($500) or imprisonment in the county jail for not to exceed six months, or both, for each violation.

(d) Any person who violates subdivision (c) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000)

(e) If any person is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of subdivision (b) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in county jail for not less than five days nor more than one year, and pay a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000). If any person is convicted of an offense

under subdivision (c) of Section 655 within five years of a prior conviction of a violation of subdivision (c) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in county jail for not less than 90 days nor more than one year, and pay a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(f) In no event shall the court have the power to absolve a person who is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of that section from the obligation of spending the minimum time in confinement as provided in this section, and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under subdivision (b) or (c) of Section 655 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 898

An act to add and repeal Article 5 (commencing with Section 53300) to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local agency reduced worktime.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Article 5 (commencing with Section 53300) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 5. Local Agency Reduced Worktime Act

53300. As used in this article:

(a) "Local agency" means any city, county, and city and county, whether chartered or not, and every public school district.

(b) "Reduced worktime" means employment of less than 40 hours of work per week, and includes arrangements involving job sharing, four-, five-, or six-hour workdays, jobs which provide eight hours of employment or less for one, two, three, four or five days per week, and such other arrangements which the governing body of the local agency finds consistent with maximum employment opportunity to employees desiring other than a standard worktime.

53301. This article shall not be applicable to the employees of any local agency unless the governing body of the local agency, or its representatives, meet and confer with representatives of recognized employee organizations of the employees pursuant to Section 3505, or meet and negotiate with the exclusive representative of employees pursuant to Section 3543.3, and enter a written agreement that the provisions of this article shall be applicable to the employees of the local agency covered by the agreement.

53302. It is the policy of the state that to the extent feasible, reduced worktime be made available to local agency employees who are unable, or who do not desire, to work standard working hours on a full-time basis. Further, it is the intent of the Legislature that nothing in this act shall be used to reduce the number of full-time equivalency positions authorized to any local agency.

53303. (a) Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime contrary to the intent of this article, or who has been unreasonably denied the right to participate in this program, may file a grievance with the local agency pursuant to applicable provisions of law.

(b) Nothing in this article shall impair the employment or employment rights or benefits of any employee.

(c) This article shall not apply to employees who are full-time peace officers unless approved by the peace officers' appointing power

53304 In counting the number of employees any local agency employs for purposes of any personnel ceiling, an employee employed on a reduced worktime basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours that an employee works each week.

53305 (a) Permanent employees who voluntarily reduce their worktime shall, upon request, be given first priority for returning to a full-time work schedule to the extent that such full-time work is available. Such permanent employees shall return to full-time employment at the request of the appointing authority pursuant to regulations adopted by the governing body which shall define the conditions under which such a request by the appointing authority

is appropriate and provide a reasonable grace period for allowing an employee to make the necessary personal arrangements for returning to full-time employment.

(b) If a layoff becomes unavoidable, persons employed on a reduced worktime basis shall not routinely be subject to the layoff ahead of full-time employees. These employees shall be subject to the same seniority and other similar considerations as full-time employees in determining the order of layoffs.

53306. All persons employed in reduced worktime positions pursuant to this article shall receive, on a pro rata basis, except for benefits provided under the Public Employees' Retirement Law, under the County Employees Retirement Law of 1937, and under the Public Employees' Medical and Hospital Care Act, all benefits customarily available to full-time employees of the local agency in similar classes or positions. With regard to benefits provided under the Public Employees' Retirement Law, under the County Employees Retirement Law of 1937, and under the Public Employees' Medical and Hospital Care Act, persons employed in reduced worktime positions shall receive such benefits as are provided by law for persons employed for less than full time.

53307. The governing body of each local agency shall adopt appropriate rules and guidelines relating to reduced worktime implementation

53308. This article shall be known and may be cited as the "Local Agency Reduced Worktime Act."

53309. This article shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 899

An act to amend Sections 12930, 12963.3, 12987, and 12994 of the Government Code, relating to fair employment and housing.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate and conciliate complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(h) To issue accusations pursuant to Section 12965 or 12981 and to prosecute such accusations before the commission.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(j) To investigate, approve, certify, decertify, monitor, and

enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 2. Section 12963.3 of the Government Code is amended to read:

12963.3. (a) Depositions taken by the department shall be noticed by issuance and service of a subpoena pursuant to Section 12963.1. If, in the course of the investigation of a complaint, a subpoena is issued and served on an individual or organization not alleged in the complaint to have committed an unlawful practice, written notice of the deposition shall also be mailed by the department to each individual or organization alleged in the complaint to have committed an unlawful practice.

(b) A deposition may be taken before any officer of the department who has been authorized by the director to administer oaths and take testimony, or before any other person before whom a deposition may be taken in a civil action pursuant to subdivision (a) of Section 2018 of the Code of Civil Procedure. The person before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the person's direction and in the person's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination shall be noted on the deposition by the person before whom the deposition is taken, and evidence objected to shall be taken subject to the objections.

SEC. 3. Section 12987 of the Government Code is amended to read:

12987. If the commission, after hearing, finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take such actions, as, in the judgment of the commission, will effectuate the purpose of this part, including, but not limited to, any of the following.

(1) The sale or rental of the housing accommodation if it is still available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (f) of Section 12955 in the purchase, organization, or construction of the housing accommodation, if available.

(2) The payment of punitive damages in an amount not to exceed one thousand dollars ($1,000), adjusted annually in accordance with the Consumer Price Index, and the payment of actual damages

(3) Affirmative or prospective relief.

However, no remedy shall be available to the aggrieved person unless the aggrieved person waives any and all rights or claims under Section 52 of the Civil Code prior to receiving a remedy, and signs

a written waiver to that effect.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 4. Section 12994 of the Government Code is amended to read:

12994. Nothing in this part relating to discrimination in employment shall be construed to require an employer to make any accommodation for an employee who has a physical handicap that would produce undue hardship to the employer.

CHAPTER 900

An act to amend Sections 632, 634, 635, 662, 663, 670, and 909 of the Code of Civil Procedure, relating to courts.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 632 of the Code of Civil Procedure is amended to read:

632. In superior, municipal, and justice courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. Upon the request of any party appearing at the trial, made within 10 days after the court announces a tentative decision, or if the trial has lasted less than one day, made prior to submission of the matter for decision, the court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision. After a party has requested such a statement, any party may make proposals as to the content of the statement of decision.

The statement of decision shall be in writing, unless the parties appearing at trial agree otherwise; however, when the trial has been completed within one day, the statement of decision may be made orally on the record in the presence of the parties.

SEC. 2. Section 634 of the Code of Civil Procedure is amended

to read:

634. When a statement of decision does not resolve a controverted issue, or if the statement is ambiguous and the record shows that the omission or ambiguity was brought to the attention of the trial court either prior to entry of judgment or in conjunction with a motion under Section 657 or 663. it shall not be inferred on appeal or upon a motion under Section 657 or 663 that the trial court decided in favor of the prevailing party as to those facts or on that issue.

SEC. 3. Section 635 of the Code of Civil Procedure is amended to read:

635. In all cases where the decision of the court has been entered in its minutes, and when the judge who heard or tried the case is unavailable, the formal judgment or order conforming to the minutes may be signed by the presiding judge of the court.

SEC. 4. Section 662 of the Code of Civil Procedure is amended to read:

662 In ruling on such motion, in a cause tried without a jury, the court may, on such terms as may be just, change or add to the statement of decision, modify the judgment, in whole or in part, vacate the judgment, in whole or in part, and grant a new trial on all or part of the issues, or, in lieu of granting a new trial, may vacate and set aside the statement of decision and judgment and reopen the case for further proceedings and the introduction of additional evidence with the same effect as if the case had been reopened after the submission thereof and before a decision had been filed or judgment rendered. Any judgment thereafter entered shall be subject to the provisions of sections 657 and 659.

SEC. 5. Section 663 of the Code of Civil Procedure is amended to read:

663. A judgment or decree, when based upon a decision by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of the party and entitling the party to a different judgment:

1. Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts; and in such case when the judgment is set aside, the statement of decision shall be amended and corrected.

2. A judgment or decree not consistent with or not supported by the special verdict.

SEC. 6. Section 670 of the Code of Civil Procedure is amended to read:

670. In superior, municipal, and justice courts the following papers, without being attached together, shall constitute the judgment roll:

(a) In case the complaint is not answered by any defendant, the summons, with the affidavit or proof of service; the complaint, the

request for entry of default with a memorandum indorsed thereon that the default of the defendant in not answering was entered, and a copy of the judgment; if defendant has appeared by demurrer, and the demurrer has been overruled, then notice of the overruling thereof served on defendant's attorney, together with proof of the service; and in case the service so made is by publication, the affidavit for publication of summons, and the order directing the publication of summons.

(b) In all other cases, the pleadings, all orders striking out any pleading in whole or in part, a copy of the verdict of the jury, the statement of decision of the court, or finding of the referee, and a copy of any order made on demurrer, or relating to a change of parties, and a copy of the judgment; if there are two or more defendants in the action, and any one of them has allowed judgment to pass against him or her by default, the summons, with proof of its service, on the defendant, and if the service on the defaulting defendant be by publication, then the affidavit for publication, and the order directing the publication of the summons.

SEC 7. Section 909 of the Code of Civil Procedure is amended to read:

909. In all cases where trial by jury is not a matter of right or where trial by jury has been waived, the reviewing court may make factual determinations contrary to or in addition to those made by the trial court. The factual determinations may be based on the evidence adduced before the trial court either with or without the taking of evidence by the reviewing court. The reviewing court may for the purpose of making the factual determinations or for any other purpose in the interests of justice, take additional evidence of or concerning facts occurring at any time prior to the decision of the appeal, and may give or direct the entry of any judgment or order and may make any further or other order as the case may require. This section shall be liberally construed to the end among others that, where feasible, causes may be finally disposed of by a single appeal and without further proceedings in the trial court except where in the interests of justice a new trial is required on some or all of the issues.

CHAPTER 901

An act to amend Section 800 of the Penal Code, relating to limitation of actions.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 800 of the Penal Code is amended to read:

800. An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, or 288 of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission. An indictment for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission. An indictment for grand theft, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery. An indictment for a violation of Section 288 of the Penal Code shall be found, an information filed, or case certified to the superior court within six years after its commission.

SEC. 2. Section 800 of the Penal Code is amended to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286 or subdivision (c), (d), or (f) of Section 288a, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f), of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission.

(c) An indictment for grand theft, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

SEC. 3. This act shall become operative only if both Senate Bill No. 209 and Assembly Bill No. 303 are chaptered on or before January

1, 1982, and both bills amend Section 800 of the Penal Code in the form set forth in Section 2 of this act, in which case Section 1 of this act shall not become operative.

CHAPTER 902

An act to amend Sections 41954, 41956, and 41958 of, to add Sections 41956.1, 41960.1, 41960.2, and 41960.4 to, and to add and repeal Section 41960.3 of, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 41954 of the Health and Safety Code is amended to read:

41954. (a) The state board shall, by March 1, 1976, adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards which are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) Within 90 days after the effective date of this subdivision, the state board shall, after public hearing, adopt additional performance standards which are reasonable and necessary to assure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid spillage when used in a proper manner. To the maximum extent practicable, the additional performance standards shall allow flexibility in the design of gasoline vapor recovery systems and their components.

(c) The state board shall certify any gasoline vapor control system, upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing such certification. After a system has been certified, if circumstances beyond control of the state board cause the system to no longer meet the required specifications, the certification may be revoked or modified.

(d) The state board may test, or contract for testing, gasoline vapor control systems in order to certify them.

(e) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification.

(f) No person shall install a gasoline vapor control system unless it has been certified by the state board.

(g) To the extent authorized by other provisions of law, any

district may adopt stricter procedures and performance standards than those adopted by the state board pursuant to subdivision (a).

(h) With respect to those vapor recovery systems subject to certification by the state board, there shall be no criminal or civil proceedings commenced or maintained for failure to comply with any statute, rule, or regulation requiring a specified vapor recovery efficiency if the vapor control equipment which has been installed to comply with applicable vapor recovery requirements has been:

(1) Certified by the state board at an efficiency equal to or greater than the efficiency required by applicable statutes, rules, and regulations; and

(2) Installed, operated, and maintained in accordance with the instructions of the equipment manufacturer.

(i) Notwithstanding subdivision (g), until the time that more than one system, including at least one balance-type system, is certified under the standards adopted by the state board pursuant to subdivision (c) and by the Division of Measurement Standards pursuant to subdivision (c) of Section 41956, gasoline vapor control systems which have been installed and are operating in compliance with the requirements of the Bay Area Air Pollution Control District shall be exempt from any requirements for retrofitting such systems with new or additional equipment for the purpose of achieving greater vapor recovery efficiency. All necessary replacement parts shall be those certified by the state board. In all other areas of the state, the state board may implement its regulations adopted pursuant to subdivision (a).

(j) On or after July 1, 1980, but not later than January 1, 1981, the state board shall report to the Legislature on the actual in-use efficiency and durability of all gasoline vapor recovery systems certified pursuant to subdivision (a). If the air quality benefits of systems certified by the state board for a vapor recovery efficiency of 95 percent or greater are not as great as the technical reports of the state board currently indicate, the state board shall reconsider, at a formal public hearing, its regulations relative to installation of such systems.

SEC. 2. Section 41956 of the Health and Safety Code is amended to read:

41956. (a) As soon as possible after the effective date of this section, the State Fire Marshal and the Division of Measurement Standards, after consulting with the state board, shall adopt rules and regulations for the certification of gasoline vapor control systems and components thereof.

(b) The State Fire Marshal shall be the only agency responsible for determining whether any component or system creates a fire hazard. The division shall be the only agency responsible for the measurement accuracy aspects, including gasoline recirculation of any component or system.

(c) Within 120 days after the effective date of this subdivision, the Division of Measurement Standards, shall, after public hearing, adopt

rules and regulations containing additional performance standards and standardized certification and compliance test procedures which are reasonable and necessary to prevent gasoline recirculation in systems for the control of gasoline vapors resulting from motor vehicle fueling operations.

SEC. 3. Section 41956.1 is added to the Health and Safety Code, to read:

41956.1. (a) Whenever the state board, the Division of Measurement Standards of the Department of Food and Agriculture, or the State Fire Marshal revises performance or certification standards, any systems or components thereof certified under procedures in effect prior to the adoption of revised standards and installed prior to the effective date of the revised standards may continue to be used in gasoline marketing operations for a period of four years after the effective date of the revised standards. However, all necessary repair or replacement parts or components shall be certified and may meet the most recent certification and performance standards once compatible repair or replacement parts become commercially available.

(b) Notwithstanding subdivision (a), whenever the State Fire Marshal determines a system or component thereof creates a hazard to public health and welfare, he may prevent use of the particular system or component.

(c) Notwithstanding subdivision (a), the Division of Measurement Standards may prohibit the use of any system or component thereof if it determines on the basis of test procedures adopted pursuant to subdivision (c) of Section 41956, that use of the system or component will result in gasoline recirculation.

SEC. 4. Section 41958 of the Health and Safety Code is amended to read:

41958. To the maximum extent practicable, the rules and regulations adopted pursuant to Sections 41956 and 41957 shall allow flexibility in the design of gasoline vapor control systems and their components. The rules and regulations shall set forth the performance standards as to safety and measurement accuracy and the minimum procedures to be followed in testing the system or component for compliance with the performance standards.

The State Fire Marshal, the Division of Industrial Safety, and the Division of Measurement Standards shall certify any system or component which complies with their adopted rules and regulations. Any one of the state agencies may certify a system or component on the basis of results of tests performed by any entity retained by the manufacturer of the system or component or by the state agency. The requirements for the certification of a system or component shall not require that it be tested, approved, or listed by any private entity, except that certification testing regarding recirculation of gasoline shall include testing by an independent testing laboratory.

SEC. 5. Section 41960.1 is added to the Health and Safety Code, to read:

41960.1. (a) All vapor control systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall be operated in accordance with the applicable standards established by the State Fire Marshal or the Division of Measurement Standards pursuant to Sections 41956 to 41958, *inclusive*.

(b) When a sealer or any authorized employee of the Division of Measurement Standards determines, on the basis of applicable test procedures of the division, adopted after public hearing, that an individual system or component for the control of gasoline vapors resulting from motor vehicle fueling operations does not meet the applicable standards established by the Division of Measurement Standards, he or she shall take the appropriate action specified in Section 12506 of the Business and Professions Code.

(c) When a deputy State Fire Marshal or any authorized employee of a fire district or local or regional firefighting agency determines that a component of a system for the control of gasoline vapors resulting from motor vehicle fueling operations does not meet the applicable standards established by the State Fire Marshal, he or she shall mark the component "out of order." No person shall use or permit the use of the component until the component has been repaired, replaced, or adjusted, as necessary, and either the component has been inspected by a representative of the agency employing the person originally marking the component, or the person using or permitting use of the component has been expressly authorized by the agency to use the component pending reinspection.

SEC. 6. Section 41960.2 is added to the Health and Safety Code, to read:

41960.2. (a) All installed systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall be maintained in good working order in accordance with the manufacturer's specifications of the system certified pursuant to Section 41954.

(b) The state board shall identify equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations which substantially impair the effectiveness of the systems in reducing air contaminants.

(c) When a district determines that a component contains a defect specified pursuant to subdivision (b), the district shall mark the component "Out of Order". No person shall use or permit the use of the component until the component has been repaired, replaced, or adjusted, as necessary, and the district has reinspected the component or has authorized use of the component pending reinspection.

(d) Where a district determines that a component is not in good working order but does not contain a defect specified pursuant to subdivision (b), the district shall provide the operator with a notice specifying the basis on which the component is not in good working order. If, within seven days, the operator provides the district with

adequate evidence that the component is in good working order, the operator shall not be subject to liability under this division.

SEC. 7. Section 41960.3 is added to the Health and Safety Code, to read:

41960.3. (a) Each district which requires the installation of systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall establish a toll free telephone number for use by the public in reporting problems experienced with the systems. Districts within an air basin or adjacent air basin may enter into a cooperative program to implement this requirement. All complaints received by a district shall be recorded on a standardized form which shall be established by the state board, in consultation with districts, the State Fire Marshal, and the Division of Measurement Standards.

The operating instructions required by Section 41960.4 shall be posted at all service stations at which systems for the control of gasoline vapors resulting from motor vehicle fueling operations are installed and shall include a prominent display of the toll free telephone number for complaints in the district in which the station is located.

(b) Upon receipt of each complaint, the district shall diligently either investigate the complaint or refer the complaint for investigation by the state or local agency which properly has jurisdiction over the primary subject of the complaint. When the investigation has been completed, the investigating agency shall take such remedial action as is appropriate and shall advise the complainant of the findings and disposition of the investigation. A copy of the complaint and response to the complaint shall be forwarded to the state board.

(c) On or before January 1, 1983, the state board shall file a report with the Legislature which shall be referred to the appropriate committees, as determined by the Speaker of the Assembly or the President Pro Tempore of the Senate. The report shall contain the number and type of complaints, actions taken in response to the complaints, and a description of the processing of the complaints. The report shall also contain recommendations of the state board, based on its review of the complaints and their dispositions, of any additional actions which could be taken by the Legislature, or a state or local agency having jurisdiction over aspects of gasoline vapor recovery to eliminate problems identified by complainants.

This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 8. Section 41960.4 is added to the Health and Safety Code, to read:

41960.4. The operator of each service station utilizing a system for the control of gasoline vapors resulting from motor vehicle fueling operations shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly

describe how to fuel vehicles correctly with vapor recovery nozzles utilized at the station and shall include a warning that repeated attempts to continue dispensing, after the system having indicated that the vehicle fuel tank is full, may result in spillage or recirculation of gasoline.

SEC. 9. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make needed changes in gasoline vapor recovery system regulations, it is necessary that this act take effect immediately.

CHAPTER 903

An act to amend Section 2924f of the Civil Code, relating to real property.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or

some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before date of sale, provided that where possible and where not restricted for any reason, if the property is a single-family residence the posting shall be on a door of the residence, but if not possible or restricted then the notice shall be posted in a conspicuous place on the property and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale and shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1, Division 7, Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of such amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or

mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision.

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of trust or mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and, prior to which the property may be conveyed by the trustor to the person making such offer according to its terms. Any such offer is revocable until accepted. The performance of such offer following acceptance, according to its terms by a conveyance of the property to the offeror shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision shall apply only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 2. Amendments made by this act shall be operative for notices of sale given on and after July 1, 1982.

CHAPTER 904

An act to amend Section 664.5 of, and to add Section 664.6 to, the Code of Civil Procedure, relating to notice of judgment.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 664.5 of the Code of Civil Procedure is amended to read:

664.5. (a) In any contested action or special proceeding in a superior, municipal, or justice court, including a proceeding for voidable marriage pursuant to the Family Law Act (Title 2 (commencing with Section 4400) or dissolution of marriage, legal separation and summary dissolution pursuant to Title 3 (commencing with Section 4500) of the Civil Code), the party submitting an order or judgment for entry shall prepare and mail a copy of the notice of entry of judgment to all parties who have appeared in the action or proceeding and shall file with the court the original notice of entry of judgment together with the proof of service by mail; provided, that the court may order the clerk to mail notice of entry of judgment in those cases where justice would be better served thereby.

The time for appeal shall begin on the day the proof of service by mail is filed with the court, and execution on the judgment or order shall be stayed until that time.

(b) Promptly upon entry of judgment in a contested action or special proceeding in a municipal or justice court, the clerk of the court shall mail notice of entry of judgment to all parties who have appeared in the action or special proceeding and shall execute a certificate of such mailing and place it in the court's file in the cause.

(c) For purposes of this section, "judgment" includes any judgment, decree, or signed order from which an appeal lies.

Upon order of the court in any action or special proceeding, the clerk shall mail notice of entry of any judgment or ruling, whether or not appealable.

SEC. 2. Section 664.6 is added to the Code of Civil Procedure, to read:

664.6. If parties to pending litigation stipulate, in writing or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement.

CHAPTER 905

An act to amend Section 7152 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 7152 of the Labor Code is amended to read:

7152. In addition to the duties imposed by any law regulating or relating to scaffolding, an employer who uses or permits the use of scaffolding described in Section 7151 in connection with construction, alteration, repairing, painting, cleaning or doing of any work upon any building or structure, shall:

(a) Furnish safety lines to tie all hooks and hangers back on the roof of such building or structure.

(b) Provide safety lines hanging from the roof, securely tied thereto, for all swinging scaffolds which rely upon stirrups of the single point suspension type to support the working platform. One such line shall be provided for each workman with a minimum of one line between each pair of hangers or falls.

The standards board may adopt occupational safety and health standards different from the requirements of this section or grant variances from these requirements if the standards or variances provide equivalent or superior safety for employees.

CHAPTER 906

An act relating to planning, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. The Legislature finds and declares that the County of Monterey has been unable to adopt a complete and adequate general plan as required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code because of its inability to obtain the necessary staff in a timely fashion, and because changing conditions caused its policies to become incomplete and inadequate. The Legislature further finds and declares that the County of Monterey has made substantial effort and substantial progress toward the completion of an adequate general plan by appropriating sufficient local funds, hiring staff, and

exhausting the remedies provided by Section 65302.6 of the Government Code.

SEC. 2. Notwithstanding the time limits imposed by Sections 65302, 65302.2, and 65302.6 of the Government Code, the Director of Planning and Research shall grant the County of Monterey an extension of time to October 1, 1982, for the preparation and adoption of a complete and adequate general plan. The purpose of this section is to permit the County of Monterey to continue to review and approve development proposals pending adoption of a complete and adequate general plan. Prior to approving any such development proposal, the Board of Supervisors of the County of Monterey shall make both of the following findings: (1) That the proposed land use is consistent with the existing adopted elements of the general plan. (2) That there is a reasonable probability that any such proposed land use will be consistent with any draft general plan documents being considered by the County Planning Commission.

During the extension of time specified in this section, the County of Monterey is not subject to the requirement that a complete and adequate general plan be adopted, the time limitations within which it must be adopted, or the requirement that the land use be compatible or consistent with the general plan as required by Section 65302, 65563, 65567, 65860, 65910, or 66473.5, or subdivision (a) or (b) of Section 66474, of the Government Code. The County of Monterey shall comply with all other state laws. During the extension of time specified in this section, the County of Monterey shall comply with conditions agreed to by both the county and the Director of Planning and Research which are necessary to ensure full compliance with the Planning and Zoning Law, Title 7 (commencing with Section 65000) of the Government Code, in order to ensure orderly growth, minimize urban sprawl, and conserve productive agricultural land.

SEC. 3. This act shall become operative October 1, 1981, unless the Director of Housing and Community Development makes a written finding, on or before that date, that the County of Monterey has not adopted a housing element which meets the requirements of subdivision (c) of Section 65302 of the Government Code, in which case this act shall not become operative. A copy of the written finding shall be sent by the director to the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel Bureau.

SEC. 4. This act shall remain in effect only until October 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before October 1, 1982, deletes or extends such date.

SEC. 5. The Legislature finds that a special statute is necessary in order to grant the County of Monterey additional time to prepare certain elements of its general plan and that because of the unique, special circumstances, existing in the County of Monterey, which do not exist in other counties, a general statute that has uniform application is infeasible.

SEC. 6. This act is an urgency statute necessary for the

immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to grant the County of Monterey an extension of time to complete its general plan as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 907

An act to amend Sections 69591, 69596, and 74001 of the Government Code, relating to courts.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 69591 of the Government Code is amended to read:

69591. In the County of Orange there shall be 50 judges of the superior court; provided, that if a vacancy occurs in the office of superior court commissioner assigned to the juvenile court, appointed and employed pursuant to Section 69899.5, the position of superior court commissioner assigned to the juvenile court shall be abolished and the Governor shall appoint an additional superior court judge, for a total of 51 judges of the superior court.

SEC. 1.5. Section 69596 of the Government Code is amended to read:

69596. In the City and County of San Francisco there shall be 28 judges of the superior court, any one or more of whom may hold court.

SEC. 2. Section 74001 of the Government Code is amended to read:

74001. There shall be the following number of judges: in the North Orange County Municipal Court, 10, and on July 1, 1978, 11; in the Central Orange County Municipal Court, 12, and on January 1, 1978, 13; in the West Orange County Municipal Court, nine, provided, that at such time as the Orange County Board of Supervisors finds there are sufficient funds for 10 judges and adopts a resolution to that effect, there shall be 10 judges; in the Orange County Harbor Municipal Court, seven; and in the South Orange County Municipal Court, four.

SEC. 3. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Furthermore, this act does not create any present or future

obligation to reimburse the agency or district for any costs incurred because of this act.

SEC. 4. This act shall become operative on July 1, 1982.

CHAPTER 908

An act to add Section 14670.6 to the Government Code, and to add Section 7303.5 to the Public Resources Code, relating to state property.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 14670.6 is added to the Government Code, to read:

14670.6. The Director of General Services, with the approval of the State Public Works Board and the Department of the California Highway Patrol, may exchange, based on current market value and upon such terms and conditions, and with such reservations and exceptions, as in his opinion may be for the best interest of the state, the California Highway Patrol Office on Arden Way in Sacramento consisting of approximately two acres of land, together with the improvements located thereon.

SEC. 2. Any cost or expense incurred by the Department of General Services in the disposition of the property, pursuant to Section 14670.6 of the Government Code, shall be reimbursed by the Department of the California Highway Patrol.

SEC. 3. Any moneys received from the disposition of the property, pursuant to Section 14670.6 of the Government Code, shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

SEC. 4. Section 7303.5 is added to the Public Resources Code, to read:

7303.5. Whenever the commission finds that it is in the best interests of the state for the acquisition of open space or for the purposes of consolidating, assembling, or managing parcels of land for the purposes authorized by this division, the commission may exchange school lands under its jurisdiction for lands owned by any state agency, political subdivision, or person, partnership, company, or corporation, or by the United States or any federal agency; provided, that the lands acquired pursuant to such exchange have equal or greater value than the lands conveyed.

Such acquired lands shall have the same status as to administration, control, and disposition as the lands conveyed.

The state may release the mineral rights in the lands conveyed, as provided in Section 6401, if it receives the mineral rights in the lands

acquired.

CHAPTER 909

An act to amend Section 800 of the Penal Code, relating to crimes.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 800 of the Penal Code is amended to read:

800. An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, 261, or 288 of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission. An indictment for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission. An indictment for grand theft, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery. An indictment for a violation of Section 261 or Section 288 of the Penal Code shall be found, an information filed, or case certified to the superior court within six years after its commission.

SEC. 2. Section 800 of the Penal Code is amended to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286 or subdivision (c), (d), or (f) of Section 288a, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f), of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information

filed, or case certified to the superior court within six years after its commission.

(c) An indictment for grand theft, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

SEC. 3. (a) It is the finding of the Legislature that since its enactment in 1872, California's basic three-year statute of limitations for felonies has been subjected to piecemeal amendment, with no comprehensive examination of the underlying rationale for the period of limitation, nor its continued suitability as applied to specific crimes or categories of crimes. In the estimation of the Legislature it is therefore desirable for the California Law Revision Commission, on a priority basis, to undertake an indepth study of the rationales for the statutes of limitations for various felonies and the justification for the revision of the period of limitations for specific crimes or categories of crime, and to make recommendations to the Legislature based on the study.

(b) The California Law Revision Commission shall make a study of the statutes of limitations applicable to felonies, and shall submit its findings and recommendations with regard to legislation with respect thereto to the Legislature, on a priority basis.

SEC. 4. This act shall become operative only if both Senate Bill No. 209 and Senate Bill No. 276 are chaptered on or before January 1, 1982, and amend Section 800 of the Penal Code in the form set forth in Section 2 of this act, in which case Section 1 of this act shall not become operative.

CHAPTER 910

An act to add Article 1.5 (commencing with Section 31487) to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Article 1.5 (commencing with Section 31487) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 1.5. Alternative Plan for Counties with Populations in Excess of Six Million

31487. (a) The retirement plan created by this article shall be known as Retirement Plan E.

(b) This article shall be applicable in the retirement system of any county with a population in excess of six million, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.

(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.

(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.

(4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31870) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) dealing with reciprocal benefits shall be applicable, excluding those provisions dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions.

(h) Any amendments to or modifications of this chapter subsequent to the effective date of this article shall not affect the provisions of this article unless mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

(i) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually

agreed between the employer and its employee representatives.

31488. Unless the context otherwise requires, the definitions contained in this section, govern the construction of this article.

(a) As used in subdivisions (f) and (g) of Section 31491, subdivisions (b) and (c) of Section 31492, and Section 31495, "board" means the board of investments. In all other cases "board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a monthly permanent basis of at least three-quarter time, as defined by the employer, except an employee eligible for safety membership.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age at which full retirement benefits are available under the federal system. This age is deemed to be age 65 until June 30, 1983.

(g) "Service" means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as otherwise herein provided, a member shall not be credited with service for any period of time, in excess of 22 consecutive workdays, in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

31489. (a) There shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions,

together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

31490. (a) Except as provided in Section 31494 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and shall not receive credit for that prior public service.

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31491, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee receives any benefit which has been approved by the employer, shall not be considered an interruption of service. However, the period of time of unpaid leave in excess of 22 consecutive work days shall not be considered as service in calculating the benefits otherwise provided under this article.

31491. (a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the

member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA Factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed

to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31492.

(j) Notwithstanding subdivision (e) of Section 31491, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

31492. (a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if she or he was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired

member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) Designations pursuant to subdivision (b) shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

31493. Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

31494. (a) General members may, within 60 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. Such transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, transferring members shall receive credit for public service performed prior to the transfer, including service with the employer, military service, and other public service to which the member would otherwise be eligible under this chapter, except that member contributions shall not be collected.

31495. Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

SEC. 2. If any provision of this act, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provisions or application and, to this end the provisions of this act are severable.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 4. This act is an urgency measure necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and therefore shall take immediate effect.

It is necessary that this act be effective immediately to alleviate severe financial conditions imposed upon counties with populations in excess of six million, and to implement a provision of the Memorandum of Understanding executed in 1981 by and between the County of Los Angeles and the County Coalition of Unions (AFL-CIO).

CHAPTER 911

An act to amend Sections 12 and 14 of Chapter 955 of the Statutes of 1978, relating to physicians and surgeons, and making an appropriation therefor.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 12 of Chapter 955 of the Statutes of 1978 is amended to read:

Sec. 12. The Division of Medical Quality shall make an annual interim report to both the Legislature and the Governor by January 1, 1982. It shall make a final report thereto by January 1, 1984, which shall include its recommendations as to the feasibility of statewide implementation of the program.

SEC. 2. Section 14 of Chapter 955 of the Statutes of 1978 is amended to read:

Sec. 14. The provisions of this act shall be operative until July 1, 1984, and shall have no force or effect on and after that date.

SEC. 3. The sum of seventy-four thousand four hundred forty-six dollars ($74,446) is hereby appropriated from the Contingent Fund of the Board of Medical Quality Assurance to the Board of Medical Quality Assurance, in augmentation of Item 138-042-758 of the Budget Act of 1981, for the purposes of this act.

CHAPTER 912

An act to amend Sections 25168.1, 25169.1, and 25652 of, and to add Section 25168.5 to, the Health and Safety Code, and to amend Sections 2810, 31600, and 31601 of, to amend Section 34501, as amended by Section 1 of Chapter 615 of the Statutes of 1980, of, to repeal Section 2561 of, and to add Section 34510 to, the Vehicle Code, relating to hazardous materials, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 25168.1 of the Health and Safety Code is amended to read:

25168.1. The department shall adopt regulations for containers used to transport hazardous wastes not covered or packaged as required by federal regulations contained in Title 49 of the Code of Federal Regulations. The Department of the California Highway Patrol shall conduct an annual inspection of every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used by registered waste haulers to transport hazardous waste on the highways. The inspection shall be designed to determine if each vehicle complies with the Vehicle Code and with regulations adopted by the State Fire Marshal under Section 34020 of the Vehicle Code, by the Highway Patrol under subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and by the State Department of Health Services for containers used to haul hazardous waste. The Department of the California Highway Patrol shall determine whether the construction, design, equipment, and safety features of every such truck, trailer, semitrailer, vacuum tank, cargo tank, or container are in compliance with the standards which the department determines are necessary for the safe transportation of hazardous waste.

SEC. 2. Section 25168.5 is added to the Health and Safety Code, to read:

25168.5. The department shall collect the inspection fee at the same time as the registration and vehicle fees prescribed by Section 25166.

SEC. 3. Section 25169.1 of the Health and Safety Code is amended to read:

25169.1. (a) The California Highway Patrol shall inspect every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used to transport hazardous waste at least once a year to ascertain whether its construction, design, equipment and safety features comply with the regulations promulgated by the State Department of Health Services pursuant to Section 25168.1.

(b) No person shall transport hazardous waste on streets and

highways within the State of California, unless the truck, trailer, semitrailer, vacuum tank, cargo tank, or container in which the hazardous waste is being transported displays a certificate of compliance, issued by the State Department of Health Services, showing that the vehicle has been inspected within the last 12 months.

(c) For the purposes of this section, "container" means any portable tank or bin having a capacity greater than 110 U.S. gallons.

SEC. 3.5. Section 25652 of the Health and Safety Code is amended to read:

25652. Regulations adopted by the department pursuant to Section 25651 may be enforced, within their respective jurisdictions, by any authorized representatives of the department, the Division of Industrial Safety of the Department of Industrial Relations, the Public Utilities Commission, the health department of any city or county, the Department of the California Highway Patrol, or any traffic officer as defined by Section 625 of the Vehicle Code.

SEC. 4. Section 2810 of the Vehicle Code is amended to read·

2810. (a) A member of the California Highway Patrol may stop any vehicle transporting any timber products, livestock, poultry, farm produce, crude oil, or petroleum products and inspect the bills of lading, shipping, delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and upon reasonable belief that the driver of such vehicle is not in legal possession, shall take custody of the vehicle and load and turn the same over into the custody of the sheriff of the county wherein the timber products, livestock, poultry, farm produce, crude oil, or petroleum products, or any part thereof, is apprehended.

(b) The sheriff shall receive and provide for the care and safekeeping of such timber products, livestock, poultry, farm produce, crude oil, or petroleum products, or any part thereof, and immediately, in cooperation with the department, proceed with the investigation and legal disposition thereof.

(c) Any expense incurred by the sheriff in the performance of his duties under this section shall be a legal charge against the county.

SEC. 4.5. Section 2561 of the Vehicle Code is repealed.

SEC. 5. Section 31600 of the Vehicle Code is amended to read:

31600. For the purposes of this division "explosive" or "explosives" means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat. "Explosive" or "explosives" includes, but is not necessarily limited to, any of the following:

(a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, commercial boosters, or ammonium nitrate-fuel oil mixture (blasting agent) when transported in a combined load with any explosive, as defined in this section.

(b) Substances determined to be class A or class B explosives.

(c) "Explosive" or "explosives" does not include small arms ammunition or any other class C explosive.

(d) This division shall not apply to special fireworks classified by the United States Department of Transportation as class B explosives when such special fireworks are regulated by and in conformance with Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code.

SEC. 6. Section 31601 of the Vehicle Code is amended to read:

31601. (a) This division shall apply to the operation of any motor vehicle on any highway, and to the operation and parking of any vehicle on any property designated pursuant to this division as a safe stopping place for the purpose of transporting any explosive in any amount when the transportation is rendered as a delivery service or for hire, or in any other event for the purpose of transporting any explosive or a combined load of any explosive and ammonium nitrate-fuel oil mixture (blasting agent) in an amount in excess of 1,000 pounds. The transportation of quantities of explosives of 1,000 pounds or less, or other than on a public highway, is governed by Division 11 (commencing at Section 12000) of the Health and Safety Code. Notwithstanding other provisions of this section, a license required by Section 31602 may be used to transport quantities of less than 1,000 pounds of explosives if all other requirements of this division are met.

(b) It is the legislative intention in enacting this division and with particular reference to requiring licenses for transportation of explosives as set forth herein that such provisions shall apply uniformly throughout the State of California and that such license to be obtained from the Department of the California Highway Patrol, as provided in Chapter 2.5 (commencing with Section 2500) of Division 2, shall be in lieu of any requirement for any license to be obtained by any such owner from any local authority within the state.

SEC. 7. Section 34501 of the Vehicle Code, as amended by Section 1 of Chapter 615 of the Statutes of 1980, is amended to read:

34501. (a) The Department of the California Highway Patrol shall adopt reasonable rules and regulations which in the judgment of the department are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. Such rules and regulations shall not, however, be applicable to schoolbuses which shall be subject to rules and regulations adopted pursuant to Section 34501.5. The Commissioner of the Department of the California Highway Patrol shall appoint a committee of 15 members, consisting of representatives of industry subject to regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department is directed to cooperate and confer with the advisory committee so appointed.

The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt such regulations for the transportation of hazardous materials in this state, except for materials the transportation of which is subject to other provisions of this code, as the department determines reasonably necessary to ensure the safety of persons and property using the highways. Such regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that such shipments are correctly identified and in proper conditions for transport.

(c) At least once every 13 months the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus for the exclusive transportation of the following groups:

(1) Minors on organized outings.

(2) College students on organized outings.

(3) Elderly persons on organized outings.

(4) Groups consisting of a combination of those persons specified in paragraphs (1) to (3) inclusive, on organized outings.

(5) Workers being transported to and from a work location, except farm laborers and workers in buses designed to transport not more than 16 persons and maintained exclusively for nonprofit transportation of adults to and from a work location as part of a carpool program.

(d) The Commissioner of the California Highway Patrol shall adopt and enforce regulations which will provide for the public or private users of any bus being made aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of the provisions of this code or regulations adopted pursuant to this section.

(g) This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 8. Section 34510 is added to the Vehicle Code, to read:

34510. Persons operating vehicles, or combinations of vehicles, in the transportation of hazardous material and subject to this division, shall carry in the vehicle while en route any shipping papers required to accompany the vehicle in accordance with regulations

adopted pursuant to Section 2402. The bill of lading or other shipping paper shall be displayed upon demand of any member of the California Highway Patrol or any police officer of a city who is on duty for the exclusive or main purpose of enforcing the provisions of this code.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to stop the increasing theft of petroleum products at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 913

An act to amend Section 9984.5 of the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 9984.5 of the Business and Professions Code is amended to read:

9984.5 (1) Notwithstanding the provisions of Sections 9975, 9977, and 9984, relating to fees, any employment agency which as its sole means of procuring or attempting to procure employment or engagements for others, uses a computer system to correlate and match information furnished by prospective employees and requirements from prospective employers, may, as its sole compensation for services, charge either a prospective employee or a prospective employer, but not both, a nonrefundable fee. The contract for the furnishing of such employment services shall include a conspicuous written notice of the fee to be charged. The notice shall be printed on the front page of the contract in type at least as large as any other type used in the contract and shall be stated in terms easily understood by a person of ordinary intelligence. In order to qualify under this section an agency shall satisfy all of the following requirements:

(a) Contact prospective employees not less than once every three months to ascertain whether they are presently seeking employment indicated in the agency's records. If the prospective employee has obtained employment or indicates he is no longer interested in employment, data with respect to such person may be removed from the computer system. If such person indicates he is seeking a position registered with the agency, data as to such person shall remain in the computer system for not less than one year from the date the fee was paid.

(b) The agency shall, not less than once per week, process all data through the computer system to obtain matches of prospective employees and prospective employers and notify the prospective employer of the name, qualifications and means of contacting such persons matching with such prospective employer, not more than 48 hours after such process.

(c) Comply with all rules and regulations adopted by the bureau.

The bureau shall adopt and enforce such rules and regulations as it determines are reasonably necessary to carry out the purposes of this section and to protect and safeguard persons seeking employment from fraud.

(2) Notwithstanding the provisions of Sections 9975, 9977, and 9984, relating to fees, any employment agency which as its sole means of procuring or attempting to procure employment or engagements for others, places the qualifications of applicants before prospective employers in areas exclusively outside the United States shall not be required to include the word "agency" in its title, or in any other identifying materials used in the conduct of its business.

CHAPTER 914

An act to amend Sections 65250, 65551, 66451.2 and 66483.1 of, to add Section 65909.5 to, and to add Chapter 13 (commencing with Section 54990) of Part 1 to Division 2 of Title 5 of the Government Code, and to amend Sections 17951, 19132.3, and 19852 of the Health and Safety Code, relating to fees.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. The Legislature finds and declares that as a matter of statewide concern it is necessary for the state to limit the amount of various fees charged by local agencies, including, but not limited to, charter cities, in order to carry out the intent and purpose of Article XIII A of the California Constitution.

SEC. 2. Chapter 13 (commencing with Section 54990) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 13. LOCAL AGENCY SERVICE FEES AND CHARGES

54990. Notwithstanding any other provision of law, when a county or city, including, but not limited to, a charter city or city and county, district, or other public corporation or agency, charges fees for zoning variances, zoning changes, use permits, building inspections, building permits, the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7, or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 or under any other authority, such fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

54991. Notwithstanding any other provision of law, when a county or city, including, but not limited to, a charter city or city and county, district, or other public corporation or agency charges fees for water connections or sewer connections, such fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, unless a question regarding the amount of the fee charged in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue. "Sewer connection" means the connection of a building to a public sewer system. "Water connection" means the connection of a building to a public water system, as defined in subdivision (e) of Section 4010.1 of the Health and Safety Code.

54992. (a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency, including a charter city, shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for such mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for such mailed notices shall be filed on or before April 1st of each year. The legislative body may establish a reasonable annual charge for sending such notices based on the estimated cost of providing such a service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including

general fund revenues. Unless there has been voter approval, as prescribed by Section 54990 or 54991, no local agency, including a charter city, shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency, including a charter city, to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

54993. This chapter shall apply only to fees and charges as described in Sections 54990, 54991, 65250, 65551, 65909.5 and 66451.2 of this code, and in Sections 17951, 19132.3 and 19852 of the Health and Safety Code.

SEC. 3. Section 65250 of the Government Code is amended to read:

65250. The county or city legislative body shall provide the funds, equipment and accommodations necessary for the work of the planning agency of the county or city. If a county or city legislative body, including that of a charter city, in order to provide funds necessary for the work of the planning agency, establishes any fees to be charged pursuant to any provisions of this chapter, the fees shall not exceed the reasonable cost of providing the service for which the fee is charged. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

SEC. 4. Section 65551 of the Government Code is amended to read:

65551. The legislative body may create administrative agencies, boards of review, appeal, and adjustment, and provide for other officials, and for funds for the compensation of such officers, employees, and agencies and for the support of their work. If a county or city legislative body, including that of a charter city, in order to provide funds necessary for the work of such officers, employees, and agencies, establishes any fees to be charged pursuant to any of the provisions of this chapter, the fees shall not exceed the reasonable cost of providing the service for which the fee is charged. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

SEC. 5. Section 65909.5 is added to the Government Code, to read:

65909.5 The legislative body of any county or city, including a charter city, may establish reasonable fees for the processing of use permits, zone variances, or zone changes pursuant to the procedures required or authorized by this chapter or local ordinance, but the

fees shall not exceed the amount reasonably required to administer the processing of such permits or zone variances. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

SEC. 6. Section 66451.2 of the Government Code is amended to read:

66451.2. The local agency may establish reasonable fees for the processing of tentative, final and parcel maps and for other procedures required or authorized by this division or local ordinance, but the fees shall not exceed the amount reasonably required by such agency to administer the provisions of this division. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

SEC. 7. Section 66483.1 of the Government Code is amended to read:

66483.1. After completion of the facilities and the payment of all claims from any "planned local drainage facilities fund" or any "planned local sanitary sewer fund," the legislative body of a county or city shall determine by resolution the amount of the surplus, if any, remaining in any of those funds. Any surplus shall be used, in those amounts as the legislative body may determine, for one or more of the following purposes:

(a) For transfer to the general fund of the county or city, provided that the amount of the transfer shall not exceed 5 percent of the total amount expended from the particular fund, and provided that the funds transferred are used to support the operation and maintenance of those facilities for which the fees were collected;

(b) For the construction of additional or modified facilities within the particular drainage or sanitary sewer area; or

(c) As a refund in the manner provided in Section 66483.2.

SEC. 8. Section 17951 of the Health and Safety Code is amended to read:

17951. (a) The governing body of any county or city, including a charter city, may prescribe fees for permits, certificates, or other forms or documents required or authorized by this part or rules and regulations promulgated pursuant thereto.

(b) The governing body of any county or city, including a charter city, or fire protection district, may prescribe fees to defray the costs of enforcement required by this part to be carried out by local enforcement agencies.

(c) The amount of the fees prescribed pursuant to subdivisions (a) and (b) of this section shall not exceed the amount reasonably required to administer or process such permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5 of the Government Code.

(d) The provisions of this part are not intended to prevent the use

of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by the State Building Standards Code or the provisions of this part, provided any such alternate has been approved.

The building department of any city or county may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the State Building Standards Code or the provisions of this part in performance, safety, and for the protection of life and health.

The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, building standards published in the State Building Standards Code, or the other rules and regulations promulgated pursuant to the provisions of this part and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved testing agency.

SEC. 9. Section 19132.3 of the Health and Safety Code is amended to read:

19132.3. The governing body of any county or city, including a charter city, may adopt an ordinance prescribing fees for filing applications pursuant to this chapter, but the fees shall not exceed the amount reasonably required by the local enforcement agency to issue permits pursuant to this chapter, and shall not be levied for general revenue purposes. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5 of the Government Code. Where the Department of Housing and Community Development is the enforcement agency, the Commission of Housing and Community Development may establish a schedule of fees to pay the cost of administration and enforcement of this chapter. All rules and regulations promulgated by the commission under the authority of this part shall be promulgated pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 10. Section 19852 of the Health and Safety Code is amended to read:

19852. The governing body of a county or city, including a charter city, may prescribe such fees as will pay the expenses incurred by the building department of such city or county in maintaining the official copy of the plans of buildings for which it has issued a building permit, but the fees shall not exceed the amount reasonably required by the building department in maintaining the official copy of the plans of buildings for which it has issued a building permit. The fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5

of the Government Code.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 915

An act to add Chapter 9 (commencing with Section 71000) to Division 22 of the Food and Agricultural Code, relating to agricultural produce.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Chapter 9 (commencing with Section 71000) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 9. CLING PEACHES

71000. The director may enter into an agreement with one or more organizations representing growers and manufacturers of cling peaches whereby research will be conducted by public or private agencies to determine methods of increasing the natural fructose content in cling peaches.

The agreement shall specify that the state will provide 50 percent of the funds necessary for the research and the other parties to the agreement will provide the remaining 50 percent.

71001. State funds shall be available for expenditure for the purposes of this chapter upon appropriation therefor by the Budget Act or other statute.

CHAPTER 916

An act to amend Sections 7045 and 7151 of, and to add Section 7162 to, the Business and Professions Code, relating to home improvement.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 7045 of the Business and Professions Code is amended to read:

7045. (a) Except as provided in subdivision (b) this chapter does not apply to the sale or installation of any finished products, materials or articles of merchandise, which do not become a fixed part of the structure, nor shall it apply to a materialman or manufacturer furnishing finished products, materials, or articles of merchandise who does not install or contract for the installation of such items. The term "finished products" shall not include installed carpets.

(b) This chapter shall apply to:

(1) The construction, installation, alteration, repair, or preparation for moving of a mobilehome when such work is performed upon a site for the purpose of occupancy as a dwelling.

(2) The construction, installation, erection, repair, or preparation for moving of mobilehome accessory buildings or structures when such work is performed upon a site for the purpose of occupancy as a dwelling.

(3) The installation of home improvement goods, as defined in Section 7151.

SEC. 2. Section 7151 of the Business and Professions Code is amended to read:

7151. "Home improvement" means the repairing, remodeling, altering, converting, or modernizing of, or adding to, residential property and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools not subject to the provisions of Section 7167, terraces, patios, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house. "Home improvement" shall also mean the installation of home improvement goods or the furnishing of home improvement services.

For purposes of this chapter, "home improvement goods or services" means goods and services, as defined in Section 1689.5 of the Civil Code, which are bought in connection with the improvement of real property. Such home improvement goods and services include, but are not limited to, burglar alarms, carpeting, texture coating, fencing, air conditioning or heating equipment, and termite extermination. Home improvement goods include goods which are to be so affixed to real property as to become a part of real property whether or not severable therefrom.

SEC. 3. Section 7162 is added to the Business and Professions Code, to read:

7162. (a) Notwithstanding any other provision of law, any representation by a person licensed pursuant to this chapter with respect to a trademark or brand name, quality, or size of any goods or materials, in reference to bathroom fixtures, a sink, stove, refrigerator, lighting, carpeting and other floor surfaces, burglar and

smoke alarms, paints, textured coatings, siding and other wall surfaces, insulation, roofing, air conditioning and heating systems, and appliances, to be provided by the person pursuant to a home improvement contract, as defined in Section 7151.2, shall set forth, in writing, in the contract or specifications and shall include a description of the goods or materials, including any brand name, model number, or similar designation.

(b) Failure to install the specific goods or materials as represented as required by this section constitutes a cause for disciplinary action under this chapter.

CHAPTER 917

An act to amend Section 2700 of, and to add and repeal Section 6257 to, the Penal Code, relating to employment of prisoners.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 2700 of the Penal Code is amended to read:

2700. The Department of Corrections shall require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections.

Each prisoner, who is engaged in productive work in any state prison or institution under the jurisdiction of the Department of Corrections as a part of the prison work program, may receive for his work such compensation as the Director of Corrections with the approval of the Department of Finance shall determine, to be paid out of any funds appropriated therefor. Such compensation, if any, shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance, but in no event shall such compensation exceed one-half the minimum wage provided by Section 1182 of the Labor Code, except as further provided by Section 6257 of this code. Said compensation shall be credited to the account of the prisoner.

Such compensation shall be paid from the Correctional Industries Revolving Fund. Whenever by any statute a price is required to be fixed for any article, material, supply or services to be produced, manufactured, supplied or performed in connection with the work program of the Department of Corrections, the compensation paid to prisoners shall be included as an item of cost in fixing the final statutory price.

Prisoners not engaged on work programs under the jurisdiction of the Correctional Industries Commission and financed out of the

Correctional Industries Revolving Fund, but who are engaged in productive labor outside of such programs may be compensated in like manner. The compensation of such prisoners shall be paid either out of funds appropriated by the Legislature for that purpose or out of such other funds available to the Department of Corrections for expenditure, as the Director of Finance may direct.

When any prisoner escapes, the director shall determine what portion of his earnings shall be forfeited and such forfeiture shall be deposited in the State Treasury in a fund known as the Inmate Welfare Fund of the Department of Corrections.

SEC. 2. Section 6257 is added to the Penal Code, to read:

6257. The Director of Corrections is authorized to conduct in at least one but not more than three community correctional centers pilot demonstration industrial enterprises to provide appropriate inmate prerelease work training. Inmates assigned to such industrial enterprises may be paid wages prevailing in comparable industries in this state from the Correctional Industries Revolving Fund. The Correctional Industries Commission shall determine the rate at which participating inmates shall contribute from their wages, after taxes, to each of the following: (a) room and board; (b) the California Victim Indemnity Fund; (c) family support; (d) a personal release savings account; and (e) ongoing personal expenses. Any such industrial enterprise is subject to the provisions of Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3.

The Director shall report to the Legislature as to the effect of the enterprises not later than January 15, 1985.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

CHAPTER 918

An act to amend Section 1332 of the Penal Code, relating to witnesses.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 1332 of the Penal Code is amended to read:

1332. (a) Notwithstanding the provisions of Sections 878 to 883, inclusive, of the Penal Code, when the court is satisfied, by proof on oath, that there is good cause to believe that any material witness for the prosecution or defense, whether the witness is an adult or a minor, will not appear and testify unless security is required, at any proceeding in connection with any criminal prosecution or in connection with a wardship petition pursuant to Section 602 of the

Welfare and Institutions Code, the court may order the witness to enter into a written undertaking to the effect that he or she will appear and testify at the time and place ordered by the court or that he or she will forfeit an amount the court deems proper. Section 1269d is applicable to undertakings entered into pursuant to this section.

(b) If the witness required to enter into an undertaking to appear and testify, either with or without sureties, refuses compliance with the order for that purpose, the court may commit the witness, if an adult, to the custody of the sheriff, and if a minor, to the custody of the probation officer or other appropriate agency, until the witness complies or is legally discharged.

(c) When a person is committed pursuant to this section, he or she is entitled to an automatic review of the order requiring a written undertaking and the order committing the person, by a judge or magistrate having jurisdiction over the offense other than the one who issued the order. This review shall be held not later than two days from the time of the original order of commitment.

(d) If it is determined that the witness must remain in custody, the witness is entitled to a review of that order after 10 days.

(e) When a witness has entered into an undertaking to appear, upon his failure to do so the undertaking is forfeited in the same manner as undertakings of bail or pursuant to the provisions of Section 1269d.

CHAPTER 919

An act to amend Section 14669 of the Government Code, and to amend Section 28.20 of Chapter 99 of the Statutes of 1981, relating to state property.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 14669 of the Government Code is amended to read:

14669. (a) The director may hire, lease, lease-purchase, or lease with the option to purchase any real or personal property for the use of any state agency, including the Department of General Services, if he deems the hiring or leasing is in the best interests of the state.

(b) The director shall solicit written bids for any lease-purchase or lease with option to purchase for real property in a newspaper of general circulation in the county in which the project is located. All bids received shall be publicly opened and the contract awarded to the lowest responsible bidder. If the director deems the acceptance of the lowest responsible bid is not in the best interest of the state,

he may reject all bids.

(c) The director shall not enter into a lease-purchase agreement or a lease with the option to purchase agreement with another entity, public or private, which involves building space, unless the agreement has been reviewed by the Legislative Analyst and notification has been given to the Joint Legislative Budget Committee.

SEC. 2. Section 28.20 of Chapter 99 of the Statutes of 1981 is amended to read:

28.20. The Director of General Services may not execute a lease agreement between the state and another entity, public or private, in which the state is lessee when the agreement is to be for the lease of a building or building space or both which will be for the occupancy of any agency or agencies of the state with a firm lease period of five years or longer and an annual rental in excess of ten thousand dollars ($10,000), unless not less than 30 days prior to its execution he notifies the chairman of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee in writing of his intention to execute such an agreement, or not sooner than such lesser time as the chairperson of said committee, or his or her designee, may in each instance determine, provided that no funds appropriated in this act may be encumbered or expended for any lease entered into on or after July 1, 1979, for office space in the County of Sacramento unless all solicitations for leases for office space in the County of Sacramento under these conditions shall contain the statement, "The state is anticipating capital construction in the City of Sacramento and intends to eventually reduce the use of space on a leased basis."

The Director of General Services shall not enter into a lease-purchase agreement or a lease with the option to purchase agreement with another entity, public or private, which involves building space, unless the agreement has been reviewed by the Legislative Analyst and notification has been given to the Joint Legislative Budget Committee.

The Director of General Services may enter into a lease with an option to purchase approximately 50,000 square feet of office space to be constructed in conjunction with the construction of a city fire station on the northwest corner of 13th and I Streets in Sacramento.

CHAPTER 920

An act to amend Sections 270.03, 270.05, 270.07, 270.13, 270.21, 270.36, 270.37, 270.38, 481, 483.9, 485.4, 485.7, 485.9, and 486.1 of, to add Sections 270.43 and 491.3 to, and to repeal Sections 483.2 and 485.5 of, the Military and Veterans Code, relating to the California National Guard, and making an appropriation therefor.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 270.03 of the Military and Veterans Code is amended to read:

270.03. (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode. A condominium may include in addition a separate interest in other portions of such real property. A condominium also includes a half-duplex and a patio home when the structure is situated on its own property line.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of

the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions; provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Member" means an individual on active National Guard status and assigned to a federally recognized unit of the California National Guard.

(m) "Indian member" means a member as defined in subdivision (*l*) who is in addition a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(n) "Trust land," with respect to an Indian member, includes allotment trust land and tribal trust land.

(o) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(p) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(q) "Tribe" means any Indian tribe. band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

SEC. 2. Section 270.05 of the Military and Veterans Code is amended to read:

270.05. (a) No benefits shall be awarded pursuant to this article nor application therefor accepted until on and after January 1, 1980. Persons becoming members on and after January 1, 1979, shall, to be eligible for benefits pursuant to this article, be enlisted or commissioned for a period of not less than six years and shall have not less than one year of satisfactory service at the time of application for benefits.

(b) Members as of January 1, 1979, shall, to be eligible for benefits pursuant to this article, have not less than one year of satisfactory service at the time of application and shall extend their commitment for the minimum amount of time prescribed by federal law or regulation.

(c) No member shall be eligible for benefits pursuant to this article who is presently receiving benefits pursuant to the Veterans' Farm and Home Purchase Act of 1943, Article 3 (commencing with Section 985) of Chapter 6 of Division 4, or the Veterans' Farm and Home Purchase Act of 1974, Article 3.1 (commencing with Section

987.50) of Chapter 6 of Division 4.

SEC. 3. Section 270.07 of the Military and Veterans Code is amended to read:

270.07. All applications for the benefits contained in this article shall be filed with the department at least one year prior to the date of the applicant's discharge from the National Guard, except applications filed by either:

(a) Members who were wounded or are disabled as a result of National Guard service; or

(b) Members who were previously declared prisoners of war.

SEC. 4. Section 270.13 of the Military and Veterans Code is amended to read:

270.13. Notwithstanding other provisions of this article relating to the occupancy, leasing, letting, or subletting of a farm or home acquired pursuant to this article, in the case of any member who after consummating a purchase of a farm or home under this article and occupying such farm or home enters the active military, naval, or air service of the United States, and is required to move pursuant to orders to a duty station beyond a reasonable commuting distance from the farm or home, as determined by the department, the department may waive the occupancy requirement for the period of such active service and for a reasonable period subsequent to the termination of such active service and consent to the leasing, letting, or subletting of the farm or home during such period or periods.

SEC. 5. Section 270.21 of the Military and Veterans Code is amended to read:

270.21. The purchaser shall make an initial payment of at least 5 percent of the selling price of the property. Purchasers of homes where the purchase price is equal to or less than fifty-five thousand dollars ($55,000) shall make an initial payment of at least 3 percent of the selling price of the property. The department may waive the initial payment in any case where the value of the property as determined by the department appraisal shall equal the amount to be paid by the department plus at least 5 percent where the purchase price is greater than fifty-five thousand dollars ($55,000). In the case of homes where the purchase price is equal to or less than fifty-five thousand dollars ($55,000), the department may waive the initial payment where the value of the property as determined by the department appraisal equals the amount to be paid by the department plus at least 3 percent. The balance of the purchase price may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes, but not exceeding 25 years for mobilehomes, together with interest thereon at the rate as determined by the department pursuant to Section 270.37 for such amortization purposes. The purchaser on any installment date may pay any or all installments still remaining unpaid subject to the imposition of a prepayment charge which the department finds to be reasonable and necessary for the administration of this article. In any individual case the department may for good cause postpone from

time to time upon terms as the department deems proper, the payment of the whole or any part of any installment of the purchase price or interest thereon. Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and such amount as may be required by any covenant or provision contained in any resolution of issuance.

SEC. 6. Section 270.36 of the Military and Veterans Code is amended to read:

270.36. (a) Any member for whom a farm or home is purchased under this article may be granted a subsequent opportunity to purchase another farm or home if the farm or home purchased under this article is sold prior to payment in full of the contract obligation. The amount of any new loan shall not exceed the balance owing on the original purchase contract.

(b) The provisions in subdivision (a) permitting a new loan shall apply only if the application for a subsequent loan is made within two years from the date of sale.

(c) The department may impose a reasonable fee for processing a new loan pursuant to this section.

SEC. 7. Section 270.37 of the Military and Veterans Code is amended to read:

270.37. (a) The department shall establish the actual interest rate to be paid. To this end the department, by a majority vote of California National Guard Finance Committee members, is empowered to establish the rate of interest payable upon the amount remaining unpaid under a member's purchase contract. All purchase contracts acquired with the proceeds of or otherwise allocable to a particular series of revenue bonds pursuant to the resolution of issuance of such bonds shall bear a uniform rate of interest. Unless otherwise provided in any resolution of issuance, all purchase contracts shall bear a uniform rate of interest without regard to the series of revenue bonds to which particular purchase contracts may be allocable. The California National Guard Finance Committee shall make a finding as to the rate of interest to be charged, determined by the actual cost of revenue bond sales, plus a certain percent for administrative costs to be determined at least annually by the committee, taking into consideration the current value of money and the solvency of the California National Guard Members' Farm and Home Building Fund of 1978, and the interest paid on participation contracts to which the interest of the department is subject. Subject to agreements contained in any resolution of issuance, the California National Guard Finance Committee may raise or lower the effective rate of interest payable under such contracts for any given period as many times and as frequently as it deems to be for the best interest of the department, as well as the contract holders, if in so doing its action is made applicable alike to any and all contracts allocable to a particular series of bonds, and 90 days' advance notice be given of the time when the new rate of

interest is to become effective.

(b) The total amount of any installment payment shall be raised or lowered to reflect a change in the effective rate of interest. The actual interest rate to be paid on the amount remaining unpaid under any member's purchase contract shall be a rate of interest which, when combined with the interest paid on the unpaid balance of a participation contract to which the department's interest is subject equals the effective rate of interest.

SEC. 8. Section 270.38 of the Military and Veterans Code is amended to read:

270.38. In the event the department enters into a master agreement with one or more insurance companies to provide life or disability insurance coverage for the purchasers of farms and homes from the department, the master agreement shall be a form of group life or group disability insurance for purposes of the Insurance Code and shall provide both that the group life insurance coverage offered under the master agreement will be offered by the insurance company or companies to purchasers with a military duty-related disability and nondisabled purchasers on an equal basis and that no purchaser shall be denied coverage under the group life insurance policy because that purchaser has a military duty-related disability at the time of application.

SEC. 9. Section 270.43 is added to the Military and Veterans Code, to read:

270.43. Notwithstanding other provisions of this article relating to maximum sums to be expended by the department and maximum purchase price, the department may acquire or construct a home equipped with solar energy heating devices at a purchase price not in excess of five thousand dollars ($5,000) over the maximum amounts specified in Sections 270.10, 270.11, 270.15, and 270.155.

SEC. 10. Section 481 of the Military and Veterans Code is amended to read:

481. Revenue bonds may be issued by the department at such times and in such amounts as do not exceed seventy-five million dollars ($75,000,000) for home loans, fifteen million dollars ($15,000,000) for farm loans, and ten million dollars ($10,000,000) for mobilehome loans as the department, with the approval of the California National Guard Finance Committee, may determine.

SEC. 11. Section 483.2 of the Military and Veterans Code is repealed.

SEC. 12. Section 483.9 of the Military and Veterans Code is amended to read:

483.9. A resolution of issuance may provide that the revenue bonds issued thereunder and the interest thereon shall be secured by all or part of the revenues or the proceeds of sale of the revenue bonds, or both, and may establish a lien upon the revenues or proceeds as the department, with the approval of the California National Guard Finance Committee, shall determine.

SEC. 13. Section 485.4 of the Military and Veterans Code is

amended to read:

485.4. The department shall at all times so long as any of the revenue bonds are outstanding establish. fix, and collect payments on all purchase contracts to produce an amount which, together with income derived from investments, will yield revenues which will, in the aggregate, be sufficient with respect to the then immediately ensuing fiscal year to pay and provide for all of the following:

(a) Interest to become due and payable in such fiscal year on all revenue bonds.

(b) The principal amount of all serial revenue bonds maturing by their terms during such fiscal year.

(c) The aggregate minimum sinking fund payments, if any, required to be made for such fiscal year on account of revenue bonds then outstanding.

(d) Such sums as may be required as reserve fund or funds payments due in such fiscal year.

(e) The estimated expenses of maintenance, operation and administration of the farm and home purchase division within the department as provided in the budget of the department for such fiscal year.

(f) Such additional aggregate sum as may be provided in any resolution of issuance, but not in excess of 1 ½ times the interest payments for such fiscal year on all the revenue bonds then outstanding, but, subject to any applicable federal tax regulations, not less than 10 percent of the sum represented by the total of amounts designated by subdivisions (a), (b), and (c) of this section.

SEC. 14. Section 485.5 of the Military and Veterans Code is repealed.

SEC. 15. Section 485.7 of the Military and Veterans Code is amended to read:

485.7. All revenues to be received by the department from purchase contracts shall be directly, concurrently, and exclusively pledged to the payment of revenue bonds.

SEC. 16. Section 485.9 of the Military and Veterans Code is amended to read:

485.9. Whenever the National Guard Members' Finance Committee finds that the interest rate then fixed and charged by the department on any purchase contract is not adequate to meet the covenants or requirements of any resolution of issuance, the National Guard Members' Finance Committee shall specify the amount of the increased rate of interest to be charged on all purchase contracts acquired with the proceeds of or otherwise allocable to the revenue bonds issued pursuant to the resolution of issuance on all purchase contracts if they bear a uniform rate of interest. The department shall increase the interest rate on those purchase contracts which are specified by the National Guard Members' Finance Committee. Such increased interest rate will take effect on the first day of the second calendar month next succeeding the date of such action and shall remain in effect until such time as the National Guard

Members' Finance Committee consents to the reduction thereof. The National Guard Members' Finance Committee shall not consent to any reduction in the interest rate then fixed unless:

(a) The revenues in the preceding fiscal year produced by the interest rate or rates then in effect are in excess of all requirements of all resolutions of issuance under which revenue bonds are then outstanding, and

(b) The interest rate or rates so reduced will produce revenues for each subsequent fiscal year while any revenue bonds are outstanding in the aggregate amount required by all resolutions of issuance under which such revenue bonds are outstanding.

SEC. 17. Section 486.1 of the Military and Veterans Code is amended to read:

486.1. Revenue bonds authorized under any resolution of issuance approved by the National Guard Members' Finance Committee shall be sold by the State Treasurer upon the request of the department at public or private sale and at such times and in such amounts as the department deems necessary to provide sufficient funds for the purposes for which the revenue bonds are then authorized, provided that the revenue bonds shall not be sold at less than 95 percent of their par value and accrued interest thereon to date of delivery. No revenue bonds authorized under any resolution of issuance may be sold at private sale unless such sale and the terms thereof have been approved in writing by the National Guard Members' Finance Committee. Successive issues of the revenue bonds within the limits of the authorization for the issuance of revenue bonds, in the event any such limitations are included in the proceedings for the issuance of such revenue bonds, shall be equally and regularly secured without preference, priority, or distinction as to security or otherwise by reason of time of issue, or sale, and all purchase contracts shall be deemed to constitute a pool for all bonds of any issue or series, except as revenue bonds of various series may differ with respect to dates, numbers, interest rates, maturity, redemption provisions, sinking fund provisions, or otherwise as expressly authorized or provided in any resolution of issuance.

SEC. 18. Section 491.3 is added to the Military and Veterans Code, to read:

491.3. The department may impose such limitations, restrictions, and conditions upon or in connection with the benefits conferred pursuant to the California National Guard Members' Farm and Home Purchase Act of 1978 (Article 4 (commencing with Section 270) of Chapter 3 of Part 1 of Division 2), purchase contracts entered into pursuant to that act and this chapter, and revenue bonds issued pursuant to this chapter as may be necessary in the judgment of the department in order to better assure or preserve the exemption of interest on the bonds from federal income taxation, notwithstanding anything to the contrary contained in that act or this chapter.

SEC. 19. The sum of two million five hundred thousand dollars ($2,500,000) appropriated in Item 894-490 of the Budget Act of 1981,

Chapter 99, Statutes of 1981, is hereby reappropriated without regard to fiscal years for purposes of Chapter 583 of the Statutes of 1979.

CHAPTER 921

An act to add and repeal Article 7.75 (commencing with Section 417.10) of Chapter 2 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Article 7.75 (commencing with Section 417.10) is added to Chapter 2 of Division 1 of the Health and Safety Code, to read:

Article 7.75. Hemodialyzers

417.10. It is the intent of the Legislature that a hemodialysis patient be fully informed about his or her therapy, including the possibility of reuse of single use hemodialyzers, and that the patient have full freedom of choice regarding the reuse of such dialyzers.

The State Department of Health Services shall adopt by July 1, 1982, regulations establishing such specific protocol for the reprocessing and reuse of disposable hemodialysis filters as it determines is reasonably necessary for the protection of the health and safety of hemodialysis patients.

Every licensed hemodialysis clinic or hospital providing hemodialysis services, as defined pursuant to Sections 1204 or 1250, shall submit to the state department for approval its protocol for dialyzer reprocessing and reuse within three months after the effective date of the state department's protocol. The state department shall approve each protocol which the state department determines provides protection to hemodialysis patients which is equal to or greater than the protection provided by the state department's protocol. If a dialysis facility does not submit a protocol to the state department within three months after the state department has established the protocol, such dialysis facility shall automatically be subject to the state department's protocol.

The department shall consult with the End Stage Network Coordinating Council on the development of the protocols.

For the purposes of this article, "dialysis facility" means a licensed hemodialysis clinic or hospital which has a special permit to provide hemodialysis services or where hemodialysis is provided and which is licensed pursuant to Sections 1204 or 1250.

417.11. The protocol shall include, but not be limited to, the

following:

(a) A patient when receiving dialysis treatment at a dialysis facility for the first time shall execute a written consent for the reuse of disposable hemodialysis filters. The consent form shall be approved by the state department and shall inform the patient of the risks and the possible benefits of reuse. The signature of the patient shall appear at the bottom of the form containing such information. The form shall be inserted in the patient's medical file at the dialysis facility.

(b) Prior to a dialysis treatment, a patient who chooses to reuse the filter shall be informed of how many times the filter has previously been used.

417.12. The protocol shall contain specific requirements and standards for the reprocessing of such disposable dialyzers which shall include, but not be limited to, the following:

(a) Require that a dialysis facility utilize department approved methods in the rinsing, cleansing, sterilizing, storing, and labeling of such dialyzers.

(b) Require that the dialysis facility utilize the most effective methods, as determined by the state department, for detecting the presence of cleansing agents, on the dialyzer filter.

(c) Prohibit the reuse of a dialyzer when tests indicate the presence of formaldehyde or other impurities following cleansing.

(d) Establish specific standards for each type of single-use dialyzer and prohibit reuse upon a specific reduction of total capacity for each type of dialyzer.

417.13. The protocol shall be based upon the most recent scientific and medical information relative to reuse available to the state department. The department shall update its protocol, when appropriate, upon receipt of new scientific and medical information relative to reuse. At such time, the state department shall notify dialysis facilities of the change in protocol and shall require the submission by such facilities of a revised protocol within three months of the change. If a dialysis facility fails to comply with the request, such facility shall automatically be subject to the state department's revised protocol.

417.14 The state department shall include in its system of inspection and investigation of licensed facilities the investigation of complaints regarding the reuse of disposable dialyzers by dialysis facilities. Violation of the rules and regulations of the approved standard for reuse shall be grounds for revocation of the license of the facility pursuant to Article 5 (commencing with Section 1240) of Chapter 1 of Division 2 and Article 5 (commencing with Section 1294) of Chapter 2 of Division 2.

417.15. This article shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the

California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 922

An act to add Section 5101.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 5101.5 is added to the Vehicle Code, to read:

5101.5. (a) Any person otherwise eligible under this article who, while serving as a member of the United States Armed Forces, as a member of the Philippine Commonwealth Armed Forces, as a part of a United States Expeditionary Force, or as a United States civilian, was held as a prisoner of war by forces hostile to the United States during any armed conflict and who is currently a resident of California, may apply for special license plates for the vehicle under this article. The special plates assigned to the vehicle shall run in a separate numerical series and shall have inscribed on the plate the letters "POW" and four numbers that shall be two and three-quarters inches in height. The department shall, pursuant to this article, reserve and issue the license plates provided for by this section only to persons meeting the additional requirements of subdivision (b). Any person otherwise issued license plates within this series pursuant to this article prior to January 1, 1982, may retain them.

(b) The applicant shall by satisfactory proof show that he or she was held as a prisoner of war by forces hostile to the United States during a period of armed conflict and is a current resident of California.

(c) In addition to the regular fees for an original registration or renewal of registration, the additional fees specified in Sections 5106 and 5108, as applicable, shall be paid.

CHAPTER 923

An act to amend Sections 1207, 1264, and 1300 of the Business and Professions Code, relating to clinical laboratory technology.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 1207 of the Business and Professions Code is amended to read:

1207. As used in this chapter, "clinical chemist," or "clinical microbiologist," or "clinical laboratory toxicologist," as defined by the department, means any person licensed to engage in the work and supervision of clinical laboratory activities limited to his area of specialization or to engage in the work and direction of a laboratory providing service only within the area of specialization covered by his license.

SEC. 2. Section 1264 of the Business and Professions Code is amended to read:

1264. The department shall issue a clinical chemist, clinical microbiologist, or clinical laboratory toxicologist license to each person who has applied for the license on forms provided by the department, who is a lawful holder of a master of science or doctoral degree in the specialty for which the applicant is seeking a license or who has met such additional reasonable qualifications of training, education, and experience as the department may establish by regulations.

Such graduate education shall have included 30 semester hours of coursework in the applicant's specialty. Applicants possessing only a master of science degree shall have the equivalent of one year of full-time, directed study or training in procedures and principles involved in the development, modification or evaluation of laboratory methods, including training in complex methods applicable to diagnostic laboratory work. Each applicant must have had one year of training in his specialty in a clinical laboratory acceptable to the department and three years of experience in his specialty in a clinical laboratory, two years of which must have been at a supervisory level. The education shall have been obtained in one or more established and reputable institutions maintaining standards equivalent, as determined by the department, to those institutions accredited by an agency acceptable to the department. The department shall determine by examination that the applicant is properly qualified. Examinations, training, or experience requirements for specialty licenses shall cover only the specialty concerned.

The department may issue licenses without examination to applicants who have passed examinations of other states or national

accrediting boards whose requirements are equal to or greater than those required by this chapter and regulations established by the department. The evaluation of other state requirements or requirements of national accrediting boards shall be carried out by the department with the assistance of representatives from the licensed groups. This section shall not apply to persons who have passed an examination by another state or national accrediting board prior to the establishment of requirements that are equal to or exceed those of this chapter or regulations of the department.

SEC. 3. Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application and license fee under this chapter shall be as follows:

(a) The application fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, clinical microbiologist's, or clinical laboratory toxicologist's license is twenty-five dollars ($25).

(b) The annual renewal fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, clinical microbiologist's, or clinical laboratory toxicologist's license is twenty-five dollars ($25).

(c) The application fee for a clinical laboratory technologist's or limited technologist's license is fifteen dollars ($15).

(d) The annual renewal fee for a clinical laboratory technologist's or limited technologist's license is ten dollars ($10).

(e) The application fee for a clinical laboratory license is one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county or city and county, or an official thereof, no fee shall be required.

(f) The annual renewal fee for a clinical laboratory license is one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county, or city and county, or official thereof, no fee shall be required.

(g) The application fee for a trainee's license is five dollars ($5).

(h) The annual renewal fee for a trainee's license is three dollars ($3).

(i) The application fee for a duplicate license is two dollars ($2).

(j) The delinquency fee is ten dollars ($10).

CHAPTER 924

An act to amend Section 16500.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 16500.5 of the Vehicle Code is amended to read:

16500.5. (a) Except as specified in subdivision (b), the owner of the following commercial vehicles shall maintain ability to respond in damages in the amount required by the director:

(1) A vehicle designed to carry 16 or more passengers, including the driver.

(2) A vehicle having an unladen weight of over 7,000 pounds which is used in the transportation of property in the conduct of a business.

(b) Subdivision (a) does not apply to the following vehicles:

(1) A schoolbus.

(2) A motor vehicle used by a farmer exclusively in the transportation of his livestock, implements of husbandry, and agricultural commodities or in the transportation of supplies to his farm.

(3) A motor vehicle used by a resident farmer of this state to occasionally transport from the place of production to a warehouse, regular market, place of storage, or place of shipment the farm products of neighboring farmers in exchange for like services, farm products, or other compensation.

(4) A vehicle used in for-hire transportation which is subject to regulation by the Public Utilities Commission.

(5) A rented vehicle used for noncommercial purposes.

(c) The director shall establish the amounts which are determined adequate to cover damages resulting from the ownership or operation of a commercial vehicle or vehicles subject to this section arising by reason of personal injury to, or death of, any person or damage to property, or both. The director shall establish the amounts at levels equal to those prescribed by the Public Utilities Commission for owners and operators of for-hire vehicles subject to its jurisdiction and control.

(d) Ability to respond in damages may be maintained by any of the following:

(1) Being insured under one or more motor vehicle liability policies against such liability.

(2) Obtaining a bond of the same kind, and containing the same provisions, as those bonds specified in Section 16434.

(3) By depositing with the department five hundred thousand dollars ($500,000), which amount shall be deposited in a special deposit account with the Controller for the purpose of this section.

(4) Qualifying as a self-insurer under Section 16053.

(e) The department shall return the deposit made pursuant to paragraph (3) of subdivision (d) to the person entitled thereto when the owner is no longer required to maintain ability to respond in damages as required by this section or upon the owner's death.

(f) An insurer, agent, or broker who has been incorrectly

informed by an owner of a vehicle or his representative that the vehicle is 7,000 pounds or less unladen weight, or is incorrectly informed by the owner or his representative that the vehicle is exempt from the requirements of subdivisions (a) and (c) pursuant to the exemptions set forth in subdivision (b), may issue a policy of motor vehicle liability insurance in any amount less than that required by, the director but not less than the amounts required under Section 16451. The policy of motor vehicle liability insurance when issued shall not be deemed to provide liability coverage amounts greater than that specifically set forth in the policy notwithstanding that the vehicle weighs in excess of 7,000 pounds unladen weight or is subsequently used in a manner which would have required the vehicle to be insured in the amounts established by the director pursuant to subdivision (c).

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 925

An act to amend Sections 2486, 2487, 2488, and 2493 of, and to add Section 2484 to, the Business and Professions Code, relating to podiatry.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

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

SECTION 1. Section 2484 is added to the Business and Professions Code, to read:

2484. On and after January 1, 1983, in addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the committee that he or she has satisfactorily completed one year of approved postgraduate podiatric surgical training in a general acute care facility.

SEC. 2. Section 2486 of the Business and Professions Code is amended to read:

2486. Notwithstanding any other provision of law, the board may issue, upon the recommendation of the committee, a certificate to practice podiatric medicine on the basis of a diplomate certificate issued by the National Board of Podiatry Examiners of the United

States if the applicant meets the following requirements:

(a) The applicant takes and passes an oral examination administered by the committee in accordance with Sections 2147 and 2148.

(b) The applicant graduated from an approved school or college of podiatric medicine after June 30, 1958.

(c) The standards of the national board on the date the diplomate certificate was issued were in no degree or particular less than those required for a certificate to practice podiatric medicine under this chapter on the same date.

(d) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

SEC. 3. Section 2487 of the Business and Professions Code is amended to read:

2487. (a) The board shall, upon the recommendation of the committee, issue a certificate to practice podiatric medicine by reciprocity if the applicant meets the requirements of this chapter. The provisions of Article 7 (commencing with Section 2135) shall apply to applicants for a certificate to practice podiatric medicine by reciprocity, except where such provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants for a certificate to practice podiatric medicine by reciprocity, any references to the "Division of Licensing" or "division" shall be deemed to apply to the committee.

(b) No person who graduated from a school or college of podiatric medicine before July 1, 1958, shall be eligible for a reciprocity certificate.

(c) An applicant applying under this section shall take and pass an oral and practical examination to ascertain clinical competence.

SEC. 4. Section 2488 of the Business and Professions Code is amended to read:

2488. Notwithstanding any other provision of law, the board shall issue, upon the recommendation of the committee, a certificate to practice podiatric medicine by reciprocity to an applicant if the following requirements are met:

(a) The applicant is licensed as a podiatrist in any other state whose written licensing examination is recognized by the committee to be the equivalent in content to that administered in this state.

(b) The applicant has been issued after June 30, 1958, a diplomate certificate by the National Board of Podiatry Examiners of the United States or has passed, after June 30, 1958, a written examination which is recognized by the committee to be the equivalent in content to that administered in this state.

(c) The applicant has practiced as a licensed podiatrist for at least four years.

(d) The applicant takes and passes an oral and practical examination to ascertain clinical competence.

(e) The committee determines that no disciplinary action has

been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine which the committee determines constitutes evidence of a pattern of negligence or incompetence.

SEC. 5. Section 2493 of the Business and Professions Code is amended to read:

2493. (a) Applicants for a certificate to practice podiatric medicine shall pass an examination in the following subjects:

(1) Anatomy and histology.

(2) Dermatology.

(3) Orthopedics and surgery, roentgenologic technique, and radiation safety.

(4) Pathology and bacteriology.

(5) Physiology, chemistry, and public health.

(6) Podiatry and therapeutics.

(7) Medical ethics.

(b) Any applicant for a certificate to practice podiatric medicine who obtains a score of 75 percent or more in five subjects shall be reexamined in those subjects only in which he or she failed.

CHAPTER 926

An act to add Section 43.97 to the Civil Code, relating to negligence.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 43.97 is added to the Civil Code, to read:

43.97. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any medical professional society, its agents, employees, or members, for referring any member of the public to any professional member of such society, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no cost added to the initial referral fee as part of a public service referral system organized under the auspices of the medical professional society. "Medical professional society" includes a medical organization having as members at least 25 percent of the eligible licentiates in the area served by the particular society.

(b) This section shall not apply whenever the medical professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary

decision or pending action, which it knew about or reasonably should have known about, taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred.

CHAPTER 927

An act to add Section 4706 to the Civil Code, and to add Sections 11490, 11491, and 11492 to, the Welfare and Institutions Code, relating to child support and paternity.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981]

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

SECTION 1. Section 4706 is added to the Civil Code, to read:

4706. In any action for support brought under this chapter, or pursuant to Article 7 (commencing with Section 11475) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, the judge shall consider the medical insurance of the parties to the action.

SEC. 2. Section 11490 is added to the Welfare and Institutions Code, to read:

11490. In all actions under this article, in which a financial declaration is required, the declaration shall contain a statement of medical insurance coverage for all parties affected by the action.

SEC. 3. Section 11491 is added to the Welfare and Institutions Code, to read:

11491. Upon issuance of a court order for child support the judge shall inquire about medical insurance coverage of the parties to the action and require the responsible party to complete a state medical insurance form. The judge shall order insurance at zero cost to the responsible parent or at a reasonable annual cost as determined by the court so long as payments of the insurance premium shall not reduce the amount of child support.

SEC. 4. Section 11492 is added to the Welfare and Institutions Code, to read:

11492. In any action under this article in which child support is or may be at issue the summons and complaint or a notice of motion shall be served in conjunction with a medical insurance form and no responsive pleading may be filed without also filing a completed medical insurance form. This shall apply only to actions brought by the district attorney.

The district attorney shall forward all such notification of medical insurance coverage to the State Department of Health Services for

enforcement.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 928

An act to add Chapter 5.5 (commencing with Section 1364) to Title 10 of Part 2 of the Penal Code, and to repeal Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, relating to sex offenders.

[Approved by Governor September 27, 1981 Filed with Secretary of State September 28, 1981]

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

SECTION 1. Chapter 5.5 (commencing with Section 1364) is added to Title 10 of Part 2 of the Penal Code, to read:

CHAPTER 5.5. SEX OFFENDERS

1364. Notwithstanding any other provision of law, when any person is convicted of a sex offense against a person under the age of 14 years or of a sex offense accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person there shall be no hearing to determine whether the person is a mentally disordered sex offender.

The court after imposing sentence for such a conviction shall order the delivery of the convicted person to the Department of Corrections. The Department of Corrections shall inform such convicted persons of the state hospital program established pursuant to this section.

If the convicted person has no more than two prior felony convictions for a non-sex crime, consents to evaluation, and has a sentence of three or more years, the Department of Corrections at the beginning of the third year prior to release shall transfer the person to an appropriate state hospital for an evaluation of up to thirty (30) days duration. At any time during the thirty (30) day evaluation the director of the state hospital shall provide a diagnostic

report to the Director of Corrections with a recommendation for or against placement of the person in a treatment program.

The Director of Corrections shall, if he or she receives a recommendation for such treatment, and with the consent of the convicted person, transfer the person to an appropriate state hospital designated by the Director of Mental Health for treatment. In no event shall the person be placed on outpatient status pursuant to such treatment. In no event shall the person be released prior to his or her determinate sentence date, nor shall treatment pursuant to this section exceed the term of imprisonment imposed. The Director of Mental Health shall make a recommendation prior to the person's release date whether the person should receive outpatient treatment as a condition of parole. If outpatient treatment is provided in a county Short-Doyle Program, then treatment shall be funded as provided in Section 5710.1 of the Welfare and Institutions Code.

If the person refuses to cooperate in his or her treatment while in the state hospital, or is found unamenable to treatment, or if the person requests a return to the Department of Corrections, the Director of the state hospital shall cause the person to be returned to the Department of Corrections.

Physical transfer of the inmate from the Department of Corrections to the state hospital and return shall be the responsibility of the Department of Corrections.

If the recommendation is against placement of the person in a treatment program, the person shall be returned to the Department of Corrections for incarceration for the remainder of his or her term of imprisonment.

All days of confinement in a state hospital for testing and treatment shall be credited to the person's term of imprisonment and the provisions of Section 2931 shall apply.

1365. It is the intent of the Legislature that persons committing sex offenses specified in Section 1364 have the opportunity during their time of incarceration to participate voluntarily in a state hospital program. The program shall be established according to a valid experimental design in order that the most effective, newest, and promising methods of treatment of sex offenders may be rigorously tested. The program established pursuant to Section 1364 shall terminate January 1 1991.

SEC. 2. Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code is repealed.

SEC. 3. Nothing in this act shall be construed to affect any person under commitment under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code prior to the effective date of this act. It is the Legislature's intent that persons committed as mentally disordered sex offenders and persons whose terms of commitment are extended under the provisions of Section 6316 of the Welfare and Institutions Code shall remain under these provisions until the commitments are

terminated and the persons are returned to the court for resumption of the criminal proceedings.

The Legislature finds and declares that the purposes of the mentally disordered sex offender commitment have been to provide adequate treatment of these offenders, adequate controls over these persons by isolating them from a free society, and to protect the public from repeated commission of sex crimes. In making the repeal of the mentally disordered sex offender commitment procedures prospective only, the Legislature finds and declares that it is necessary to retain persons under this commitment who committed their crimes before the effective date of this enactment in order to have proper control over these persons and to protect society against repeated commission of sex crimes and that other enactments in the 1979–80 Regular Session of the Legislature and the 1981–82 Regular Session of the Legislature would yield prison terms which would provide this protection to society without the need to retain the mentally disordered sex offender commitment.

SEC. 4. In repealing the mentally disordered sex offender commitment, the Legislature recognizes and declares that the commission of sex offenses is not in itself the product of mental diseases. It is the intent of the Legislature that persons convicted of a sex offense after the effective date of this section, who are believed to have a serious, substantial, and treatable mental illness, shall be transferred to a state hospital for treatment under the provisions of Section 2684 of the Penal Code.

SEC. 5. The Secretary of the Health and Welfare Agency and the Secretary of the Youth and Adult Correctional Agency shall jointly establish a task force to include, at minimum, representatives of the State Department of Corrections, the State Department of Mental Health, and the Conference of Local Mental Health Directors.

By April 1, 1982, the task force shall submit a report to the Legislature as follows:

(1) The report shall contain an implementation plan for transfer of mentally ill prisoners in need of acute psychiatric care to state hospitals in accordance with Section 2684 of the Penal Code. The implementation plan shall include criteria for eligibility as mentally ill, procedures for identifying mentally ill prisoners, procedures for referring mentally ill prisoners, and criteria for termination of treatment in a state hospital.

(2) The report shall contain recommendations for future utilization of mental health and corrections facilities that may be affected by the termination of the mentally disordered sex offender program. The utilization plan shall include any projected changes in departmental jurisdiction, types of staffing, levels of staffing, and licensure.

It is the intent of the Legislature in establishing the task force to provide a program of appropriate mental health care to prisoners who are mentally ill and who could benefit from such treatment.

CHAPTER 929

An act to add Chapter 1 (commencing with Section 1500) to Part 6 of Division 2 of the Labor Code, relating to athletics.

[Approved by Governor September 28, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Chapter 1 (commencing with Section 1500) is added to Part 6 of Division 2 of the Labor Code, to read:

CHAPTER 1. ATHLETE AGENCIES

Article 1. Definitions

1500. The following definitions shall govern the construction of this chapter:

(a) "Person" means any individual, company, corporation, association, partnership, or their agents or employees.

(b) "Athlete agency" means any person who, as an independent contractor, directly or indirectly, recruits or solicits any person to enter into any agency contract or professional sport services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any person with a professional sport team.

"Athlete agency" does not include any employee of a professional sport team, and does not include any member of the State Bar of California when acting as legal counsel for any person.

(c) "Agency contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agency to negotiate or solicit on behalf of such person with one or more professional sport teams for the employment of such person by one or more professional sport teams.

(d) "Professional sport services contract" means any contract or agreement pursuant to which a person is employed or agrees to render services as a participant or player on a professional sport team.

Article 2. Registration

1510. No person shall engage in or carry on the occupation of an athlete agency without first registering with the Labor Commissioner.

1511. A written application for registration shall be made to the Labor Commissioner in the form prescribed by him or her and shall state all of the following:

(a) The name and address of the applicant.

(b) The street and number of the building or place where the business of the athlete agency is to be conducted.

(c) The business or occupation engaged in by the applicant for at least two years immediately preceding the date of application.

(d) If the applicant is other than a corporation, the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the operation of the athlete agency in question, together with the amount of their respective interests.

If the applicant is a corporation, the corporate name, the names, residential addresses, and telephone numbers of all officers of the corporation, the names of all persons exercising managing responsibility in the applicant or registrant's office, and the names and addresses of all persons having a financial interest of 10 percent or more in the business and the percentage of financial interest owned by such persons.

The application must be accompanied by affidavits of at least two reputable residents, who have known or been associated with the applicant for two years, of the city or county in which the business of the athlete agency is to be conducted that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.

1512. Upon receipt of an application for a registration, the Labor Commissioner may cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in such application as the place in which it is proposed to conduct the business of the athlete agency.

1513. The commissioner, upon proper notice and hearing, may refuse to grant a license. The proceedings shall be conducted in accordance with Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the power granted therein.

1514. No registration shall be granted to conduct the business of an athlete agency to a person whose registration has been revoked within three years from the date of application.

1515. The registration when first issued shall run to the next birthday of the applicant, and each license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership, such license shall be renewed within the 30 days preceding the birthday of the oldest partner. If the applicant is a corporation, such license shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond, and the payment of the annual license fee, but the Labor Commissioner may demand that a new application or new bond be submitted.

If the applicant or licensee desires, in addition, a branch office license, he shall file an application in accordance with the provisions of this section as heretofore set forth.

1516. All applications for renewal shall state the names and addresses of all persons, except bona fide employees on stated

salaries, financially interested either as partners, associates, or profit sharers, in the operation of the business of the athlete agency.

1517. (a) A filing fee shall be paid to the Labor Commissioner at the time the application for issuance of an athlete agency license is filed.

(b) In addition to the filing fee required for application for issuance of an athlete agency license, every athlete agency shall pay to the Labor Commissioner annually at the time a license is issued or renewed, a license fee and a fee for each branch office maintained by the athlete agency in this state.

(c) A filing fee shall also be paid to the Labor Commissioner at the time application for consent to the transfer or assignment of an athlete agency registration is made but no fee shall be required upon the assignment or transfer of a registration.

The location of an athlete agency shall not be changed without the written consent of the Labor Commission.

1518. The Labor Commissioner shall set the fees required by Section 1517 in the amount necessary to generate sufficient revenue to cover the costs of administration and enforcement of this chapter.

1519. An athlete agency shall also deposit with the Labor Commissioner, prior to the issuance of renewal of a registration, a surety bond in the penal sum of ten thousand dollars ($10,000).

1520. Such surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the registration will comply with this chapter and will pay all sums due any individual or group of individuals when such person or his representative or agent has received such sums, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit, or any unlawful acts or omissions of the registered athlete agency, or its agents or employees, while acting within the scope of their employment.

1521. If any registrant fails to file a new bond with the Labor Commissioner within 30 days after notice of cancellation by the surety of the bond required under Section 1519, the registration issued to the principal under the bond is suspended until such time as a new surety bond is filed. A person whose registration is suspended pursuant to this section shall not carry on the business of an athlete agency during the period of such suspension.

1522. All moneys collected for licenses and all fines collected for violations of the provisions of this chapter shall be paid into the State Treasury and credited to the General Fund.

1523. Each registration shall contain all of the following:

(a) The name of the registrant.

(b) A designation of the city, street, and number of the place in which the registrant is authorized to carry on the business of an athlete agency.

(c) The number and date of issuance of the registration.

1524. No registration shall protect any other than the person to whom it is issued nor any places other than those designated in the

registration. No registration shall be transferred or assigned to any person unless written consent is obtained from the Labor Commissioner.

1525. The Labor Commissioner may issue to a person eligible therefor a certificate of convenience to conduct the business of an athlete agency where the person registered to conduct the athlete agency business has died, or has been declared incompetent by the judgment of a court of competent jurisdiction, or has had a conservator appointed for his estate by a court of competent jurisdiction. Such a certificate of convenience may be denominated an estate certificate of convenience.

1526. To be eligible for a certificate of convenience, a person shall be any one of the following:

(a) The executor or administrator of the estate of a deceased person registered to conduct the business of an athlete agency.

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased registrant.

(c) The guardian of the estate of an incompetent person registered as an athlete agency, or the conservator appointed for the conservation of the estate of a person registered to conduct the business of an athlete agency.

Such estate certificate of convenience shall continue in force for a period of not to exceed 90 days, and shall be renewable for such period as the Labor Commissioner may deem appropriate, pending the disposal of the athlete agency registration or the procurement of a new registration under the provisions of this chapter.

1527. The Labor Commissioner may revoke or suspend any registration when any one of the following is shown:

(a) The registrant or his agent has violated or failed to comply with any of the provisions of this chapter.

(b) The registrant has ceased to be of good moral character.

(c) The conditions under which the registration was issued have changed or no longer exist.

1528. Before revoking or suspending any registration, the Labor Commissioner shall afford the holder of such registration an opportunity to be heard in person or by counsel. The proceedings shall be conducted in accordance with Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

Article 3. Operation and Management

1530. Every athlete agency shall submit to the Labor Commissioner a form or forms of contract to be utilized by such agency in entering into written contracts with persons for the employment of the services of the agency by such persons, and secure the approval of the Labor Commissioner thereof. Such

approval shall not be withheld as to any proposed form of contract unless such proposed form of contract is unfair, unjust, and oppressive to the person. Each such form of contract, except under the conditions specified in Section 1544, shall contain an agreement by the agency to refer any controversy between the person and the agency relating to the terms of the contract to the Labor Commissioner for adjustment. There shall be printed on the face of the contract in prominent type the following: "This athlete agency is registered with the Labor Commissioner of the State of California. Registration does not imply approval by the Labor Commissioner of the terms and conditions of this contract or the competence of the athlete agency."

1530.5. The contract shall contain in close proximity to the signature of the athlete a notice in at least 10-point type stating that the athlete may jeopardize his or her standing as an amateur athlete by entering into the contract.

1531. Every person engaged in the occupation of an athlete agency shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of such occupation. Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of filing thereof with the Labor Commissioner.

1532. Every athlete agency shall keep records approved by the Labor Commissioner, in which shall be entered all of the following:

(a) The name and address of each person employing the athlete agency.

(b) The amount of fee received from such person.

(c) Other information which the Labor Commissioner requires.

No agency, its agent or employees, shall make any false entry in any such records.

1533. All books, records, and other papers kept pursuant to this chapter by any athlete agency shall be open at all reasonable hours to the inspection of the Labor Commissioner and his agents. Every agency shall furnish to the Labor Commissioner upon request a true copy of such books, records, and papers or any portion thereof, and shall make such reports as the Labor Commissioner prescribes.

1534. The Labor Commissioner may, in accordance with the provisions of Chapter 3.5 (commencing at Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, and repeal such rules and regulations as are reasonably necessary for the purpose of enforcing and administering this chapter and as are not inconsistent with this chapter.

1535. No registrant shall sell, transfer, or give away any interest in or the right to participate in the profits of the agency without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisonment for not more than 60 days, or both.

1536. No athlete agency shall knowingly issue a contract containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

1537. No athlete agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of an agency by means of cards, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the registered name and address of the agency and the words "athlete agency." No athlete agency shall give any false information or make any false promises or representations concerning any employment to any person.

1538. No athlete agency shall knowingly secure employment for persons in any place where a strike, lockout, or other labor trouble exists, without notifying the person of such conditions.

1539. No athlete agency shall divide fees with an employer, an agent, or other employee of an employer.

1540. In the event that an athlete agency shall collect from a person a fee or expenses for obtaining employment, and the person shall fail to procure such employment, or the person shall fail to be paid for such employment, the agency shall, upon demand therefor, repay to the person the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the agency shall pay to the person an additional sum equal to the amount of the fee.

1541. All actions brought in any court against any registrant may be brought in the name of the person damaged upon the bond deposited with the state by the registrant, and may be transferred and assigned as other claims for damages. The amount of damages claimed by plaintiff, and not the penalty named in the bond, determines the jurisdiction of the court in which the action is brought.

1542. When a registrant has departed from the state with intent to defraud creditors or to avoid service of summons in an action brought under this chapter, service shall be made upon the surety as prescribed in the Code of Civil Procedure. A copy of the summons shall be mailed to the registrant at the last known post office address of his residence and also at the place where the business of the athlete agency was conducted as shown by the records of the Labor Commissioner. Service is complete as to such registrant, after mailing, at the expiration of the time prescribed by the Code of Civil Procedure for service of summons in the particular court in which suit is brought.

1543. In cases of controversy arising under this chapter the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo To stay any award for money,

the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than ten thousand dollars ($10,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he has by investigation established that there is no dispute as to the amount of the fee due. Service of such certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and such certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

1544. Notwithstanding Section 1543, a provision in a contract providing for the decision by arbitration of any controversy under the contract or as to its existence, validity, construction, performance, nonperformance, breach, operation, continuance, or termination, shall be valid:

(a) If the provision is contained in a contract between an athlete agency and a person for whom the agency under the contract undertakes to endeavor to secure employment,

(b) If the provision is inserted in the contract pursuant to any rule, regulation, or contract of a bona fide labor union regulating the relations of its members to an agency,

(c) If the contract provides for reasonable notice to the Labor Commissioner of the time and place of all arbitration hearings, and

(d) If the contract provides that the Labor Commissioner or his authorized representative has the right to attend all arbitration hearings.

Except as otherwise provided in this section, any such arbitration shall be governed by the provisions of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

If there is such an arbitration provision in such a contract, the contract need not provide that the agency agrees to refer any controversy between the person and the agency regarding the terms of the contract to the Labor Commissioner for adjustment, and Section 1543 shall not apply to controversies pertaining to the contract.

A provision in a contract providing for the decision by arbitration of any controversy arising under this chapter which does not meet the requirements of this section is not made valid by Section 1281 of the Code of Civil Procedure.

1545 (a) An athlete agency shall, prior to communicating with or contacting in any manner any student concerning an agency contract or a professional sport services contract, file with the secondary or postsecondary educational institution at which the student is enrolled a copy of the registration certificate of the athlete agency.

(b) An athlete agency shall file a copy of each agency contract made with any student, with the secondary or postsecondary

educational institution at which the student is enrolled, within five days after such contract is signed by the student party thereto.

(c) Filing of the copies required by subdivisions (a) and (b) shall be made with the president or chief administrative officer of the secondary or postsecondary educational institution, or the secretary of such officer, or by registered or certified mail, return receipt requested, directed to such officer.

1546. Any agency contract which is negotiated by any agency who has failed to comply with Section 1510 or 1545 is void and unenforceable.

1547. Any person, or agent or officer thereof, who violates any provision of this chapter is guilty of a misdemeanor, punishable by a fine of not less than one thousand dollars ($1,000) or imprisonment for a period of not more than 60 days, or both.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 930

An act to amend Sections 92, 8328, 15146, 15235, 15251, 72246, 72247, 76064, 81602, 81676, 81961, 81962, 81963, 81965, 81966, 82364, 84030, 84051, 84052, 84055, 84058, 85200, 85201, and 85210 of, and to repeal Sections 72205, 72243, 72340, 78282, 78283, 78284, 78285, 84001, 84002, 84003, 84033, 84034, 84035, 84037, 84039, 84053, and 85203, and Article 5 (commencing with Section 82370) and Article 6 (commencing with Section 82380) of Chapter 7 of Part 49, and Article 4 (commencing with Section 85430) and Article 5 (commencing with Section 85440) of Chapter 9 of Part 50 of, and to add Sections 66700.5, 71080, 78282, and 82365 to, and to repeal and add Article 5 (commencing with Section 72650) to Chapter 6 of Part 45 of, the Education Code, relating to community colleges.

[Approved by Governor September 28, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 92 of the Education Code is amended to read:

92. "County" or "counties" as used in Sections 2300, 12300 to 12307, inclusive, 41000 to 41964, inclusive, 42100 to 42128, inclusive,

46000 to 46392, inclusive, 76300 to 76342, inclusive, 84000 to 84874, inclusive, and 85000 to 85434, inclusive, whichever are in effect, includes a city and county.

SEC. 2. Section 8328 of the Education Code is amended to read:

8328. The governing board of any school district, or community college district in accordance with the California Community Colleges Budget and Accounting Manual, or the county superintendent of schools shall establish in the county treasury a fund to be known as the "child development fund" into which shall be paid all funds received by the district or the county for, or from the operation of, child development services under this chapter. The costs incurred in the maintenance and operation of child development services shall be paid from the fund, with accounting to reflect specific funding sources.

Funds of a district derived from the receipt of district taxes or derived from moneys apportioned to the district for the support of schools thereof, in addition to state moneys appropriated for the support of child development services, fees, and federal funds, may be expended for, or in connection with child development services.

SEC. 3. Section 15146 of the Education Code is amended to read:

15146. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the district, and shall be sold at the times and in the amounts prescribed by the school district or community college district governing board, but for not less than par. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

SEC. 4. Section 15235 of the Education Code is amended to read:

15235. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any district pursuant to subdivision (b) of Section 2106 or subdivision (b) of Section 2109 remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district, or designated building fund of the community college district upon the order of the auditor, and may be used only for the purpose specified in Section 42840 or in accordance with the California Community Colleges Budget and Accounting Manual and for no other purpose.

SEC. 5. Section 15251 of the Education Code is amended to read:

15251. All taxes levied, when collected shall be paid into the county treasury of the county whose superintendent of schools has

jurisdiction over the school district in behalf of which the tax was levied, to the credit of the interest and sinking fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual, and shall be used for the payment of the principal and interest of the bonds and for no other purpose.

SEC. 6. Section 66700.5 is added to the Education Code, to read:

66700.5. It is the intent of the Legislature to recognize the Board of Governors of the California Community Colleges as the official body representative of all community colleges and grant to it under its broad authority full responsibility to define, establish, and maintain California Community Colleges' budgeting and accounting structure and procedures in accordance with appropriate and generally accepted accounting principles and to look to the board of governors in the future to establish budgeting and accounting standards to carry out legislative intent.

SEC. 7. Section 71080 is added to the Education Code, to read:

71080. The board of governors shall, notwithstanding any other provisions of law, be solely responsible for establishing and maintaining the budgeting and accounting structure and procedures for the California Community Colleges.

SEC. 8. Section 72205 of the Education Code is repealed.

SEC. 9. Section 72243 of the Education Code is repealed.

SEC. 10. Section 72246 of the Education Code is amended to read:

72246. (a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars ($10) for the regular school year for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both.

(b) If pursuant to this section a fee is required, the governing board of a district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board shall likewise decide the amount of the fee, if any, to be required of summer session students. Such fee may be in addition to the ten dollars ($10) maximum amount which may be charged during the regular school year, but shall not exceed the amount charged per semester or quarter during the regular school year.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that either exempt low-income students from any fee required pursuant to subdivision (a) or provide for the payment of the fee from other sources.

(d) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt from any fee required pursuant to subdivision (a): (1) students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization; (2) students who are attending a community college under an approved

apprenticeship training program.

(e) All of such fees shall be deposited in the fund of the district designated by the California Community Colleges Budget and Accounting Manual. These fees shall be expended only for the purposes for which they were collected.

Authorized expenditures shall not include, among other things, athletic trainers' salaries, athletic insurance, medical supplies for athletics, physical examinations for intercollegiate athletics, ambulance services and the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by student health fees on account of participation in athletic programs.

SEC. 10.1. Section 72246 of the Education Code is amended to read:

72246. (a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than seven dollars and fifty cents ($7.50) for each semester, and five dollars ($5) for summer school, or five dollars ($5) for each quarter for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both.

(b) If pursuant to this section a fee is required, the governing board of a district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that either exempt low-income students from any fee required pursuant to subdivision (a) or provide for the payment of the fee from other sources.

(d) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt from any fee required pursuant to subdivision (a): (1) students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization; (2) students who are attending a community college under an approved apprenticeship training program.

(e) All fees collected pursuant to this section shall be deposited in the fund of the district designated by the California Community Colleges Budget and Accounting Manual. These fees shall be expended only for the purposes for which they were collected.

Authorized expenditures shall not include, among other things, athletic trainers' salaries, athletic insurance, medical supplies for athletics, physical examinations for intercollegiate athletics, ambulance services and the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by

student health fees on account of participation in athletic programs.

SEC. 10.5. Section 72247 of the Education Code is amended to read:

72247. The governing board of a community college district may require of students in attendance in grades 13 and 14 and employees of the district, the payment of a toll, in an amount not to exceed twenty dollars ($20) per semester or forty dollars ($40) per regular school year to be fixed by the board, for parking services.

Such toll shall only be required of students and employees using such services.

All such tolls collected shall be deposited in the designated fund of the district in accordance with the California Community Colleges Budget and Accounting Manual and shall be expended only for parking services or for purposes of reducing the costs to students and faculty of the college of using public transportation to and from the college.

Tolls collected for use of parking services provided for by investment of student body funds under the authority of Section 76064 shall be deposited in a designated fund in accordance with the California Community Colleges Budget and Accounting Manual for repayment to the student organization.

"Parking services," as used in this section, means the purchase, construction, and operation and maintenance of parking facilities.

SEC. 11. Section 72340 of the Education Code is repealed.

SEC. 12. Article 5 (commencing with Section 72650) of Chapter 6 of Part 45 of the Education Code is repealed.

SEC. 12.5. Article 5 (commencing with Section 72650) is added to Chapter 6 of Part 45 of the Education Code, to read:

Article 5. Scholarship and Loan Fund

72650. Where the governing board of a community college district has established and maintains a fund for scholarships and loans, as designated by the California Community Colleges Budget and Accounting Manual, the governing board shall arrange for an annual audit of the fund in the manner prescribed in Section 84040. All expenses in the administration of the fund, including, but not limited to, audits, operating costs, and promotion of the fund, shall be a proper charge against the funds of the district, and the annual budget of the district shall include funds for these expenses.

SEC. 13. Section 76064 of the Education Code is amended to read:

76064. In addition to deposit or investment pursuant to Section 76063, the funds of a student body organization may be loaned or invested in any of the following ways:

(a) Loans, with or without interest, to any student body organization established in another community college of the district for a period not to exceed three years.

(b) Invest money in permanent improvements to any community college district property including, but not limited to, buildings,

automobile parking facilities, gymnasiums, swimming pools, stadia and playing fields, where such facilities, or portions thereof, are used for conducting student extracurricular activities or student spectator sports, or when such improvements are for the benefit of the student body. Such investment shall be made on condition that the principal amount of the investment plus a reasonable amount of interest thereon shall be returned to the student body organization as provided herein. Any community college district approving such an investment shall establish a fund in accordance with the California Community Colleges Budget and Accounting Manual in which moneys derived from the rental of community college district property to student body organizations shall be deposited. Moneys collected by the governing board for automobile parking facilities as authorized by Section 72247 shall be deposited in the fund designated by the California Community Colleges Budget and Accounting Manual if the parking facilities were provided for by investment of student body funds under this section. Moneys shall be returned to the student body organization as contemplated by this section exclusively from such special fund and only to the extent that there are moneys in such special fund. Whenever there are no outstanding obligations against the special fund, all moneys therein may be transferred to the general fund of the school district by action of the local governing board.

Two or more student body organizations of the same community college district may join together in making such investments in the same manner as is authorized herein for a single student body. Nothing herein shall be construed so as to limit the discretion of the local governing board in charging rental for use of community college district property by student body organizations as provided in Section 76060.

SEC. 14. Section 78282 of the Education Code is repealed.

SEC. 15. Section 78282 is added to the Education Code, to read:

78282. The disposition and accounting of revenue and expenditures of the farm operation shall be as prescribed by the California Community Colleges Budget and Accounting Manual.

SEC. 16. Section 78283 of the Education Code is repealed.

SEC. 17. Section 78284 of the Education Code is repealed.

SEC. 18. Section 78285 of the Education Code is repealed.

SEC. 18.1. Section 81602 of the Education Code is amended to read:

81602. The governing board of a community college district may, by resolution, establish a fund or funds, as designated by the California Community Colleges Budget and Accounting Manual, for losses, and payments including, but not limited to, district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed such sums, to be provided

in the budget of the district, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the district from such losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses to district property or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 81601.

The fund or funds shall be considered as separate and apart from all other funds of the district, and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the community college district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and purchase of excess insurance. Such warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise and approve claims against the district, its officers or employees, within such limits and for such amounts as the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of such claims, which checks shall be payable only from a trust account which may be established by the governing board. Funds in the trust account established by the board pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of such a claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to such terms and limitations as the

board may prescribe, to advise such contracting firm concerning the legality and advisability of rejecting, settling, compromising and paying claims referred to said contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning such claims. The compensation and expenses of such attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain such other terms and conditions as the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions which the board may contract for under the provisions of this section.

As used in this section, "firm" includes a person, corporation, or other legal entity, including a county superintendent of schools.

SEC. 18.2. Section 81676 of the Education Code is amended to read:

81676. The governing board of any community college district may establish a bookstore on district property for the purpose of offering for sale textbooks, supplementary textbooks, school supplies, stationery supplies, confectionary items, and related auxiliary school supplies and services.

Any person who is employed in a bookstore maintained by a community college pursuant to this section is a member of the classified service of the district in accordance with Section 88020. In the case of a person who, immediately preceding becoming a member of the classified service of a school district pursuant to this section, was employed, other than as a student or substitute employee, in a community college bookstore maintained by a student body organization pursuant to Section 81675, such prior service shall, for all purposes, be deemed service in the classified service of the employing community college district.

The disposition and accounting of revenue and expenditures of the bookstore operation shall be as prescribed by the California Community Colleges Budget and Accounting Manual. Net proceeds from the operation of a community college bookstore shall be used for the general benefit of the student body as determined by the governing board. Money may be expended for services and property, including, but not limited to, parking facilities, stadia, student centers, student unions, health centers, bookstores or auxiliary facilities for use of students or faculty members of the community college or employees of the district. Funds derived from the operation of a community college bookstore shall be subject to audit pursuant to Section 84040.

SEC. 19. Section 81961 of the Education Code is amended to read:

81961. The proceeds from the sale of all bonds authorized under the provisions of this chapter shall be deposited forthwith by the county treasurer, on order of the county auditor, in the county

treasury to the credit of a construction fund as designated by the California Community Colleges Budget and Accounting Manual in each county treasury for each district in the county issuing bonds pursuant to this chapter. The money in such construction fund shall be expended, pursuant to claims filed by the board with the county auditor, for the purposes authorized by this chapter, or as provided in the indenture, and for such other purposes, subject to the restrictions provided by law or by the indenture, as may be authorized by resolution of the board. Moneys required to meet the costs of acquisition or construction and all expenses and costs incidental to the acquisition, construction, furnishing and equipping of any project authorized by this chapter shall be paid from the said construction fund as herein provided upon claim filed by the board and after audit by the county auditor in the manner provided by law and upon warrants drawn by the county auditor.

SEC. 20. Section 81962 of the Education Code is amended to read:

81962. All revenues received from the operation of any project acquired or constructed by the board under the provisions of this chapter shall be transmitted by the board at least once in every calendar month, to the county treasurer. On order of the county auditor, the county treasurer shall deposit such revenues in the county treasury to the credit of the revenue fund as designated by the California Community Colleges Budget and Accounting Manual in each county treasury for each district in the county issuing bonds under this chapter. Moneys in the designated revenue fund shall be used to pay the costs of operation and maintenance of the projects authorized by this chapter, including refunds authorized by Section 81957, to provide the amounts required for interest and redemption of bonds as provided in this chapter, and for any other purposes authorized by resolution of the board, subject to any restrictions provided by law or the indenture.

SEC. 21. Section 81963 of the Education Code is amended to read:

81963. For the payment of the principal and interest of the bonds authorized to be issued under this chapter, a fund as designated by the California Community Colleges Budget and Accounting Manual shall be established for interest and redemption in each county treasury for each community college district issuing bonds under this chapter. From the money deposited in the designated construction fund of the district, the county treasurer, on order of the county auditor, shall transfer to the designated interest and redemption fund of the district such sums as may be required to pay the interest as it becomes due on all bonds sold and outstanding for the construction or acquisition of a particular project of the district authorized under this chapter during the period of actual construction or acquisition thereof and during such period thereafter as may be provided in the indenture or authorized by resolution of the board. The county treasurer, on order of the county auditor, shall thereafter transfer from the designated revenue fund of the district to the designated interest and redemption fund of the district such

sums as may be required to pay the interest on said bonds and redeem the principal thereof as such interest payments and bond redemptions fall due for all bonds issued under the provisions of this chapter.

SEC. 22. Section 81965 of the Education Code is amended to read:

81965. Moneys in the designated construction fund of each district may be invested by the board, subject only to such limitations as may be provided in an indenture providing for the issuance of revenue bonds. All securities or other investments made under the provisions of this chapter shall be held by the county treasurer as custodian thereof. All interest or other earnings received pursuant to such investments shall be collected by the county treasurer, and, on order of the county auditor, shall be deposited in the county treasury to the credit of the fund from which such interest or other earnings are derived.

SEC. 23. Section 81966 of the Education Code is amended to read:

81966. After all of the revenue bonds shall have been fully paid and discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in the designated construction fund of a district shall, subject to the limitations and restrictions in any indenture providing for the issuance of the revenue bonds, remain available for the acquisition of sites for, and for the construction, equipping and furnishing of, buildings for community colleges maintained by the district.

SEC. 24. Section 82364 of the Education Code is amended to read:

82364. The food served shall be sold to the patrons of the cafeterias at such a price as will pay the cost of maintaining the cafeterias, exclusive of the costs made a charge against the funds of the community college district by resolution of the governing board.

The disposition and accounting of revenue and expenditures of the cafeteria shall be as prescribed by the California Community Colleges Budget and Accounting Manual.

SEC. 25. Section 82365 is added to the Education Code, to read:

82365. The governing board of a community college district shall employ persons for food service positions as a part of the classified service, except that community college districts may utilize the services of volunteers for programs which provide meals for senior citizens as authorized pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code.

SEC. 26. Article 5 (commencing with Section 82370) of Chapter 7 of Part 49 of the Education Code is repealed.

SEC. 27. Article 6 (commencing with Section 82380) of Chapter 7 of Part 49 of the Education Code is repealed.

SEC. 32. Section 84001 of the Education Code is repealed.

SEC. 33. Section 84002 of the Education Code is repealed.

SEC. 34. Section 84003 of the Education Code is repealed.

SEC. 35. Section 84030 of the Education Code is amended to read:

84030. The accounting system including the uniform fund structure used to record the financial affairs of any community

college district shall be in accordance with the definitions, instructions, and procedures published in the California Community Colleges Budget and Accounting Manual as approved by the board of governors and furnished by the board of governors. No accounting manual so approved shall expressly or by implication affect the content of any educational program or objective, except as otherwise specifically provided for by this code. The Legislature hereby finds that such content shall be best determined by those involved in the administration of educational programs, including community college district governing boards, local administrators, instructors, students, and parents.

SEC. 36. Section 84033 of the Education Code is repealed.

SEC. 37. Section 84034 of the Education Code is repealed.

SEC. 38. Section 84035 of the Education Code is repealed.

SEC. 39. Section 84037 of the Education Code is repealed.

SEC. 40. Section 84039 of the Education Code is repealed.

SEC. 41. Section 84051 of the Education Code is amended to read:

84051. Any gift or bequest of money which is to be invested pursuant to this article shall be placed in a fund as designated by the California Community Colleges Budget and Accounting Manual in the county treasury. If the gift or bequest of money is required to be used for specific purposes according to the terms of the gift or bequest, the governing board shall place the money in a separate account in the foundation trust fund, and may by resolution designate the separate account by the name that it shall be known, including in its name the term "foundation trust account."

SEC. 42. Section 84052 of the Education Code is amended to read:

84052. The money deposited in a separate account in the designated fund shall be invested pursuant to this article or expended only for the purposes of the gift or bequest.

SEC. 43. Section 84053 of the Education Code is repealed.

SEC. 44. Section 84055 of the Education Code is amended to read:

84055. The governing board of a community college district which places money in the designated fund pursuant to this article shall appoint an advisory committee equal in number to the number of members of the governing board. The committee shall be composed of qualified electors of the district and may include members of the governing board. Members of the committee shall serve without compensation.

SEC. 45. Section 84058 of the Education Code is amended to read:

84058. Except as may be otherwise provided in this article, other provisions of this chapter shall be applicable to the money placed in the designated fund pursuant to this article.

SEC. 46. Section 85200 of the Education Code is amended to read:

85200. The total amount budgeted as the proposed expenditure of the community college district for each major classification of district expenditures listed in the district budget forms prescribed by the board of governors shall be the maximum amount which may be expended for that classification of expenditures for the school year.

Transfers may be made from the reserve for contingencies to any expenditure classification or between expenditure classifications at any time by written resolution of the board of education of any district governed by a board of education, when filed with the county superintendent of schools and the county auditor, or by written resolution of the board of trustees of a community college district not governed by a board of education and filed with the county auditor. A resolution providing for the transfer from the reserve for contingencies to any expenditure classification must be approved by a two-thirds vote of the members of the governing board; a resolution providing for the transfer between expenditure classifications must be approved by a majority of the members of the governing board. Nothing in this section shall be construed as affecting the provisions of Sections 85112 and 85114.

SEC. 47. Section 85201 of the Education Code is amended to read:

85201. At the close of any school year the county superintendent of schools may, with the consent of the governing board of a community college district previously given, make such transfers between the reserve for contingencies and any expenditure classification or classifications or balance any expenditure classifications of the budget of the district for such school year as are necessary to permit the payment of obligations of the district incurred during such school year.

SEC. 48. Section 85203 of the Education Code is repealed.

SEC. 49. Section 85210 of the Education Code is amended to read:

85210 All income accruing to the community college district in excess of the amounts required to finance the total proposed expenditures, including transfers to other community college districts and funds, as shown in the budget of the district shall be added to the general reserve of the district, and shall not be available for appropriation by the district for the current fiscal year except by the following procedure. The governing board of the district shall, by formal action of the board, pass a resolution setting forth the need according to major classification of district expenditures to be met from any portion of the general reserve derived from assured income in excess of the total amount anticipated in the budget. The resolution shall be submitted to the county superintendent of schools for approval.

On the first day of July of each year, the general reserve together with unexpended balances of appropriations and income in excess of anticipated income for the preceding fiscal year shall be placed to the credit of the district, and the district shall include all money so credited in the balance shown in the budget for the ensuing fiscal year.

SEC. 50. Article 4 (commencing with Section 85430) of Chapter 9 of Part 50 of the Education Code is repealed.

SEC. 51. Article 5 (commencing with Section 85440) of Chapter 9 of Part 50 of the Education Code is repealed.

SEC. 54. It is the intent of the Legislature, if this bill and Senate

Bill 1139 are both chaptered and become effective January 1, 1982, both bills amend Section 72246 of the Education Code, and this bill is chaptered after Senate Bill 1139, that the amendments to Section 72246 proposed by both bills be given effect and incorporated in Section 72246 in the form set forth in Section 10.1 of this act. Therefore, Section 10.1 of this act shall become operative only if this bill and Senate Bill 1139 are both chaptered and become effective January 1, 1982, both amend Section 72246, and this bill is chaptered after Senate Bill 1139, in which case Section 10 of this act shall not become operative.

SEC. 55. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 56. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 931

An act to amend Sections 39602, 39605, and 81602 of the Education Code, and to add Section 53205.3 to the Government Code, relating to public education agencies.

[Approved by Governor September 28, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 39602 of the Education Code is amended to read:

39602. The governing board of any school district may, by resolution, establish a fund or funds for losses, and payments, including, but not limited to, health and welfare benefits for its employees as defined by Section 53200 of the Government Code, school district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed such sums, to be provided in the budget of the school district, that will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the

governing board to protect the school district from such losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 39601.

The fund or funds shall be considered as separate and apart from all other funds of the school district, and the balance therein shall not be considered as being part of the working cash of the school district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the school district, in securities which are legal investments for surplus county funds in this state. The income derived from the investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise and approve claims against the district, its officers or employees, within the limits and for amounts that the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of such claims, which checks shall be payable only from a trust account which may be established by the governing board. Funds in the trust account established by the board pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of such a claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to terms and limitations that the board may prescribe, to advise the contracting firm concerning the legality and advisability of rejecting, settling, compromising and paying claims referred to the contracting firm by the board for investigation

and adjustment, or to represent the board in litigation concerning the claims. The compensation and expenses of the attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain other terms and conditions that the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions which the board may contract for under the provisions of this section.

As used in this section:

(a) "Firm" includes a person, corporation, or other legal entity, including a county superintendent of schools.

(b) "Governing board" includes governing boards of school districts and county superintendents of schools.

(c) "School district" includes a county superintendent of schools who may participate in or administer insurance or self-insurance programs for itself or for one or more school districts.

A county superintendent of schools may participate in or administer insurance for one or more school districts pursuant to this section or for one or more community college districts pursuant to Section 81602, for any combination of school districts and community college districts pursuant to this section and Section 81602.

Prior to funding health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary enrolled under subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974, to provide actuarial evaluations of the future annual costs of such benefits. The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the commencement of funding health and welfare benefits pursuant to this section.

SEC. 2. Section 39605 of the Education Code is amended to read:

39605. In districts situated within or partly within cities having a population of over five hundred thousand (500,000) as determined by the 1920 federal census any board of education may establish a fund in the county treasury for the purpose of covering fire losses to school property in lieu of carrying fire insurance in admitted insurers as provided in Section 39601. In the fund shall be placed sums, to be provided in the budget of the district, as will create an amount which, together with investments made from the fund, will be sufficient in the judgment of the board of education upon the advice of competent actuaries to protect the board of education against losses by fire on all or any part of the school property within its jurisdiction. Nothing contained herein shall be construed as prohibiting the board of education from providing protection against fire losses partly by means of the fund and partly by means of fire insurance written by admitted insurers as provided in Section 39601.

The fund shall be considered as separate and apart from all other

funds of the district and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets or fixing annual tax rates.

Warrants shall be drawn on, or transfers made from, the fund so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and the purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund as established by resolution of the governing board.

The cash placed in the fund may be invested and reinvested by the county treasurer with the advice and consent of the board of education in securities which are legal investments for surplus county funds in this state. The income derived from such investments together with interest earned on uninvested funds shall be considered revenue of and be deposited in the fund.

The county treasurer shall make quarterly reports to the board of education as to the condition of the fund, using as a basis for the report the cost or market value, whichever may be the lower, of the securities held as investments plus the cash in the fund.

SEC. 3. Section 81602 of the Education Code is amended to read:

81602. The governing board of a community college district may, by resolution, establish a fund or funds, as designated by the California Community Colleges Budget and Accounting Manual, for losses, and payments including, but not limited to, health and welfare benefits for its employees as defined by Section 53200 of the Government Code, district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed sums, to be provided in the budget of the district, that will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the district from such losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses to district property or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 81601.

The fund or funds shall be considered as separate and apart from all other funds of the district, and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the community

college district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the district, in securities which are legal investments for surplus county funds in this state. The income derived from the investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise and approve claims against the district, its officers or employees, within the limits and for amounts that the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of such claims, which checks shall be payable only from a trust account which may be established by the governing board. Funds in the trust account established by the board pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of such a claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to terms and limitations that the board may prescribe, to advise the contracting firm concerning the legality and advisability of rejecting, settling, compromising and paying claims referred to said contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning the claims. The compensation and expenses of the attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain other terms and conditions that the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions which the board may contract for under the provisions of this section.

As used in this section, "firm" includes a person, corporation, or other legal entity, including a county superintendent of schools.

Prior to funding health and welfare benefits pursuant to this section, the community college district shall secure the services of an

actuary enrolled under subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974, to provide actuarial evaluations of the future annual costs of such benefits. The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the commencement of funding health and welfare benefits pursuant to this section.

SEC. 4. Section 53205.3 is added to the Government Code, to read:

53205.3. Nothing in this article or in Sections 39602, 39605, and 81602 of the Education Code shall be construed as prohibiting school districts and community college districts from joining with other school districts or community college districts, or any combination of those districts which are under the jurisdiction of the same county superintendent of schools, in providing for the payment of health and welfare benefits by entering into a pooling arrangement under a joint exercise of powers agreement or on a self-insured or self-funded basis or partly by means of self-insurance or self-funding and partly by means of insurance or service agreements as herein described.

CHAPTER 932

An act to amend Sections 72190, 73565, 73566, 73567, 73568, 73572, 74002, 74003, 74004, and 74005 of, and to add Sections 70056.7, 74698, and 74699 to, the Government Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State September 29, 1981

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

SECTION 1. Section 70056.7 is added to the Government Code, to read:

70056.7. Notwithstanding any other provision of law to the contrary, the following provisions shall be applicable to the official superior court reporters in Monterey County:

(a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts and report all grand jury proceedings. When not engaged in the performance of other duties imposed on him or her by law and when approved by the presiding judge, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in or solicit any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary to be established by the Monterey County Board of Supervisors upon the

joint recommendation of the county administrative officer and the judges of the superior court.

(c) A regular official court reporter shall serve at the pleasure of the judge of the court for which appointed but shall receive the same vacation, sick leave, retirement, and other financial or monetary benefits as are now, or may be hereafter provided for the classification of superior court clerk. The benefits include the right to participate in any group accident, group health, or group life insurance plan adopted for and made available to the classification of superior court clerk.

For the purposes of retirement under the Public Employees' Retirement System, the salary provided for in subdivision (b) shall be deemed the entire salary for each court reporter.

(d) Judges of the superior court may appoint as many official superior court reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive a per diem equivalent to 1/260th of the annual salary of a regular official court reporter.

(e) In Monterey County the fee required by Section 70053 shall be fourteen dollars ($14).

(f) In addition to any fee otherwise required in civil cases that last longer than four judicial days, a fee equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the service of an official reporter for the fifth and each successive day a reporter is required. The fee specified herein shall be deposited in the general fund of the county.

(g) In addition to any fee otherwise required, in a civil case in which the court orders a daily transcript, necessitating the services of two stenographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day. The fee specified herein shall be deposited in the general fund of the county.

SEC. 2. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners of municipal courts shall possess the same qualifications the law requires of a judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

Notwithstanding any other provision of law, a commissioner of a municipal court of any judicial district in Los Angeles County, San

Diego County, or Monterey County who has been duly appointed and has thereafter been retired for service, a commissioner of a superior court in this state who has been duly appointed and has thereafter been retired for service, may be assigned by the presiding judge of a municipal court to serve as a court commissioner of such court for such periods of time as he is needed for the prompt and efficient discharge of the business of that court. While so serving, he shall be paid the full compensation of a court commissioner, payable as follows: He shall continue to receive his retirement allowance, and in addition the county shall pay him the amount equal to the difference between such retirement allowance and such full compensation. Such employment shall not operate to reinstate him as a member of the county retirement system or to terminate or suspend his retirement rights or allowance, and no deductions shall be made from his compensation as contributions to the retirement system.

SEC. 3. Section 73565 of the Government Code is amended to read:

73565. The municipal court judges may, by a majority vote, appoint a municipal court administrator who shall be the clerk of the municipal court. The municipal court administrator shall serve at the pleasure of a majority of the judges. He shall receive a salary of two thousand seven hundred sixteen dollars ($2,716) monthly; provided, however, that the salary may be adjusted pursuant to Section 73568. He shall be the appointing authority for those positions listed in Section 73566.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal court administrator among which shall be:

(a) To direct and coordinate the nonjudicial activities of the district.

(b) To coordinate the personnel practices in compliance with rules of the district and those of the County of Monterey.

(c) To prepare and administer the budget of the district.

(d) To coordinate with county agencies the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the district.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the district, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal court.

(h) To prepare procedural guides for the personnel of the

municipal court.

(i) To make arrangements for and attend all meetings of the judges, to assist in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(j) To serve as liaison for the district with other persons, committee boards, groups, and associations as directed by the presiding judge.

(k) To assist Monterey County justice courts upon request of the justice court judge and approval of the Monterey County Board of Supervisors.

SEC. 4. Section 73566 of the Government Code is amended to read:

73566. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes the compensation for each job classification, are as follows; provided, however, that the board of supervisors may adjust the monthly salary pursuant to Section 73568, and may adjust the number and classification of positions pursuant to Section 73569:

Number	Job classification	Monthly salary
2	Municipal Court Branch Manager	$2,024
1	Administration Services Officer I	1,718–2,128
1	Automated Court Systems Supervisor	1,194–1,479
3	Senior Account Clerk	978–1,211
4	Account Clerk	885–1,096
7	Municipal Court Clerk IV	1,164–1,443
5	Municipal Court Clerk III	998–1,236
25	Municipal Court Clerk II	885–1,096
9	Municipal Court Clerk I	842–1,043
9	Municipal Courtroom Clerk	1,141–1,414
2	Municipal Court Calendar Coordinator	1,267–1,570
1	Stenographer Clerk II	907–1,124
1	Senior Stenographer Clerk	1,033–1,280
2	Senior Data Entry Operator	983–1,217
5	Data Entry Operator II	885–1,096

SEC. 5. Section 73567 of the Government Code is amended to read:

73567. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary resolution of the County of Monterey in effect on March 1, 1981, shall apply; provided, however, that adjustments to such salaries may be made pursuant to Section 73568.

SEC. 6. Section 73568 of the Government Code is amended to read:

73568. Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to certain classes of

positions of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of the municipal court and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall govern salary adjustments and employee benefits for attachés of the municipal court in Monterey County.

On the effective date of any amendment to such resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount.

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary resolution and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court Classification	County Classification
Clerk and Municipal Court Administrator	Clerk and Municipal Court Administrator
Municipal Court Branch Manager	Municipal Court Branch Manager
Administrative Services Officer I	Administrative Services Officer I
Automated Court Systems Supervisor	Automated Court Systems Supervisor
Senior Account Clerk	Senior Account Clerk
Account Clerk	Account Clerk
Municipal Court Clerk IV	Municipal Court Clerk IV
Municipal Court Clerk III	Municipal Court Clerk III
Municipal Court Clerk II	Legal Process Clerk
Municipal Court Clerk I	Typist Clerk II
Municipal Courtroom Clerk	Municipal Courtroom Clerk
Municipal Court Calendar Coordinator	Municipal Court Calendar Coordinator
Stenographer Clerk II	Stenographer Clerk II
Senior Stenographer Clerk	Senior Stenographer Clerk
Senior Data Entry Operator	Senior Data Entry Operator
Data Entry Operator II	Data Entry Operator II

Attachés of the municipal court district shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including, but not limited to, anniversary dates, changes thereto, and step advancements.

SEC. 7. Section 73572 of the Government Code is amended to

read:

73572. In Monterey County, the board of supervisors shall fix the compensation of offical court reporters pro tempore which shall be at the rate of seventy-five dollars ($75) per diem. The compensation of official court reporters pro tempore may be adjusted by action of the Board of Supervisors of Monterey County.

SEC. 8. Section 74002 of the Government Code is amended to read:

74002. There shall be one clerk and administrative officer for each court who shall be the court's executive officer and who shall be appointed by, and serve at the pleasure of, a majority of the judges of the court, or in the case of an equal division of the judges of the court, the senior judge of the court, and who shall receive a biweekly salary as provided by the following range numbers of Section 74005; and each clerk and administrative officer/executive officer may appoint one chief deputy clerk who shall receive a biweekly salary as provided by the following range numbers of Section 74005:

Number of judicial positions authorized by law	Clerk and Administrative Officer/Executive Officer pay range	Chief Deputy Clerk pay range
3-5	E69	E59
6-8	E70	E60
9-11	E71	E61
12-14	E72	E62
15-17	E73	E63

range changes shall be effective the first pay period after the effective date of legislation authorizing judicial positions.

SEC. 9. Section 74003 of the Government Code is amended to read:

74003. (a) There shall be one Marshal of the County of Orange appointed by, and serving at the pleasure of, a majority of the judges of the municipal courts in the county.

(b) A branch office of the Marshal of Orange County shall be maintained in each judicial district.

(c) Notwithstanding the provisions of Section 31662.6, the marshal of all municipal courts within the County of Orange who is a safety member shall be retired as of the first day of the calendar month next succeeding that in which he attains age 65.

(d) The number of positions within each job classification which shall be appointed by the marshal and the number of the salary range set forth in Section 74005 which constitutes the compensation for each job classification are shown in the table below:

Title of job classification	Applicable salary range number	Number of positions authorized

Marshal	E81	1
Captain, marshal's office	E73	2
Lieutenant, marshal's office	E69	5
Sergeant, marshal's office	P11	11
Investigator I, marshal's office	P6	12
Deputy marshal II	P3	23
Deputy marshal I	P1	68
Administrative Services Assistant, marshal's office	E60	1
Radio dispatcher	A45	2
Chief clerk II, marshal's office	D45	4
Chief clerk I, marshal's office	D43	1
Supervising Clerk III	D44	1
Secretary III	D43	1
Supervising Clerk I	D39	3
Marshal's Technician	D37	7
Clerk III, marshal's office	D37	2
Clerk II marshal's office	D34 S/3	19
Clerk I, marshal's office	D32 S/5	19
Teletype operator, marshal's office	D34 S/3	1

SEC. 10. Section 74004 of the Government Code is amended to read:

74004. (a) The number of positions within each job classification which may be filled by appointment by the clerk and administrative officer/executive officer, respectively, of each such court, and the number of the salary range set forth in Section 74005 which constitutes the compensation for each job classification, are shown in the table below, in which the various municipal courts are designated by column headings from left to right in the same order as that in which their judicial districts are named in Section 74000:

Title of job classification	Applicable salary range number	Number of positions authorized in each court				
		NOC	COC	WOC	OCH	SOC
Appointed by the clerk and administrative officer/executive officer:						
Deputy clerk, division head II	D54	4	4	4	4	0
Deputy clerk, division head I	D52	0	0	0	0	3
Accounting division head, municipal court	D48	1	1	1	1	0
Deputy clerk, courtroom clerk	D49	14	15	12	8	5

Deputy clerk IV....	D41	1	1	1	0	1
Deputy clerk III....	D39	7	7	7	4	5
Deputy clerk II	D34 S/3	18	16	20	16	16
Deputy clerk I	D32 S/5	44	51	46	33	18
Deputy clerk, legal stenographer	D38 S/3	2	2	2	2	1
Deputy clerk, secretary III	D43	1	1	1	1	1
Deputy clerk, systems and procedures analyst	61	1	1	1	1	0
Deputy clerk, supervising detention release officer	A60	0	1	0	0	0
Deputy clerk, detention release officer	A54	0	9	0	0	0
Deputy clerk, data entry operator II	D35 S/3	14	13	14	9	0
Deputy clerk, interpreter.....	D39	2	2	2	1	0
Supervising deputy clerk II	D45	2	2	2	1	1
Supervising deputy clerk I	D42	3	3	3	2	0
Courtroom clerk....	D37	3	4	6	4	0
Deputy clerk, judicial support officer	A50	0	0	0	1	0

(b) The Legislature finds and declares that the matter of appointing, promoting, demoting, and dismissing persons in positions with the municipal courts and all other aspects of the personnel management of municipal courts of Orange County is one for local concern. It further finds and declares that wherever possible such personnel management shall grant to persons in positions with the municipal courts equality of treatment with persons in positions with the County of Orange who are performing similar duties and who possess similar qualifications.

(c) To achieve the legislative intent expressed in subdivisions (a) and (b), the municipal courts of Orange County may create a personnel committee consisting of five judges selected one from each court by a majority vote of the judges of the respective courts, or where there is an equal division of the judges of a court, by the senior judge of that court. The personnel committee may adopt rules and regulations providing for a personnel system for all municipal courts of Orange County which shall provide for equal treatment concerning benefits and methods and conditions of employment for

employees and attachés of the several courts and the marshal's office and which shall provide equal treatment for such employees as is provided for Orange County employees generally. In so providing for a personnel system, the judges may adopt all or any part of the personnel and salary resolution of the County of Orange.

(d) With the approval of the board of supervisors, the personnel system adopted by the personnel committee and made applicable to all the municipal courts of Orange County may be administered by the County of Orange through its personnel department. The board of supervisors may withdraw its approval at any time.

(e) If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, a majority of the judges of any of the courts, with the approval of the board of supervisors, may establish additional titles, pay rates, and positions as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the courts. Rates of compensation of all officers, attachés, and employees may be adjusted by joint action and approval of the board of supervisors and a majority of the municipal court judges of Orange County. The establishment of additional titles, positions, and pay rates and changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire on January 1 of the second year following the year in which such establishment or change is made. The provisions of this section are directory only and are not intended to affect the application of Section 72150.

SEC. 11. Section 74005 of the Government Code is amended to read:

74005. The schedule of biweekly salary ranges referred to in Sections 74002, 74003, and 74004 are those ranges set forth in the 1981–82 Personnel and Salary Resolution adopted by the Orange County Board of Supervisors.

Notwithstanding any other provisions of law, the salaries of municipal court officers, attachés, and employees may upon the joint approval of the personnel committee and the board of supervisors be increased or decreased in order to provide compensation that is comparable to county employees of similar qualifications and experience holding equal or comparable positions in the Orange County classified service as the comparability is determined jointly by the personnel committee and the board of supervisors, except that any such increase or decrease shall be effective only until January 1 of the second year following the year in which such increase or decrease is made

In the event that the board of supervisors adopts a revised salary schedule for county employees, the board shall confer with the personnel committee, and if both are agreed that the new schedule shall apply also to the officers, attachés, and employees of the

municipal courts and marshal's office, the revised salary schedule shall apply equally to the officers, attachés, and employees of municipal courts and marshal's office in the same manner and date as for county employees, except that any such salary adjustment shall only be effective until January 1 of the second year following the year in which such adjustment is made.

SEC. 12. Section 74698 is added to the Government Code, to read:

74698. The judges of the municipal court shall appoint one court commissioner. The commissioner shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, the commissioner shall exercise the powers and perform the duties authorized by the law. The commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary at the rate established by the judges. In no event shall such salary exceed the salary provided for a judge of the municipal court. The commissioner shall be an ex officio deputy clerk of the court and shall be a member of any retirement system which includes attachés of the court. The commissioner may engage in the private practice of law upon approval of the judges.

SEC. 13. Section 74699 is added to the Government Code, to read:

74699. Notwithstanding any other provision of the law, the compensation rate for each official court reporter pro tempore shall be ninety dollars ($90) a day for each day such official court reporter pro tempore provides court reporting services to this municipal court, or at a rate equal to but not less than the rate of compensation established by the county board of supervisors for official court reporters pro tempore appointed by the superior court of the County of Santa Cruz.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 933

An act to add and repeal Sections 9250.8 and 9250.9 to the Vehicle Code, relating to the California Highway Patrol, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. The Legislature hereby declares its intent that the uniformed field strength of the California Highway Patrol be increased by 670 positions. The increase is needed to offset the decline in the department's uniformed field strength and service levels which has occurred over the last five years.

SEC. 2. Section 9250.8 is added to the Vehicle Code, to read:

9250.8. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of one dollar ($1) shall be paid at the time of registration or renewal of registration of every vehicle beginning January 1, 1982, and ending December 31, 1985, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) This section shall remain in effect only until December 31, 1985, and as of that date is repealed unless a later enacted statute which is chaptered before December 31, 1985, deletes or extends that date.

SEC. 3. Section 9250.9 is added to the Vehicle Code, to read:

9250.9. (a) All fees received by the department pursuant to Section 9250.8 shall be deposited in the California Highway Patrol Law Enforcement Account in the State Transportation Fund, which is hereby created. The money in that account shall be available upon appropriation by the Legislature for expenditure to increase the uniformed field strength of the Department of the California Highway Patrol, to the extent that revenue is increased.

(b) This section shall remain in effect until June 1, 1986, and as of that date is repealed unless a later enacted statute which is chaptered before June 1, 1986, deletes or extends that date.

(c) Any unencumbered amount remaining in the California Highway Patrol Law Enforcement Account on June 1, 1986, shall be transferred to the Motor Vehicle Account in the State Transportation Fund.

SEC. 4. The Legislature shall review the amount of fees in, and which have accrued to, the California Highway Patrol Law Enforcement Account in the State Transportation Fund before December 31, 1985, for the purpose of determining if there is a need to continue the support of the increased uniformed field strength of the Department of the California Highway Patrol pursuant to this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to increase the number of onview California Highway Patrol enforcement units as a greater deterrent to potential law violators, and to enhance the total enforcement activities of the California Highway Patrol including placing increased emphasis on the needs of the motoring public, thus resulting in a balanced and

versatile traffic safety program which deals with driver, vehicle, and use of the state highway system in the 1981–82 fiscal year, it is necessary that this bill take effect immediately.

CHAPTER 934

An act to amend Sections 23101 and 23106 of the Vehicle Code, relating to offenses.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 23101 of the Vehicle Code, as amended by Section 2 of Chapter 1004 of the Statutes of 1980, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred fifty-five dollars ($355) nor more than five thousand dollars ($5,000)

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23106, and is granted probation,

it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 1.5. Section 23101 of the Vehicle Code, as amended by Section 2 of Chapter 1004 of the Statutes of 1980, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred fifty-five dollars ($355) nor more than five thousand dollars

($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23102 or 23105 or a conviction which occurred on or after January 1, 1982, of a violation of Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23106, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23104 as specified in Section 23104.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred fifty-five dollars ($355) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23102, 23105, or 23106, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23103 as specified in Section 23103.5 or Section 23104 as specified in Section 23104.5, from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23103, 23104, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(g) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(h) This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC 2. Section 23101 of the Vehicle Code, as amended by Section 3 of Chapter 1004 of the Statutes of 1980, is amended to read.

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred twenty dollars ($320) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement

and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

This section shall become operative on July 1, 1982.

SEC. 2.5. Section 23101 of the Vehicle Code, as amended by Section 3 of Chapter 1004 of the Statutes of 1980, is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred twenty dollars ($320) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23102 or 23105 or a conviction which occurred on or after January 1, 1982, of a violation of Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 5 days but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23106, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23104 as specified in Section 23104.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least three hundred twenty dollars ($320) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23102, 23105, or 23106, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23103 as specified in Section 23103.5 or Section 23104 as specified in Section 23104.5, from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23103, 23104, 23105, or 23106 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(g) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(h) This section shall become operative on July 1, 1982.

SEC. 3. Section 23106 of the Vehicle Code, as amended by Section 10 of Chapter 1004 of the Statutes of 1980, is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred eighty-five dollars ($285) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23102 or 23105 and is granted probation, it shall be a condition of probation that the person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101 and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, 23102, or 23105 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred eighty-five dollars ($285), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, or 23105 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 3.5. Section 23106 of the Vehicle Code, as amended by Section 10 of Chapter 1004 of the Statutes of 1980, is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person

other than the driver. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred eighty-five dollars ($285) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23102 or 23105, or a conviction which occurred on or after January 1, 1982, under Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23104 as specified in Section 23104.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, 23102, or 23105, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23103, as specified in Section 23103.5, or Section 23104, as specified in Section 23104.5, from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred eighty-five dollars ($285), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, 23103, 23104, or 23105 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(g) If any person is convicted under this section and the vehicle

used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(h) This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 4. Section 23106 of the Vehicle Code, as added by Section 11 of Chapter 1004 of the Statutes of 1980, is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23102 or 23105 and is granted probation, it shall be a condition of probation that the person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101 and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, 23102, or 23105 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand

an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, or 23105 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

This section shall become operative on July 1, 1982.

SEC. 4.5. Section 23106 of the Vehicle Code, as added by Section 11 of Chapter 1004 of the Statutes of 1980, is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and, when so driving, do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law, it is not necessary to prove that any specific section of this code was violated.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(d) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23102 or 23105, or a conviction which occurred on or after January 1, 1982, under Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101 or a conviction which occurred on or after January 1, 1982, of a violation of Section 23104 as specified in Section 23104.5, and is granted probation, it shall be a condition of probation that the person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more

than five thousand dollars ($5,000).

(e) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of this section or Section 23101, 23102, or 23105, or a conviction which occurred on or after January 1, 1982, of a violation of Section 23103, as specified in Section 23103.5, or Section 23104, as specified in Section 23104.5, from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, 23103, 23104, or 23105 for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

(g) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(h) This section shall become operative on July 1, 1982.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 348 are both chaptered and become effective January 1, 1982, both bills amend Sections 23101 and 23106 of the Vehicle Code, and this bill is chaptered after Assembly Bill 348, that the amendments to Sections 23101 and 23106 proposed by both bills be given effect and incorporated in Sections 23101 and 23106 in the form set forth in Sections 1.5, 2.5, 3.5, and 4.5 of this act. Therefore, Sections 1.5, 2.5, 3.5, and 4.5 of this act shall become operative only if this bill and Assembly Bill 248 are both chaptered and become effective January 1, 1982, both amend Sections 23101 and 23106 of the Vehicle Code, and this bill is chaptered after Assembly Bill 348, in which case Sections 1, 2, 3, and 4 of this act shall not become operative.

However, if Assembly Bill 541 is chaptered and takes effect on or before January 1, 1982, the provisions of Assembly Bill 541 shall prevail over this act, whether Assembly Bill 541 is enacted prior to or subsequent to this act.

SEC. 5. If AB 541 of the 1981–82 Regular Session of the Legislature is chaptered and takes effect on or before January 1, 1982, and it amends, amends and renumbers, adds, adds and repeals, or repeals a section amended by this act, the provisions of AB 541 shall

prevail over this act, whether AB 541 is enacted prior to or subsequent to this act.

CHAPTER 935

An act to amend Section 13353 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 13353 of the Vehicle Code is amended to read:

13353. (a) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his or her consent to a chemical test of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood if lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor. The person shall be told that failure to submit to or complete such a chemical test will result in the suspension of the person's privilege to operate a motor vehicle for a period of six months.

The person arrested shall have the choice of whether the test shall be of his or her blood, breath, or urine, and the person shall be advised by the officer that he or she has such choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall then have the choice of submitting to and completing any of the remaining tests or test, and the person shall be advised by the officer that the person has that choice.

If the person is lawfully arrested for driving under the influence of an intoxicating liquor or under the combined influence of intoxicating liquor and any drug, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person shall have the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those

tests which are available.

The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, the refusal may be used against him or her in a court of law.

Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and the tests may be administered whether or not the person is told that his or her failure to submit to or complete the test will result in the suspension of his or her privilege to operate a motor vehicle.

(b) If any person refuses the officer's request to submit to, or fails to complete, a chemical test, the department, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor and that the person had refused to submit to, or failed to complete, the test after being requested by the officer, shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of the request, shall afford the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor, whether the person was placed under arrest, whether the person refused to submit to, or failed to complete, the test after being requested by a peace officer, and whether, except for the persons described in subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or failed to complete, the test.

An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department fails to afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing

and is notified of the department's action as hereinafter provided. However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension herein provided shall not become effective until five days after receipt by the person of the department's notification of the suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of the person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 2. Section 13353 of the Vehicle Code is amended to read:

13353. (a) (1) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his or her consent to a chemical test of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153. The person shall be told that failure to submit to or the noncompletion of, a chemical test will result in the suspension of the person's privilege to operate a motor vehicle for a period of six months.

(2) The person arrested shall have the choice of whether the test shall be of his or her blood, breath, or urine, and the person shall be advised by the officer that he or she has such a choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall then have the choice of submitting to and completing any of the remaining tests or test, and the person shall be advised by the officer that the person has that choice.

(3) If the person is lawfully arrested for driving under the influence of an intoxicating liquor or under the combined influence of intoxicating liquor and any drug, and, because of the need for medical treatment, the person is first transported to a medical facility

where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person shall have the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and such a test may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test will result in the suspension of his or her privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his or her consent and such a test may be administered at the direction of a peace officer.

(b) If any person refuses the officer's request to submit to, or fails to complete, a chemical test, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall afford him or her an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test after being requested by a peace officer, and whether, except for the persons described in paragraph (4) of subdivision (a) who are

incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or did not complete, the test.

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department does not afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as provided in paragraph (3). However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

(3) If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension shall not become effective until five days after receipt by the person of the department's notification of that suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23152 or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 3. Section 13353 of the Vehicle Code is amended to read:

13353. (a) (1) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his or her consent to a chemical test of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood if lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor or in violation of Section 23102.6. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102.6. The person shall be told that failure to submit to, or the noncompletion of, a chemical test will result in the suspension of the person's privilege to operate a motor vehicle for a period of six months.

(2) The person arrested shall have the choice of whether the test shall be of his or her blood, breath, or urine, and the person shall be

advised by the officer that he or she has such a choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall then have the choice of submitting to and completing any of the remaining tests or test, and the person shall be advised by the officer that the person has that choice.

(3) If the person is lawfully arrested for driving under the influence of an intoxicating liquor or under the combined influence of intoxicating liquor and any drug, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person shall have the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and such a test may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test will result in the suspension of his privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his or her consent and such a test may be administered at the direction of a peace officer.

(b) If any such person refuses the officer's request to submit to, or fails to complete, a chemical test, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102.6 and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall afford the person an opportunity for a hearing in the same manner

and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23103.6 whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test after being requested by a peace officer, and whether, except for the persons described in subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or did not complete, the test.

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department does not afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as provided in paragraph (3). However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

(3) If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension shall not become effective until five days after receipt by the person of the department's notification of that suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor or for violation of Section 23102.6 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of the person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 7 or Assembly Bill 541, or both, are chaptered and become effective January 1, 1982, and Assembly Bill 7, if chaptered, and this bill amend Section 13353 of the Vehicle Code and this bill is chaptered last, that this bill will make further conforming changes to the Vehicle Code to implement the changes proposed by Assembly Bill 541, if chaptered, and to give effect to, and incorporate, the amendments proposed by both this bill and Assembly Bill 7, if chaptered, as follows:

(1) If this bill and Assembly Bill 541 are both chaptered, whether Assembly Bill 7 is or is not chaptered, Section 2 of this act shall become operative and Sections 1 and 3 shall not become operative.

(2) If this bill and Assembly Bill 7 are both chaptered and become effective January 1, 1982, both bills amend Section 13353 of the Vehicle Code but Assembly Bill 541 is not chaptered, and this bill is chaptered after Assembly Bill 7, the amendments proposed by both bills shall be given effect and incorporated in Section 13353 of the Vehicle Code in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill 7 are both chaptered and become effective January 1, 1982, both bills amend Section 13353 of the Vehicle Code, this bill is chaptered after Assembly Bill 7 and Assembly Bill 541 is not chaptered, Section 3 of this act shall become operative and Sections 1 and 2 shall not become operative.

CHAPTER 936

An act to amend Section 40000.13 of, and to add Section 22520.5 to, the Vehicle Code, relating to freeways.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 22520.5 is added to the Vehicle Code, to read:

22520.5. (a) Any person who solicits, displays, sells, offers for sale, or otherwise vends or attempts to vend any merchandise or service while being wholly or partly within the right-of-way of any freeway, including any on-ramp, off-ramp, or roadway shoulder which lies within the right-of-way of the freeway, is guilty of an infraction. Any person guilty of a second or subsequent offense under this section is guilty of a misdemeanor.

(b) Subdivision (a) of this section shall not apply to a tow car or service vehicle rendering assistance to a disabled vehicle or to a person issued a permit to vend upon the freeway.

SEC. 2. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

(c) Section 22520.5, a second or subsequent offense relating to vending on freeways.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a

local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 937

An act to amend Sections 21651 and 40000.13 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 21651 of the Vehicle Code is amended to read:

21651. (a) It is unlawful to drive any vehicle upon any highway which has been divided into two or more roadways by means of intermittent barriers or by means of a dividing section of not less than two feet in width either unpaved or delineated by curbs, lines, or other markings on the roadway except to the right of the barrier or dividing section, or to drive any vehicle over, upon, or across the dividing section, or to make any left turn or semicircular or U-turn on the divided highway, except through an opening in the barrier designated and intended by public authorities for the use of vehicles or through a plainly marked opening in the dividing section.

(b) It is unlawful to drive any vehicle upon any freeway which has been divided into two or more roadways by means of intermittent barriers or by means of a dividing section of not less than two feet in width either unpaved or delineated by curbs, lines, or other markings on the roadway except to the right of the barrier or dividing section. Any person who violates this subdivision is guilty of a misdemeanor.

SEC. 2. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

(c) Section 21651, subdivision (b), relating to wrong-way driving on freeways.

SEC. 3. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

(c) Section 21651, subdivision (b), relating to wrong-way driving on freeways.

(d) Section 22520.5, a second or subsequent offense relating to vending on freeways.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 494 are both chaptered and become effective January 1, 1982, both bills amend Section 40000.13 of the Vehicle Code, and this bill is chaptered after Senate Bill 494, that the amendments to Section 40000.13 of the Vehicle Code proposed by both bills be given effect and incorporated in Section 40000.13 of the Vehicle Code in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill 494 are both chaptered and become effective January 1, 1982, both amend Section 40000.13 of the Vehicle Code, and this bill is chaptered after Senate Bill 494, in which case Section 2 of this act shall not become operative.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may e incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 938

An act making an appropriation to pay the costs incurred in eradication of the Mediterranean fruit fly, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. The Legislature hereby finds and declares that:

(a) The Mediterranean fruit fly (Ceratitis capitata) is a tenacious pest which breeds on more than 200 varieties of fruits and vegetables, causing major economic loss.

(b) An infestation of this fly has been found in California and threatens to spread throughout the state's agricultural regions.

(c) The spread of this pest would be detrimental to the state, causing serious domestic and commercial crop damage and raising the threat of an interstate and foreign embargo of California's produce.

(d) Unless eradicated soon and effectively, the Mediterranean fruit fly will likely spread rapidly and undermine this state's agriculture.

Thus, the Legislature intends to undertake the efforts necessary to eradicate soon and effectively the Mediterranean fruit fly. The

Director of Food and Agriculture is hereby directed, in cooperation with federal, city, county, city and county, and other state agencies, to take steps which are prudent, necessary, legal, and appropriate to protect the health and safety of the people of California in order to accomplish the eradication of this pest.

SEC. 2. The sum of fifty million dollars ($50,000,000) is hereby appropriated from the General Fund for reimbursement of activities required to carry out Section 1 of this act in accordance with the following schedule:

(a) For allocation to state agencies to defray actual costs incurred by them pursuant to this act from July 1, 1981 to February 28, 1982, Department of Finance $50,000,000

Provided, that the Director of Food and Agriculture shall make every reasonable effort to obtain federal funds to help defray the costs of the activities specified in Section 1 of this act.

Provided further, that the funds appropriated by this section shall be reduced by the amount of any federal funds received by the state to assist in carrying out Section 1 of this act.

Provided further, that reimbursement to any county agricultural commissioner shall be contingent upon his or her compliance with the terms of the Operational Protocol agreement entered into between the Department of Food and Agriculture and the United States Department of Agriculture regarding the Mediterranean fruit fly eradication project, including the 7-day Mediterranean fruit fly trap monitoring schedule which has also been agreed upon by the Department of Food and Agriculture and the United States Department of Agriculture.

Provided further, that any of the funds appropriated in this section not required for actual costs from July 1, 1981, to February 28, 1982, may be used to defray actual costs incurred subsequent to February 28, 1982, and shall be subject to the same review requirements set forth in Section 3 of this act.

SEC. 3. The Legislature recognizes the extraordinary effort made by the state under the leadership of the Department of Food and Agriculture to eradicate the Mediterranean fruit fly and acknowledges the serious cash-flow problems some departments are

now experiencing as a result. Therefore, the Legislature intends that the appropriation in subdivision (a) of Section 2 of this act shall be for partial costs from July 1, 1981, through February 28, 1982, only. Additional costs shall be payable through an appropriation in a subsequent deficiency bill. All departments claiming reimbursement under this act shall present to the Department of Finance for transmittal to the Joint Legislative Budget Committee adequate documentation of all costs associated with the emergency eradication project, including workload and expenditures by program or purpose, itemization of overhead costs, and savings incurred as a result of normal departmental activities which were not performed. Any costs paid as a result of this act that are questioned by the Joint Legislative Budget Committee or the Department of Finance and are later found by review or audit, or both, by the Department of Finance, to be improper charges shall be deducted from reimbursements to be provided in the subsequent deficiency act.

SEC. 4. This act is an urgency statute necessary for the preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Mediterranean fruit fly is a serious pest which threatens the agriculture industry and the availability of food for the general public. In order to prevent economic loss to the industry and food loss to the public, it is necessary that this act take effect immediately.

CHAPTER 939

An act to amend Sections 11110, 12810, 13201, 13209, 13210, 13352, 13353, 13354, 14601, 23126, and 40000.15 of, and to add Section 23102.6 to, the Vehicle Code, relating to public offenses.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 11110 of the Vehicle Code is amended to read:

11110. The department may cancel, suspend, revoke, or refuse to renew any license under the provisions of this chapter:

(a) Whenever the department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this chapter.

(b) Whenever the licensee fails to keep the records required by this chapter.

(c) Whenever the licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the department,

or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license.

(d) Whenever the holder fails to comply with any provisions of this chapter or any of the regulations or requirements of the department made pursuant thereto.

(e) Whenever the licensee represents himself as an agent or employee of the department or uses advertising designed to create the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or whenever the licensee advertises in any manner or means whatever any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(f) Whenever the licensee or any employee or agent of the licensee solicits driver training or instruction in an office of the department or within 200 feet of any office of the department.

(g) Whenever the licensee is convicted of driving an automobile while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or of violating Section 14606, 20001, 20002, 20003, 20004, 20006, 20008, 23102.6, 23103, or 23104 of this code or Section 192 of the Penal Code. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section.

(h) Whenever the licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. The department, in proceeding pursuant to this subdivision, shall conform its procedures to the provisions of Division 1.5 (commencing with Section 475) of the Business and Professions Code. Whenever disability or unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation, the referee, hearing officer, or board shall make a specific finding as to the manner in which the action or conduct manifests such disability or unfitness, which finding is to be incorporated in the order suspending or revoking the license.

(i) Whenever, contrary to provisions of this code or of regulations established by the department, the licensee teaches or permits a student to be taught the specific tests administered by the department through use of the department's forms or testing facilities.

(j) Whenever the licensee conducts driver training, or permits driver training by any employee, in an unsafe manner or contrary to safe driving practices.

(k) Whenever the driving school owner or driving school operator teaches or permits an employee to teach driving instruction without a valid driving instructor's license.

(*l*) Whenever a driving school owner does not have in effect a good and sufficient bond with corporate surety, as provided in Section 11102.

SEC. 1.5. Section 11110 of the Vehicle Code is amended to read:

11110. The department may cancel, suspend, revoke, or refuse to renew any license under the provisions of this chapter:

(a) Whenever the department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this chapter.

(b) Whenever the licensee fails to keep the records required by this chapter.

(c) Whenever the licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license.

(d) Whenever the holder fails to comply with any provisions of this chapter or any of the regulations or requirements of the department made pursuant thereto.

(e) Whenever the licensee represents himself as an agent or employee of the department or uses advertising designed to create the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or whenever the licensee advertises in any manner or means whatever any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(f) Whenever the licensee or any employee or agent of such licensee solicits driver training or instruction in an office of the department or within 200 feet of any such office.

(g) Whenever the licensee is convicted of violating Section 14606, 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or Section 192 of the Penal Code. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section.

(h) Whenever the licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. The department, in proceeding pursuant to this subdivision, shall conform its procedures to the provisions of Division 1.5 (commencing with Section 475) of the Business and Professions Code. Whenever disability or unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation, the referee, hearing officer, or board shall make a specific finding as to the manner in which the action or conduct manifests such disability or unfitness, which finding is to be incorporated in the order suspending or revoking the license.

(i) Whenever contrary to provisions of this code or of regulations established by the department, the licensee teaches or permits a student to be taught the specific tests administered by the department through use of the department's forms or testing facilities.

(j) Whenever the licensee conducts driver training, or permits

driver training by any employee, in an unsafe manner or contrary to safe driving practices.

(k) Whenever the driving school owner or driving school operator teaches or permits an employee to teach driving instruction without a valid driving instructor's license.

(*l*) Whenever a driving school owner does not have in effect a good and sufficient bond with corporate surety, as provided in Section 11102.

SEC. 2. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, any conviction for failure to stop in the event of an accident resulting in damage to property or otherwise failing to comply with the requirements of Section 20002, for driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, for reckless driving, or for violation of Section 23102.6, shall be given a value of two points and any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point; provided, however, that conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

Any person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months, shall be prima facie presumed to be a negligent operator of a motor vehicle.

Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

In applying the provisions of this section to a driver, the department shall give due consideration to the amount of use or mileage traveled in the operation of a motor vehicle.

SEC. 2.5. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, any conviction of failure to stop in the event of an accident resulting in damage to property or otherwise failing to comply with the requirements of Section 20002, of a violation of Section 23152 or 23153, or of reckless driving shall be given a value of two points and any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point; provided, however, that conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

Any person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months, shall be prima facie presumed to be a negligent operator of a motor vehicle

Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

In applying the provisions of this section to a driver, the department shall give due consideration to the amount of use or

mileage traveled in the operation of a motor vehicle.

SEC. 3. Section 13201 of the Vehicle Code is amended to read:

13201. A court may suspend the privilege of any person to operate a motor vehicle, for a period not exceeding six months, upon conviction of any of the following offenses:

(a) Failure of the driver of a vehicle involved in an accident to stop or otherwise comply with the provisions of Section 20002.

(b) Reckless driving proximately causing bodily injury to any person under Section 23104.

(c) Failure of the driver of a vehicle to stop at a railway grade crossing as required by Section 22452.

(d) Driving while addicted to the use, or under the influence of, any drug under subdivision (a) or (c) of Section 23105.

(e) Driving a motor vehicle in violation of Section 23102.6, as it relates to driving while having a specified blood alcohol level.

SEC. 4. Section 13209 of the Vehicle Code is amended to read:

13209. Before sentencing a person upon a conviction of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, other than under Section 23101 or 23106, or in violation of Section 23102.6, the court shall obtain from the department a record of any prior convictions of that person for traffic violations. The department shall furnish that record upon the written request of the court.

Notwithstanding the provisions of Section 1449 of the Penal Code, in any such criminal action, the time for pronouncement of judgment shall not commence to run until the time that the court receives the record of prior convictions from the department.

SEC. 4.5. Section 13209 of the Vehicle Code is amended to read:

13209. Before sentencing a person upon a conviction of a violation of Section 23152 or 23153, the court shall obtain from the department a record of any prior convictions of that person for traffic violations. The department shall furnish that record upon the written request of the court

Notwithstanding the provisions of Section 1449 of the Penal Code, in any such criminal action the time for pronouncement of judgment shall not commence to run until the time that the court receives the record of prior convictions from the department.

SEC. 5. Section 13210 of the Vehicle Code is amended to read:

13210. Notwithstanding any other provision of this code, whenever any person is convicted for the first time of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, other than under Section 23101 or 23106, or in violation of Section 23102.6, the court shall order the department to suspend the person's driving privilege unless the person shows good cause why that order should not be made. If the court does not order the suspension, the court may limit the person's driving privilege as a condition of probation without notifying the department of that

condition.

SEC. 6. Section 13352 of the Vehicle Code is amended to read:

13352. Except for a conviction or finding described in subdivision (a) where the court does not order the department to suspend, the department shall immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of Section 23102.6 or subdivison (c) of Section 23105, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the juvenile has been found to have committed the offense of operating a vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of Section 23102.6 or subdivision (c) of Section 23105. The suspension or revocation shall be as follows:

(a) Upon a first such conviction or finding, other than under Section 23101 or 23106, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege.

(b) Upon a first such conviction or finding under Section 23101 or 23106, the privilege shall be suspended for one year and shall not be reinstated until the person gives proof of ability to respond in damages, as defined in Section 16430.

(c) Upon a second conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of Section 23102.6 or subdivision (c) of Section 23105, or any combination of such convictions or findings of an offense which occurred within five years of the date of a prior offense which resulted in a conviction, the privilege shall be suspended and shall not be reinstated in less than one year and until the person gives proof of ability to respond in damages as defined in Section 16430.

(d) Upon a second conviction or finding under Section 23101 or 23106 within three years, the privilege shall be revoked and shall not be reinstated in less than five years, until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license, and the person gives proof of ability to respond in damages as defined in Section 16430

(e) Upon a third or subsequent conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of Section 23102.6 or subdivision (c) of Section 23105, or any combination of such convictions or findings of an offense which ocurred within seven years of the date of a prior offense which resulted in a conviction, the privilege shall be revoked and shall not be reinstated for a period of three years and until such

person files proof of ability to respond in damages as defined in Section 16430.

For the purpose of subdivisions (c), (d), and (e), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court, specified in the first paragraph of this section shall also be considered a conviction.

Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report such findings to the department.

SEC. 7. Section 13353 of the Vehicle Code is amended to read:

13353. (a) (1) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood if lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor or in violation of Section 23102.6. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe such person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102.6. Such person shall be told that his refusal to submit to, or the noncompletion of, a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of six months.

(2) The person arrested shall have the choice of whether the test shall be of his blood, breath, or urine, and he or she shall be advised by the officer that he or she has such a choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, he or she shall then have the choice of submitting to and completing any of the remaining tests or test, and he or she shall be advised by the officer that he or she has such choice.

(3) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, such refusal may be used against him or her in a court of law.

(4) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and such a test may be administered whether or not the person is told that his or her refusal to submit to or the noncompletion of the test will result in the suspension of his privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his consent and such a test may be administered at the direction of a peace officer.

(b) If any such person refuses the officer's request to submit to, or does not complete, a chemical test, upon receipt of the officer's

sworn statement that he or she had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102.6 and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No such suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify such person in writing of the action taken and, upon his or her request in writing and within 15 days from the date of receipt of that request, shall afford him or her an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3 of this division. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102.6, whether the person was placed under arrest, whether he or she refused to submit to, or did not complete, the test after being requested by a peace officer, and whether, except for the persons described in paragraph (4) of subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or did not complete, the test

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department does not afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as provided in paragraph (3). However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

(3) If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension shall not become effective until five days after receipt by the person of the department's notification of that suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon shall be exempt from the blood test required by this section

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor or for violation of Section 23102.6 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of such person's blood; and, if so requested, the arresting officer shall have the test performed.

SEC. 7.5. Section 13353 of the Vehicle Code is amended to read:

13353. (a) (1) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153. The person shall be told that his failure to submit to or the noncompletion of, a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of six months.

(2) The person arrested shall have the choice of whether the test shall be of his blood, breath, or urine, and he or she shall be advised by the officer that he or she has such a choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, he or she shall then have the choice of submitting to and completing any of the remaining tests or test, and he or she shall be advised by the officer that he or she has such choice.

(3) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, the refusal may be used against him or her in a court of law.

(4) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and such a test may be administered whether or not the person is told that his or her failure to submit to the noncompletion of the test will result in the suspension of his privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his or her consent and such a test may be administered at the direction of a peace officer.

(b) If any such person refuses the officer's request to submit to, or fails to complete, a chemical test, upon receipt of the officer's sworn statement that he or she had reasonable cause to believe such person had been driving a motor vehicle upon a highway or upon

other than a highway in areas which are open to the general public in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No such suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify the person in writing of the action taken and, upon his or her request in writing and within 15 days from the date of receipt of that request, shall afford him or her an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153, whether the person was placed under arrest, whether he or she refused to submit to, or did not complete, the test after being requested by a peace officer, and whether, except for the persons described in paragraph (4) of subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or did not complete, the test.

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department does not afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as provided in paragraph (3). However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

(3) If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension shall not become effective until five days after receipt by the person of the department's notification of that suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23152 or 23153 may request the arresting officer to have a chemical

test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 7.6. Section 13353 of the Vehicle Code, as amended by Chapter 675 of the Statutes of 1980, is amended to read:

13353. (a) (1) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his or her consent to a chemical test of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood if lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor or in violation of Section 23102.6. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102 6. The person shall be told that failure to submit to, or the noncompletion of, a chemical test will result in the suspension of the person's privilege to operate a motor vehicle for a period of six months.

(2) The person arrested shall have the choice of whether the test shall be of the person blood, breath, or urine, and the person shall be advised by the officer that the person has such a choice. If the person arrested either is incapable, or states that the person is incapable, of completing any chosen test, the person shall then have the choice of submitting to and completing any of the remaining tests or test, and the person shall be advised by the officer that the person the person has that choice.

(3) If the person is lawfully arrested for driving under the influence of an intoxicating liquor or under the combined influence of intoxicating liquor and any drug, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person shall have the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, the refusal may be used against him or her in a court of law

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to

have withdrawn his or her consent and such a test may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test will result in the suspension of his or her privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his or her consent and such a test may be administered at the direction of a peace officer.

(b) If any person refuses the officer's request to submit to, or fails to complete, a chemical test, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23102.6 and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall afford the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public while under the influence of intoxicating liquor or in violation of Section 23103.6 whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test after being requested by a peace officer, and whether, except for the persons described in subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or did not complete, the test.

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the department does not afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as provided in paragraph (3). However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

(3) If the department determines upon a hearing of the matter to

suspend the affected person's privilege to operate a motor vehicle, the suspension shall not become effective until five days after receipt by the person of the department's notification of that suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor or for violation of Section 23102.6 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 7.7. Section 13353 of the Vehicle Code is amended to read:

13353. (a) (1) Any person who drives a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public shall be deemed to have given his or her consent to a chemical test of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153. The person shall be told that his failure to submit to, or the noncompletion of, a chemical test will result in the suspension of the person's privilege to operate a motor vehicle for a period of six months.

(2) The person arrested shall have the choice of whether the test shall be of his or her blood, breath, or urine, and the person shall be advised by the officer that he or she has such a choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall then have the choice of submitting to and completing any of the remaining tests or test, and the person shall be advised by the officer that the person has that choice.

(3) If the person is lawfully arrested for driving under the influence of an intoxicating liquor or under the combined influence of intoxicating liquor and any drug, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person shall have the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available

(4) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test, before deciding which test to take, or during administration of the test chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and such a test may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test will result in the suspension of his or her privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his or her consent and such a test may be administered at the direction of a peace officer.

(b) If any person refuses the officer's request to submit to, or fails to complete, a chemical test, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall suspend the person's privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No such suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall afford the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3. For the purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway or upon other than a highway in areas which are open to the general public in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test after being requested by a peace officer, and whether, except for the persons described in subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended if he or she refused to submit to, or did not complete, the test.

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department shall afford a hearing. If the

department does not afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as provided in paragraph (3). However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted.

(3) If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension shall not become effective until five days after receipt by the person of the department's notification of that suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23152 or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed

SEC. 8. Section 13354 of the Vehicle Code is amended to read:

13354. (a) Only a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or certified paramedic acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath specimens. An emergency call for paramedic services shall take precedence over a peace officer's request for a paramedic to withdraw blood for determining its alcoholic content. A certified paramedic shall not withdraw blood for this purpose unless authorized by his or her employer to do so.

(b) The person tested may, at his own expense, have a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or any other person of his or her own choosing administer a test in addition to any test administered at the direction of a peace officer for the purpose of determining the amount of alcohol in his or her blood at the time alleged as shown by chemical analysis of his blood, breath, or urine. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

(c) Upon the request of the person tested, full information concerning the test taken at the direction of the peace officer shall be made available to the person or the person's attorney.

(d) No physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory

bioanalyst, or certified paramedic, or hospital, laboratory, or clinic employing or utilizing the services of the physician, registered nurse, licensed vocational nurse, duly licensed laboratory technologist or clinical laboratory bioanalyst, or certified paramedic, owning or leasing the premises on which such tests are performed, shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer such a test.

(e) If the test given under Section 13353 is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(f) The Department of the California Highway Patrol, in cooperation with the State Department of Health Services or any other appropriate agency, shall adopt uniform standards for the withdrawal, handling, and preservation of blood samples prior to analysis.

(g) As used in this section, "certified paramedic" does not include any employee of a fire department.

SEC. 9. Section 14601 of the Vehicle Code is amended to read:

14601. (a) No person, who has knowledge of the suspension or revocation, shall drive a motor vehicle upon a highway at any time when his driving privilege is suspended or revoked for any of the following:

(1) Reckless driving.

(2) Driving while under the influence of alcohol or any drug, or under the combined influence of alcohol and any drug.

(3) Driving in violation of Section 23102.6.

(4) Any reason listed in subdivisions (b) through (f) of Section 12805 requiring the department to refuse to issue a license.

(5) Negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809.

(6) Negligent operation as prescribed in Section 12810.

The knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting burden of proof.

(b) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than five days nor more than six months and by fine of not more than five hundred dollars ($500), and upon a second or any subsequent conviction, within seven years of a prior conviction, by imprisonment in the county jail for not less than 10 days nor more than one year and by fine of not more than one thousand dollars ($1,000)

(c) If any person is convicted of a second or subsequent offense under this section within seven years of a prior conviction and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 10 days.

SEC. 10. Section 23102.6 is added to the Vehicle Code, to read:

23102.6. (a) It is unlawful for any person, while having 0.10 percent or more, by weight, of alcohol in his or her blood to drive a vehicle upon a highway or upon other than a highway in areas which are open to the general public and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself or herself.

Any person convicted under this subdivision shall be punished in accordance with the provisions of Section 23101.

(b) It is unlawful for any person who has 0.10 percent or more, by weight, of alcohol in his or her blood to drive a vehicle upon a highway or upon other than a highway in areas which are open to the general public.

Any person convicted under this subdivision shall be punished in accordance with the provisions of Section 23102.

(c) A conviction under this section shall be deemed a second conviction if the person has previously been convicted of a violation of Section 23101, 23102, 23105, or 23106.

(d) For purposes of this section, percent, by weight, of alcohol shall be based upon grams of alcohol per 100 milliliters of blood.

SEC. 11. Section 23126 of the Vehicle Code is amended to read:

23126. (a) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time of the test as shown by chemical analysis of his blood, breath, or urine shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor at the time of the alleged offense.

(b) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(c) The provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor at the time of the alleged offense.

SEC. 12. Section 40000.15 of the Vehicle Code is amended to read:

40000.15. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Section 23102, relating to driving under the influence

Section 23102.6, relating to driving with a specified blood alcohol level.

Sections 23103 and 23104, relating to reckless driving.

Section 23105, relating to driving under the influence.

Section 23109, relating to speed contests or exhibitions.

Section 23110, subdivision (a), relating to throwing at vehicles.

Section 23253, relating to officers on vehicular crossings.

Section 23332, relating to trespassing.

Section 27150.1, relating to sale of exhaust systems.

Section 28050, relating to true mileage driven.

Section 28050.5, relating to nonfunctional odometers.

Section 28051, relating to resetting odometer.

Section 28051.5 relating to device to reset odometer.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 14. The Legislature finds that the enactment of this act will decrease costs to local goverments by reducing the number of trials for driving under the influence of intoxicating liquor, increasing the number of fines collected, and resulting in more offenders participating in programs to address their problem drinking.

SEC. 15. It is the intent of the Legislature, if this bill and Assembly Bill 541 or Senate Bill 374, or both, are chaptered and become effective January 1, 1982, and Senate Bill 374, if chaptered, and this bill amends Section 13353 of the Vehicle Code and this bill is chaptered last, that this bill will make further conforming changes to the Vehicle Code to implement the changes proposed by Assembly Bill 541, if chaptered, and to give effect to, and incorporate, the amendments proposed by both this bill and Senate Bill 374, if chaptered, as follows:

(1) If this bill and Assembly Bill 541 are both chaptered and become effective January 1, 1982, but Senate Bill 374 is not chaptered, or as chaptered does not amend Section 13353 of the Vehicle Code, and this bill is chaptered last, then the provisions of Assembly Bill 541 shall prevail over Sections 3, 5, 6, 9, 10, 11, and 12 of this bill, Sections 1.5, 2.5, 4.5, 7.5, and 8 of this bill shall become operative on January 1, 1982, and Sections 1, 2, 4, 7, 7.6, and 7.7 of this bill shall not become operative, whether Assembly Bill 541 is chaptered prior to or subsequent to this bill.

(2) If this bill and Senate Bill 374 are both chaptered and become effective January 1, 1982, both bills amend Section 13353 of the Vehicle Code, but Assembly Bill 541 is not chaptered, and this bill is chaptered after Senate Bill 374, the amendments proposed by both bills be given effect and incorporated in Section 13353 of the Vehicle

Code in the form set forth in Section 7.6 of this act. Therefore, if this bill and Senate Bill 374 are both chaptered and become effective January 1, 1982, both bills amend Section 13353 of the Vehicle Code, this bill is chaptered after Senate Bill 374, and Assembly Bill 541 is not chaptered, Section 7.6 shall become operative and Sections 7, 7.5, and 7.7 shall not become operative.

(3) If this bill and Assembly Bill 541 and Senate Bill 374 are all chaptered and become effective January 1, 1982, and Senate Bill 374 and this bill both amend Section 13353 of the Vehicle Code, and this bill is chaptered last, then the provisions of Assembly Bill 541 shall prevail over Sections 3, 5, 6, 9, 10, 11, and 12 of this bill, Sections 1.5, 2.5, 4.5, 7.7, and 8 of this bill shall become operative on January 1, 1982, and Sections 1, 2, 4, 7, 7.5, and 7.6 of this bill shall not become operative, whether Assembly Bill 541 is chaptered prior to or subsequent to this bill.

CHAPTER 940

An act to add Section 1463 18 to the Penal Code, and to amend Sections 13201, 13352, 13352.5, 14601, 14601.1, 40000.11, and 40000.15 of, to amend and renumber Sections 23101, as amended by Section 2 of Chapter 1004 of the Statutes of 1980, 23102, as amended by Section 4 of Chapter 1004 of the Statutes of 1980, 23102.2, 23102.3, 23102.4, 23107, 23121, 23121 5, 23122, 23122.5, 23123, 23123.5, 23123.6, 23125, and 23126 of, to add Section 14601.2 to, a heading immediately preceding Section 23100 of, and Article 2 (commencing with Section 23151) to Chapter 12 of Division 11 of, to add and repeal Article 3 (commencing with Section 23231) of Chapter 12 of Division 11 of, and to repeal Sections 13201.5, 13210, 23101, as amended by Section 3 of Chapter 1004 of the Statutes of 1980, 23102, as amended by Section 5 of Chapter 1004 of the Statutes of 1980, 23102.1, 23105, as amended by Section 8 of Chapter 1004 of the Statutes of 1980, 23105, as amended by Section 9 of Chapter 1004 of the Statutes of 1980, 23106, as amended by Section 10 of Chapter 1004 of the Statutes of 1980, and 23106, as amended by Section 11 of Chapter 1004 of the Statutes of 1980, of, the Vehicle Code, relating to offenses.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 1463.18 is added to the Penal Code, to read:

1463.18 (a) Notwithstanding the provisions of Section 1463, moneys which are collected for a conviction of a violation of Section 23152 or 23153 of the Vehicle Code and which are required to be deposited with the county treasurer pursuant to Section 1463 shall be allocated as follows:

(1) The first twenty dollars ($20) of any amount collected for a conviction shall be transferred to the Indemnity Fund. This amount shall be aggregated by the county treasurer and transferred to the State Treasury once per month for deposit in the Indemnity Fund.

(2) The balance of the amount collected, if any, shall be deposited by the county treasurer pursuant to Section 1463.

(b) The amount transferred to the Indemnity Fund pursuant to this section shall be in addition to any amount of any additional fine or assessment imposed pursuant to Section 13967 of the Government Code. The amount deposited to the Indemnity Fund pursuant to this section shall be used for the purpose of indemnification of victims pursuant to Section 13965 of the Government Code, with priority given to victims of alcohol-related traffic offenses.

SEC. 2. Section 13201 of the Vehicle Code is amended to read:

13201. A court may suspend the privilege of any person to operate a motor vehicle, for a period not exceeding six months, upon conviction of any of the following offenses:

(a) Failure of the driver of a vehicle involved in an accident to stop or otherwise comply with the provisions of Section 20002.

(b) Reckless driving proximately causing bodily injury to any person under Section 23104.

(c) Failure of the driver of a vehicle to stop at a railway grade crossing as required by Section 22452.

SEC. 3. Section 13201.5 of the Vehicle Code is repealed.

SEC. 4. Section 13210 of the Vehicle Code is repealed.

SEC. 5. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall, immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153. For the purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(3) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Upon a conviction or finding of a violation of Section 23153

punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages as defined in Section 16430.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (6), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153, as specified in subdivision (a), is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153 is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

SEC. 6. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not suspend or revoke, pursuant to paragraph (3) or (4) of subdivision (a) of Section 13352, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23152 or 23153 if the court has certified to the department that the person has consented to participate for at least one year, and is participating in a manner satisfactory to the court, in a public or private program for the supervision of those persons and the treatment of their problem drinking or alcoholism pursuant to the provisions of Article 5 (commencing with Section 11850) of Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code.

(b) All abstracts of record showing a conviction that are forwarded to the department pursuant to Section 1803 shall indicate whether the person convicted has consented to participate, and is participating, in a specified treatment program.

SEC. 7. Section 14601 of the Vehicle Code is amended to read:

14601. (a) No person shall drive a motor vehicle upon a highway at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103 or 23104, any reason listed in subdivisions (b) through (f) of Section 12805 requiring the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810, and the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than five days nor more than six months and by fine of not more than five hundred dollars ($500).

(2) Upon a second or any subsequent conviction within seven years of a prior conviction, by imprisonment in the county jail for not less than 10 days nor more than one year and by fine of not more than one thousand dollars ($1,000).

(c) If any person is convicted of a second or subsequent offense under this section within seven years of a prior conviction and is granted probation, it shall be a condition of probation that the person be confined in the county jail for at least 10 days.

SEC. 8. Section 14601.1 of the Vehicle Code is amended to read:

14601.1. (a) No person shall drive a motor vehicle on a highway when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601 or 14601.2 when the person so driving has knowledge of either such fact. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not more than six months or by fine of not more than five hundred dollars ($500) or by both that fine and imprisonment, and upon a second or any subsequent conviction under this section or Section 14601 or 14601.2, within seven years of a prior conviction, by imprisonment in the county jail for not less than five days nor more than one year and by fine of not more than one thousand dollars ($1,000).

SEC. 8.5. Section 14601.2 is added to the Vehicle Code, to read:

14601.2. (a) No person shall drive a motor vehicle upon a

highway at any time when that person's driving privilege is suspended or revoked for driving under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, and when the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle upon a highway at any time when that person's driving privilege is restricted pursuant to Article 2 (commencing with Section 23151) of Chapter 12 of Division 11, and when the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) Any person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days nor more than six months and by a fine of not more than five hundred dollars ($500).

(2) Upon a second or any subsequent conviction within seven years of a prior conviction, by imprisonment in the county jail for not less than 30 days nor more than one year and by a fine of not more than one thousand dollars ($1,000).

(e) If any person is convicted of a first offense under this section and is granted probation, it shall be a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If any person is convicted of a second or subsequent offense under this section within five years of a prior conviction of an offense under this section and is granted probation, it shall be a condition of probation that the person be confined in the county jail for at least 30 days.

SEC. 9. A heading is added immediately preceding Section 23100 of the Vehicle Code, to read:

Article 1. Driving Offenses

SEC. 10. Section 23101 of the Vehicle Code, as amended by Section 2 of Chapter 1004 of the Statutes of 1980, is amended and renumbered to read:

23153. It is unlawful for any person, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than the driver. In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

SEC. 11. Section 23101 of the Vehicle Code, as amended by

Section 3 of Chapter 1004 of the Statutes of 1980, is repealed.

SEC. 12. Section 23102 of the Vehicle Code, as amended by Section 4 of Chapter 1004 of the Statutes of 1980, is amended and renumbered to read:

23152. (a) It is unlawful for any person who is under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle.

(b) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

SEC. 13. Section 23102 of the Vehicle Code, as amended by Section 5 of Chapter 1004 of the Statutes of 1980, is repealed.

SEC. 14. Section 23102.1 of the Vehicle Code is repealed.

SEC. 15. Section 23102.2 of the Vehicle Code is amended and renumbered to read:

23208. (a) In any proceedings to have a prior judgment of conviction of a violation of Section 23152 or 23153 declared invalid on constitutional grounds, the defendant shall state in writing and with specificity wherein the defendant was deprived of the defendant's constitutional rights, which statement shall be filed with the clerk of the court and a copy served on the court that rendered the prior judgment and on the prosecuting attorney in the present proceedings at least five court days prior to the hearing thereon.

(b) The court shall, prior to the trial of any pending criminal action against the defendant wherein the prior conviction is charged as such, hold a hearing, outside of the presence of the jury, in order to determine the constitutional validity of the charged prior conviction issue. At the hearing the procedure, the burden of proof, and the burden of producing evidence shall be as follows:

(1) The burden of proof remains with the prosecution throughout and is that of beyond a reasonable doubt.

(2) The prosecution shall initially have the burden of producing evidence of the prior conviction sufficient to justify a finding that the defendant has suffered that prior conviction.

(3) After the production of evidence required by paragraph (2), the defendant then has the burden of producing evidence that the defendant's constitutional rights were infringed in the prior proceeding at issue.

(4) If the defendant bears this burden successfully, the prosecution shall have the right to produce evidence in rebuttal.

(5) The court shall make a finding on the basis of the evidence thus produced and shall strike from the accusatory pleading any prior conviction found to be constitutionally invalid.

SEC. 16. Section 23102.3 of the Vehicle Code is amended and renumbered to read:

23205. (a) Upon any conviction of a violation of Section 23152 or 23153, any judge of the court may order a presentence investigation to determine whether a person convicted of the violation would benefit from treatment for persons who are habitual users of alcohol or drugs, and the court may order suitable treatment for the person, in addition to imposing any penalties required by this code.

(b) In determining whether to require, as a condition of probation, the participation in a driver improvement program or a treatment program for persons who are habitual users of alcohol or drugs, pursuant to Section 23161, or the participation in an approved program pursuant to subdivision (b) of Section 23166, subdivision (b) of Section 23171, subdivision (b) of Section 23186, or subdivision (b) of Section 23191, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required by subdivision (a), or other screening procedure. No such information shall be furnished to the court, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

SEC. 17. Section 23102.4 of the Vehicle Code is amended and renumbered to read:

23209. Only one challenge shall be permitted to the constitutionality of a prior conviction of a violation of Section 14601, 14601.2, 23152, or 23153. When a proceeding to declare a prior judgment of conviction constitutionally invalid has been held, a determination by the court that the prior conviction is constitutional precludes any subsequent attack on constitutional grounds in a subsequent prosecution in which the same prior conviction is charged. In addition, any determination that a prior conviction is unconstitutional precludes any allegation or use of that prior conviction in any judicial or administrative proceeding, and the department shall strike that prior conviction from its records. Pursuant to Section 1803, the court shall report to the Department of Motor Vehicles any determination upholding a prior conviction on constitutional grounds and any determination that a prior conviction is unconstitutional.

This section shall not preclude a subsequent challenge to a prior conviction if, at a later time, a subsequent statute or appellate court decision having retroactive application affords any new basis to challenge the constitutionality of the prior conviction.

SEC. 18. Section 23105 of the Vehicle Code, as amended by Section 8 of Chapter 1004 of the Statutes of 1980, is repealed.

SEC. 19. Section 23105 of the Vehicle Code, as amended by Section 9 of Chapter 1004 of the Statutes of 1980, is repealed.

SEC. 20. Section 23106 of the Vehicle Code, as amended by

Section 10 of Chapter 1004 of the Statutes of 1980, is repealed.

SEC. 21. Section 23106 of the Vehicle Code, as amended by Section 11 of Chapter 1004 of the Statutes of 1980, is repealed.

SEC. 22. Section 23107 of the Vehicle Code is amended and renumbered to read:

23201. The fact that any person charged with driving under the influence of any drug or the combined influence of alcoholic beverages and any drug in violation of Section 23152 or 23153 is or has been entitled to use the drug under the laws of this state shall not constitute a defense against any violation of the sections.

SEC. 23. Section 23121 of the Vehicle Code is amended and renumbered to read:

23220. No person shall drink any alcoholic beverage while driving a motor vehicle upon any highway.

SEC. 24. Section 23121.5 of the Vehicle Code is amended and renumbered to read:

23221. No person shall drink any alcoholic beverage while in a motor vehicle upon a highway.

SEC. 25. Section 23122 of the Vehicle Code is amended and renumbered to read:

23222. No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

SEC. 26. Section 23122.5 of the Vehicle Code is amended and renumbered to read.

23223. No person shall have in his or her possession on his or her person, while in a motor vehicle upon a highway, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

SEC. 27. Section 23123 of the Vehicle Code is amended and renumbered to read:

23225. It is unlawful for the registered owner of any motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle, when the vehicle is upon any highway, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, unless the container is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

This section shall not apply to the living quarters of a housecar or camper.

SEC. 28. Section 23123.5 of the Vehicle Code is amended and renumbered to read:

23224. (a) No person under the age of 21 years shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent or legal guardian or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and is driving the motor vehicle during regular hours and in the course of the person's employment.

(b) No passenger in any motor vehicle who is under the age of 21 years shall knowingly possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent or legal guardian or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and the possession or control is during regular hours and in the course of the passenger's employment.

(c) If the vehicle used in any violation of subdivision (a) or (b) is registered to an offender who is under the age of 21 years, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation.

(d) The driver's license of any person under 21 years of age convicted of a violation of this section shall also be suspended for not less than 15 days nor more than 30 days.

SEC. 29. Section 23123.6 of the Vehicle Code is amended and renumbered to read:

23226. It is unlawful for any person to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

This section shall not apply to the living quarters of a housecar or camper.

SEC. 30. Section 23125 of the Vehicle Code is amended and renumbered to read:

23229. (a) Sections 23221 and 23223 shall not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or the living quarters of a housecar or camper, nor shall Section 23225 apply to the driver or owner of a bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority.

(b) Sections 23220, 23221, 23222, 23223, 23225, and 23226 shall not apply to any person who, upon the recommendation of a doctor, carries alcoholic beverages in that person's motor vehicle for medicinal purposes. These sections shall also not apply to any clergyman who carries alcoholic beverages in the clergyman's motor vehicle for religious purposes.

SEC. 31. Section 23126 of the Vehicle Code is amended and renumbered to read:

23155. (a) Upon the trial of any criminal action, or preliminary

proceeding in a criminal action, arising out of acts alleged to have been committed by any person while driving a vehicle while under the influence of an alcoholic beverage, the amount of alcohol in the person's blood at the time of the test as shown by chemical analysis of that person's blood, breath, or urine shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but such fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(b) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(c) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

SEC. 32. Article 2 (commencing with Section 23151) is added to Chapter 12 of Division 11 of the Vehicle Code, to read:

Article 2. Offenses Involving Alcohol and Drugs

23151. Unless the provisions or context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Alcoholic beverage" includes any liquid or solid material intended to be ingested by a person which contains ethanol, also known as ethyl alcohol, drinking alcohol, or alcohol, including, but not limited to, alcoholic beverages as defined in Section 23004 of the Business and Professions Code, intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, and brandy, and any mixture containing one or more alcoholic beverages. For purposes of Section 23152 or 23153, alcoholic beverage includes a mixture of one or more alcoholic beverages ingested separately or as a mixture.

23160. (a) If any person is convicted of a first violation of Section 23152, that person shall be punished by imprisonment in the county jail for not less than four days nor more than six months and by a fine of not less than three hundred seventy-five dollars ($375) nor more than five hundred dollars ($500).

(b) The court may order that any person punished under this section, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(c) The court shall order the department to suspend the privilege to operate a motor vehicle of a person punished under this section for six months pursuant to paragraph (1) of subdivision (a) of Section 13352.

23161. If the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206, the court shall impose as conditions of probation that the driver shall participate in, and successfully complete, a driver improvement program or a treatment program for persons who are habitual users of alcohol or drugs, or both of these programs, as designated by the court, in any county where the county alcohol program administrator has certified and the board of supervisors has approved such a program or programs. The court shall also impose as a condition of probation that the person be subject to one of the following:

(a) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred seventy-five dollars ($375) but not more than five hundred dollars ($500).

(b) Pay a fine of at least three hundred seventy-five dollars ($375) but not more than five hundred dollars ($500) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

23165. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of a prior offense which resulted in conviction of a violation of Section 23152 or 23153, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than three hundred seventy-five dollars ($375) nor more than one thousand dollars ($1,000).

23166 If the court grants probation to any person punished under Section 23165, in addition to the provisions of Section 23206, the court shall impose as conditions of probation that the person be subject to all of the provisions of either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year and pay a fine of at least three hundred seventy-five dollars ($375) but not more than one thousand dollars ($1,000).

(b) All of the following:

(1) Be confined in the county jail for at least two days but not more than one year.

(2) Pay a fine of at least three hundred seventy-five dollars ($375) but not more than one thousand dollars ($1,000).

(3) Have the privilege to operate a motor vehicle be restricted for one year to necessary travel to and from that person's place of employment and to and from the treatment program described in paragraph (4) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(4) Participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court.

23167. Notwithstanding the provisions of Section 23207, if any person has been granted probation under the conditions of subdivision (b) of Section 23166 and fails at any time to participate successfully in the treatment program described in paragraph (4) of that subdivision, the court shall revoke or terminate the probation and shall proceed under either of the following provisions:

(a) Revoke suspension of sentence and proceed as provided in subdivision (c) of Section 1203.2 of the Penal Code and order the Department of Motor Vehicles to suspend the person's privilege to operate a motor vehicle pursuant to paragraph (3) of subdivision (a) of Section 13352 from the date of the order revoking or terminating probation.

(b) Grant a new term of probation on the condition that the person be confined in the county jail for at least 30 days and order the Department of Motor Vehicles to suspend the person's privilege to operate a motor vehicle pursuant to paragraph (3) of subdivision (a) of Section 13352 from the date of the new grant of probation.

23168. Any person who has been granted probation under the conditions of subdivision (b) of Section 23166, may, after six months have elapsed since the commencement of participation in the treatment program, petition the court to have the restriction on that person's privilege to operate a motor vehicle removed, and the court may, for good cause shown, remove the restrictions upon a showing that the person has successfully participated in the treatment program and complied with the terms and conditions of probation.

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred seventy-five dollars ($375) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked pursuant to paragraph (5) of subdivision (a) of Section 13352.

23171. (a) If the court grants probation to any person punished under Section 23170, in addition to the provisions of Section 23206, a condition of probation shall require the person to be confined in the county jail for at least 120 days but not more than one year and pay a fine of at least three hundred seventy-five dollars ($375) but

not more than one thousand dollars ($1,000).

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, it shall be a condition of probation that the person participate, for a least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in the section or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

23180. If any person is convicted of a first violation of Section 23153, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than three hundred seventy-five dollars ($375) nor more than one thousand dollars ($1,000).

23181. If the court grants probation to any person punished under Section 23180, in addition to the provisions of Section 23206, a condition of probation shall require the person to be confined in the county jail for at least five days but not more than one year and pay a fine of at least three hundred seventy-five dollars ($375) but not more than one thousand dollars ($1,000).

23185. If any person is convicted of a violation of Section 23153 and the offense occurred within five years of a prior offense which resulted in a conviction of a violation of Section 23152 or 23153, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 120 days nor more than one year, and by a fine of not less than three hundred seventy-five dollars ($375) nor more than five thousand dollars ($5,000).

23186. If the court grants probation to any person punished under Section 23185, in addition to the provisions of Section 23206, the court shall impose as conditions of probation that the person be subject to all of the provisions of either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 120 days and pay a fine of at least three hundred seventy-five dollars ($375) but not more than five thousand dollars ($5,000).

(b) All of the following:

(1) Be confined in the county jail for at least 30 days but not more than one year.

(2) Pay a fine of at least three hundred seventy-five dollars ($375) but not more than one thousand dollars ($1,000).

(3) Have the privilege to operate a motor vehicle be restricted for three years to necessary travel to and from that person's place of employment, and to and from the treatment program described in

paragraph (4) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(4) Participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court.

23187. Notwithstanding the provisions of Section 23207, if any person has been granted probation under the conditions of subdivision (b) of Section 23186 and fails at any time to participate successfully in the treatment program described in paragraph (4) of that subdivision, the court shall revoke or terminate the probation and shall proceed under either of the following provisions:

(a) Revoke suspension of sentence and proceed as provided in subdivision (c) of Section 1203.2 of the Penal Code and order the Department of Motor Vehicles to revoke the person's privilege to operate a motor vehicle pursuant to paragraph (4) of subdivision (a) of Section 13352 from the date of the order revoking or terminating probation.

(b) Grant a new term of probation on the condition that the person be confined in the county jail for at least 90 days and order the Department of Motor Vehicles to suspend the person's privilege to operate a motor vehicle pursuant to paragraph (4) of subdivision (a) of Section 13352 from the date of the new grant of probation

23190 If any person is convicted of a violation of Section 23153 and the offense occurred within five years of two or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) The person's privilege to operate a motor vehicle shall be revoked pursuant to paragraph (6) of subdivision (a) of Section 13352.

23191. (a) If the court grants probation to any person punished under Section 23190, in addition to the provisions of Section 23206, the court shall impose as conditions of probation that the person be confined in the county jail for at least one year, that the person pay a fine of at least three hundred seventy-five dollars ($375) but not more than five thousand dollars ($5,000), and that the person make restitution or reparation pursuant to Section 1203.1 of the Penal Code.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, it shall be a condition of probation that the person participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837)

of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or for avoiding the mandatory license revocation provisions of paragraph (6) of subdivision (a) of Section 13352.

23200. (a) In any case charging a violation of Section 23152 or 23153 and the offense occurred within five years of one or more prior offenses which resulted in convictions of violations of Section 23152 or 23153 or both, the court shall not strike any prior conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, as provided in this chapter.

(b) In any case charging a violation of Section 23152 or 23153, the court shall obtain a copy of the driving record of the person charged from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more prior convictions of the person of offenses which resulted in convictions of Section 23152 or 23153 or both have occurred within five years of the charged offense

(c) If any prior convictions of violations of Section 23152 or 23153 are reported to have occurred within five years of the charged offense, the court shall notify each court where any of the prior convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23207.

23202. (a) In any case in which a person is charged with a violation of Section 23152 or 23153, prior to acquittal or conviction, the court shall not suspend or stay the proceedings for the purpose of allowing the accused person to attend or participate, nor shall the court consider dismissal of or entertain a motion to dismiss the proceedings because the accused person attends or participates during that suspension, in any driver improvement program, a treatment program for persons who are habitual users of alcohol or other alcoholism program, or a treatment program for persons who are habitual users of drugs or other drug-related program.

(b) This section shall not apply to any attendance or participation in any driver improvement or treatment programs after conviction and sentencing, including attendance or participation in any of those programs as a condition of probation granted after conviction when permitted pursuant to this article.

23203. (a) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this article, the court shall clearly mark the restriction and the dates of the restriction on each of that person's operator's licenses and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The department shall place that restriction on the person's records in the department and enter the restriction on any license subsequently issued by the department to that person during the period of the restriction.

(b) If the court removes a restriction before the end of the previously specified term pursuant to Section 23168, the court shall so mark the person's operator's license in a manner prescribed by the department and promptly notify the department of the removal of the restriction

23204. If a person's privilege to operate a motor vehicle is suspended or revoked by the Department of Motor Vehicles pursuant to other provisions of this code, that person shall be present in court and each and every operator's license of that person shall be surrendered to the court. The court shall transmit the license or licenses to the Department of Motor Vehicles pursuant to Section 13550, and the court shall notify the department.

23206. (a) If any person is convicted of a violation of Section 23152 or 23153, the court shall not stay or suspend pronouncement of sentencing and shall pronounce sentence in conjunction with the conviction in a reasonable time, including time for receipt of any presentence investigation report ordered pursuant to Section 23205.

(b) If any person is convicted of a violation of Section 23152 or 23153 and is granted probation, the terms and conditions of probation shall include, but not be limited to, a time of probation which shall be three years.

(c) The court shall not absolve a person who is convicted of a violation of Section 23152 or 23153 from the obligation of spending the minimum time in confinement, if any, or of paying the minimum fine provided in this article.

23207. Except as otherwise expressly provided in this article, if a person has been convicted of a violation of Section 23152 or 23153 and the court has suspended execution of the sentence for that conviction and has granted probation, and during the time of that probation, the person is found by the court to have violated a term or condition of that probation required by any provision of this article, the court shall revoke the suspension of sentence, revoke or terminate probation, and shall proceed in the manner provided in subdivision (c) of Section 1203 2 of the Penal Code

23210. A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152 or 23153, is a conviction of Section 23152 or 23153 for the purposes of this code

23211. A court shall not order or refer any person to any program, including a driver improvement program or a treatment program for persons who are habitual users of alcohol or drugs or a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10 5 of the Health and Safety Code, or a provider of such a program in which any employee of the court has a direct or indirect interest, as described in Section 3625 of the Government Code

23215 The department may, but shall not be required to, provide

patrol or enforce the provisions of Section 23152 for offenses which occur other than upon a highway.

SEC. 33. Section 23152 of the Vehicle Code, as amended and renumbered by Section 12 of this act, is further amended to read:

23152. (a) It is unlawful for any person who is under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle.

(b) It is unlawful for any person who has 0.10 percent or more, by weight, of alcohol in his or her blood to drive a vehicle upon a highway or upon other than a highway in areas which are open to the general public.

For purposes of this subdivision, percent, by weight, of alcohol shall be based upon grams of alcohol per 100 milliliters of blood.

(c) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle This subdivision shall not apply to a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code.

SEC 34. Section 23153 of the Vehicle Code, as amended and renumbered by Section 10 of this act, is further amended to read:

23153. It is unlawful for any person, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle and, when so driving, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately causes death or bodily injury to any person other than the driver.

(b) It is unlawful for any person, while having 0.10 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and, when so driving, proximately cause death or bodily injury to any person other than the driver.

(c) In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated.

SEC. 35. Section 23155 of the Vehicle Code, as amended and renumbered by Section 31 of this act, is further amended to read:

23155. (a) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while driving a vehicle while under the influence of an alcoholic beverage, the amount of alcohol in the person's blood at the time of the test as shown by chemical analysis of that person's blood, breath, or urine shall give rise to the following presumptions affecting the burden of proof·

(1) If there was at that time less than 0.05 percent by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0 05 percent or more but less than 0 10

percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but such fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(b) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(c) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

SEC. 36. Section 23165 of the Vehicle Code, as added by Section 32 of this act, is amended to read:

23165. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of a prior offense which resulted in conviction of a violation of Section 23152 or 23153, or a prior offense which occurred on or after January 1, 1982, which resulted in a conviction of a violation of Section 23103 as specified in Section 23103.5 or of Section 23104 as specified in Section 24104.5, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than three hundred seventy-five dollars ($375) nor more than one thousand dollars ($1,000).

SEC. 37. Section 23170 of the Vehicle Code, as added by Section 32 of this act, is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two or more prior offenses which occurred on or after January 1, 1982, which resulted in convictions of violations of Section 23103 as specified in Section 23103.5 or Section 23104 as specified in Section 23104.5 or prior offenses which resulted in convictions of violations of Section 23152 or 23153, or any combination, or all, of those four provisions, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred seventy-five dollars ($375) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked pursuant to paragraph (5) of subdivision (a) of Section 13352

SEC. 38. Section 23185 of the Vehicle Code, as added by Section 32 of this act, is amended to read:

23185 If any person is convicted of a violation of Section 23153 and the offense occurred within five years of a prior offense which resulted in a conviction of a violation of Section 23152 or 23153, or a prior offense which occurred on or after January 1, 1982, which resulted in a conviction of a violation of Section 23103 as specified in Section 23103.5 or of Section 23104 as specified in Section 23104 5, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 120 days nor more than one year, and

by a fine of not less than three hundred seventy-five dollars ($375) nor more than five thousand dollars ($5,000).

SEC. 39. Section 23190 of the Vehicle Code, as added by Section 32 of this act, is amended to read:

23190. If any person is convicted of a violation of Section 23153 and the offense occurred within five years of two or more prior offenses which occurred on or after January 1, 1982, which resulted in convictions of violations of Section 23103 as specified in Section 23103.5 or Section 23104 as specified in Section 23104.5 or prior offenses which resulted in convictions of violations of Section 23152 or 23153, or any combination, or all, of those four provisions, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked pursuant to paragraph (6) of subdivision (a) of Section 13352.

SEC. 40. Section 23200 of the Vehicle Code, as added by Section 32 of this act, is amended to read:

23200. (a) In any case charging a violation of Section 23152 or 23153 and the offense occurred within five years of one or more prior offenses which occurred on or after January 1, 1982, which resulted in convictions of violations of Section 23103 as specified in Section 23103.5 or Section 23104 as specified in Section 23104 5 or one or more prior offenses which resulted in convictions of violations of Section 23152 or 23153, or any combination, or all, of those four provisions, the court shall not strike any prior conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, as provided in this chapter.

(b) In any case charging a violation of Section 23152 or 23153, the court shall obtain a copy of the driving record of the person charged from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more prior convictions of the person of offenses which resulted in convictions of Section 23152 or 23153 or both, or prior convictions which occurred on or after January 1, 1982, of Section 23103 as specified in Section 23103.5 or Section 23104 as specified in Section 23104 5 or both, have occurred within five years of the charged offense.

(c) If any prior convictions of violations of Section 23152 or 23153 are reported to have occurred within five years of the charged offense, the court shall notify each court where any of the prior convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23207

SEC. 41. Section 23208 is added to the Vehicle Code, to read:

23208. If any person is convicted of a violation of Section 23152 or 23153 and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's

expense for not less than one day nor more than 30 days.

SEC. 42. Article 3 (commencing with Section 23231) is added to Chapter 12 of Division 11 of the Vehicle Code, to read:

Article 3 Driving Under the Influence Offender Programs

23231. A First Offender Program Task Force is hereby created which shall consist of 10 members appointed by the Governor, as follows:

(a) Three persons representing county alcohol programs.

(b) Two persons representing providers of alcohol treatment programs for drinking driver offenders.

(c) One person representing the judiciary.

(d) One person representing the State Advisory Board on Alcohol-Related Problems.

(e) One person representing the State Department of Alcohol and Drug Programs.

(f) One person representing prosecuting attorneys.

(g) One person representing the Department of Motor Vehicles.

23232. On or before April 30, 1982, the First Offender Program Task Force shall determine and report to the Legislature the statewide advisory guidelines for first offender programs. For the purposes of this article, "first offender" means a person convicted of an offense punished under Section 23160 or 23180.

23233. The members of the First Offender Program Task Force shall serve without compensation and shall not receive reimbursement for travel or other expenses for services rendered.

23234. The State Department of Alcohol and Drug Programs shall provide necessary staff services to the First Offender Program Task Force.

23235. Notwithstanding the provisions of Sections 23165, 23166, 23167, and 23168, or any other provision of law, the program conducted under the provisions of Chapter 1377 of the Statutes of 1980 shall not be superseded, terminated, or otherwise affected by the amendment, repeal, or reenactment of provisions relating to driving under the influence of alcohol by the enactment of the act which adds this article, chaptered during the 1981–82 Regular Session of the Legislature.

23236. This article shall remain in effect only until January 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends that date.

SEC 43. Section 40000.11 of the Vehicle Code is amended to read.

40000.11. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Division 5 (commencing with Section 11100), relating to occupational licensing and business regulations

Section 12500, subdivision (a), relating to unlicensed drivers.

Section 12951, subdivision (b), relating to refusal to display license

Section 13004, relating to unlawful use of identification card.

Section 14601, relating to driving when suspended.

Section 14601.1, relating to driving when suspended.

Section 14601.2, relating to driving when suspended.

Section 14610, relating to unlawful use of driver's license.

Section 15501, relating to use of false or fraudulent license by minor.

SEC. 44. Section 40000.15 of the Vehicle Code is amended to read:

40000.15. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Sections 23103 and 23104, relating to reckless driving.

Section 23109, relating to speed contests or exhibitions.

Section 23110, subdivision (a), relating to throwing at vehicles.

Section 23152, relating to driving under the influence.

Section 23253, relating to officers on vehicular crossings.

Section 23332, relating to trespassing.

Section 27150.1, relating to sale of exhaust systems.

Section 28050, relating to true mileage driven.

Section 28050.5, relating to nonfunctional odometers.

Section 28051, relating to resetting odometer.

Section 28051.5, relating to device to reset odometer.

SEC. 45. (a) The provisions of Sections 2, 6, 7, and 10 of the Vehicle Code expressly apply to the provisions of this act, and, further, for any recidivist or enhancement purposes, reference to an offense by section number is a reference to the provisions contained in that section, insofar as they are renumbered without substantive change, and those provisions shall be construed as restatements and continuations thereof and not as new enactments.

(b) Any reference in the provisions of the Vehicle Code to a prior offense of Section 23152 shall include a prior offense under Section 23102 or 23105, as those sections read prior to January 1, 1982.

(c) Any reference in the provisions of the Vehicle Code to a prior offense of Section 23153 shall include a prior offense under Section 23101 or 23106 as those sections read prior to January 1, 1982.

(d) The provisions of this section are declaratory of existing law.

SEC. 46. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable

SEC. 47 Sections 33, 34, and 35 of this act shall become operative only if AB 7 is chaptered and takes effect on January 1, 1982, whether this bill is chaptered before or after AB 7.

SEC. 48. Sections 36, 37, 38, 39, and 40 of this act shall become operative only if AB 348 is chaptered and takes effect on January 1, 1982, whether this bill is chaptered before or after AB 348.

SEC 49 Section 41 of this act shall become operative only if AB 571 is chaptered and takes effect on January 1, 1982, whether this bill is chaptered before or after AB 571.

SEC. 50. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction

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CHAPTER 941

An act to amend Sections 23102, 23105, 23165 as added by Section 32 of Assembly Bill 541, and 23200 as added by Section 32 of Assembly Bill 541 of, and to add Sections 23102.5, 23103.5, 23195, and 23212 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 23102 of the Vehicle Code, as amended by Section 4 of Chapter 1004 of the Statutes of 1980, is amended to read:

23102 (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than three hundred fifty-five dollars ($355) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred fifty-five dollars ($255) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of an offense under this section or Section 23105, or a conviction which occurred on or after January 1, 1982, of

an offense under Section 23103 as specified in Section 23103.5, shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000)

(e) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or under Section 23105, or a conviction which occurred on or after January 1, 1982, of an offense under Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred fifty-five dollars ($355) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than three hundred fifty-five dollars ($355) nor more than one thousand dollars ($1,000).

(f) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23105, or 23106, or a conviction which occurred on or after January 1, 1982, of Section 23103 as specified in Section 23103 5, from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred fifty-five dollars ($355), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any

of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(j) This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 2. Section 23102 of the Vehicle Code, as amended by Section 5 of Chapter 1004 of the Statutes of 1980, is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than three hundred twenty dollars ($320) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than two hundred twenty dollars ($220) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of an offense under this section or Section 23105, or a conviction which occurred on or after January 1, 1982, of an offense under Section 23103 as specified in Section 23103.5, shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars

($1,000)

(e) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or under Section 23105, or a conviction which occurred on or after January 1, 1982, under Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least three hundred twenty dollars ($320) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than three hundred twenty dollars ($320) nor more than one thousand dollars ($1,000).

(f) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23105, or 23106, or a conviction which occurred on or after January 1, 1982, of Section 23103 as specified in Section 23103 5, from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least three hundred twenty dollars ($320), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court

(i) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days

(j) This section shall become operative on July 1, 1982.

SEC. 3. Section 23102.5 is added to the Vehicle Code, to read:

23102.5. When an allegation of a violation of Section 23102 or Section 23105 is dismissed by the court, an allegation of a different or lesser offense is substituted for an allegation of a violation of Section 23102 or Section 23105, or an allegation of a prior conviction is dismissed or stricken, the court shall specify on the record its reason or reasons for the order. The court shall also specify on the record whether the dismissal, substitution, or striking was requested by the prosecution and whether the prosecution concurred in or opposed the dismissal, substitution, or striking.

When the prosecution makes a motion for a dismissal or substitution, or for the striking of a prior conviction, the prosecution shall submit a written statement which shall become part of the court record and which gives the reasons for the motion. The reasons shall include, but need not be limited to, problems of proof, the interests of justice, why another offense is more properly charged, if applicable, and any other pertinent reasons. If the reasons include the "interests of justice", the written statement shall specify all of the factors which contributed to this conclusion.

SEC. 4. Section 23103.5 is added to the Vehicle Code, to read:

23103 5. (a) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of Section 23103 in satisfaction of, or as a substitute for, an original charge of a violation of Section 23102 or 23105, the prosecution shall state for the record a factual basis for the plea, including whether or not there had been consumption of any intoxicating liquor or ingestion or administration of any drug, or both, by the defendant in connection with the offense.

(b) The court shall advise the defendant prior to the acceptance of a plea offered pursuant to a factual statement pursuant to subdivision (a) of the consequences of a conviction of a violation of Section 23103 as set forth in subdivision (c).

(c) If the court accepts the defendant's plea of guilty or nolo contendere to a charge of a violation of Section 23103 and the prosecutor's statement under subdivision (a) states that there was a consumption of intoxicating liquor or the ingestion or administration of any drugs by the defendant in connection with the offense, the resulting conviction shall be a prior offense for the purposes of Section 23102 or 23105, as specified in those sections.

(d) The court shall notify the Department of Motor Vehicles of each conviction of Section 23103 which shall be a prior offense for purposes of Sections 23102 and 23105, as provided in this section.

SEC. 5 Section 23103.5 is added to the Vehicle Code, to read:

23103.5 (a) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of Section 23103 in satisfaction of, or as a substitute for, an original charge of a violation of Section 23152, the prosecution shall state for the record a factual basis for the plea, including whether or not there had been consumption of any intoxicating liquor or ingestion or administration of any drug, or both, by the defendant in connection with the offense.

The statement shall be an offer of proof of the facts which show whether or not there was a consumption of intoxicating liquor or the ingestion or administration of any drug by the defendant in connection with the offense.

(b) The court shall advise the defendant prior to the acceptance of the plea offered pursuant to a factual statement pursuant to subdivision (a) of the consequences of a conviction of a violation of Section 23103 as set forth in subdivision (c).

(c) If the court accepts the defendant's plea of guilty or nolo contendere to a charge of a violation of Section 23103 and the prosecutor's statement under subdivision (a) states that there was consumption of intoxicating liquor or the ingestion or administration of any drugs by the defendant in connection with the offense, the resulting conviction shall be a prior offense for the purposes of Section 23165 or 23200, as specified in those sections.

(d) The court shall notify the Department of Motor Vehicles of each conviction of Section 23103 which shall be a prior offense for purposes of Section 23165 or 23200, as provided in this section.

SEC. 6. Section 23105 of the Vehicle Code, as amended by Section 8 of Chapter 1004 of the Statutes of 1980, is amended to read:

23105. (a) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) It is unlawful for any person who is addicted to the use of any drug, except such a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code, to drive a vehicle upon any highway.

(d) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than two hundred eighty-five dollars ($285) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to participate, and does participate in and successfully completes, a driver improvement program or a treatment program for persons who are habitual users of drugs, or both such programs, as designated by the court, a court shall punish such person by a fine of not less than one hundred eighty-five dollars ($185) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment

(e) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102, or a conviction which occurred on or after January 1, 1982, of an offense

under Section 23103 as specified in Section 23103.5, shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred eighty-five dollars ($285) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred eighty-five dollars ($285) nor more than one thousand dollars ($1,000).

(f) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102, or a conviction which occurred on or after January 1, 1982, of an offense under Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred eighty-five dollars ($285) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than two hundred eighty-five dollars ($285) nor more than one thousand dollars ($1,000)

(g) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23102, or 23106, or a conviction which occurred on or after January 1, 1982, under Section 23103 as specified in Section 23103.5, from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred eighty-five dollars ($285), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any

of such reasons.

(i) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(j) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(k) This section shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 7. Section 23105 of the Vehicle Code, as amended by Section 9 of Chapter 1004 of the Statutes of 1980, is amended to read:

23105. (a) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) It is unlawful for any person who is addicted to the use of any drug, except such a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code, to drive a vehicle upon any highway.

(d) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to participate, and does participate in and successfully completes, a driver improvement program or a treatment program for persons who are habitual users of drugs, or both such programs, as designated by the court, a court shall punish such person by a fine of not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(e) Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102, or a conviction which occurred on or after January 1, 1982, of an offense under Section 23103 as specified in Section 23103.5, shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000). Any person convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of Section 23101 or 23106 shall be punished

by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(f) If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23102, or a conviction which occurred on or after January 1, 1982, of an offense under Section 23103 as specified in Section 23103.5, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than one thousand dollars ($1,000). If any person is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under Section 23101 or 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and pay a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(g) In no event shall the court have the power to absolve a person who is convicted under this section of an offense which occurred within five years of the date of a prior offense which resulted in a conviction under this section or Section 23101, 23102, or 23106, or a conviction which occurred on or after January 1, 1982, under Section 23103 as specified in Section 23103.5, from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time in confinement in the county jail and the minimum fine, as provided in this section

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(i) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(j) If any person is convicted under this section and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days

(k) This section shall become operative on July 1, 1982.

SEC. 8. Section 23165 of the Vehicle Code, as added by Section 32 of Assembly Bill No. 541 of the 1981–82 Regular Session, is amended to read.

23165. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of a prior offense which resulted in conviction of a violation of Section 23152 or 23153, or a prior offense which occurred on or after January 1, 1982, which resulted in a conviction of a violation of Section 23103 as specified in Section 23103.5, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than three hundred seventy-five dollars ($375) nor more than one thousand dollars ($1,000).

SEC. 9. Section 23195 is added to the Vehicle Code, to read:

23195 If any person is convicted of a violation of Section 23152 or 23153 and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

SEC. 10 Section 23200 of the Vehicle Code, as added by Section 32 of Assembly Bill No. 541 of the 1981–82 Regular Session, is amended to read:

23200. (a) In any case charging a violation of Section 23152 or 23153 and the offense occurred within five years of one or more prior offenses which resulted in convictions of violations of Section 23152 or 23153, or one or more prior offenses which occurred on or after January 1, 1982, which resulted in convictions of violations of Section 23103 as specified in Section 23103.5, or any combination, or all, of those three provisions, the court shall not strike any prior conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, as provided in this chapter.

(b) In any case charging a violation of Section 23152 or 23153, the court shall obtain a copy of the driving record of the person charged from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more prior convictions of the person of offenses which resulted in convictions of Section 23152 or 23153 or both, or a prior conviction which occurred on or after January 1, 1982, of Section 23103 as specified in Section 23103.5, have occurred within five years of the charged offense.

(c) If any prior convictions of violations of Section 23152 or 23153 are reported to have occurred within five years of the charged offense, the court shall notify each court where any of the prior convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23207

SEC 11. Section 23212 is added to the Vehicle Code, to read

23212 When an allegation of a violation of Section 23152 is dismissed by the court, an allegation of a different or lesser offense

is substituted for an allegation of a violation of Section 23152, or an allegation of a prior conviction is dismissed or stricken, the court shall specify on the record its reason or reasons for the order. The court shall also specify on the record whether the dismissal, substitution, or striking was requested by the prosecution and whether the prosecution concurred in or opposed the dismissal, substitution, or striking.

When the prosecution makes a motion for a dismissal or substitution, or for the striking of a prior conviction, the prosecution shall submit a written statement which shall become part of the court record and which gives the reasons for the motion. The reasons shall include, but need not be limited to, problems of proof, the interests of justice, why another offense is more properly charged, if applicable, and any other pertinent reasons. If the reasons include the "interests of justice", the written statement shall specify all of the factors which contributed to this conclusion

SEC. 12. Notwithstanding any provision of Section 48 or 49 of Assembly Bill 541 of the 1981–82 Regular Session of the Legislature, Sections 36, 37, 38, 39, 40, and 41 of Assembly Bill 541 shall not become operative.

SEC. 13. It is the intent of the Legislature, if this bill and Assembly Bill 541 are chaptered and become effective January 1, 1982, and both of the bills amend, amend and renumber, or repeal Sections 23102 and 23105 of the Vehicle Code, and this bill is chaptered last, that amendments proposed by both of the bills be given effect. Therefore, if this bill and Assembly Bill 541 are both chaptered and become effective January 1, 1982, both bills amend, amend and renumber, or repeal Sections 23102 and 23105 of the Vehicle Code, and this bill is chaptered after Assembly Bill 541, Sections 5, 8, 9, 10, 11, and 12 of this act shall become operative and Sections 1, 2, 3, 4, 6, and 7 shall not become operative.

SEC 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 942

An act to amend Section 54444 of, and to add Sections 54443.1, 54444.1, 54444.2, 54444.3, and 54444.4 to, and to repeal and add Sections 54441 and 54443 of, the Education Code, relating to programs for migrant children.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 54441 of the Education Code is repealed.

SEC. 2. Section 54441 is added to the Education Code, to read:

54441. The definitions set forth in this section shall govern the interpretation of this article.

(a) "Currently migratory child" means a child who has moved with a parent, guardian, or other person having custody, from one school district to another, either within the State of California or from another state within the 12-month period immediately preceding his or her identification as such a child, in order that the child, a parent, guardian, or other member of his or her immediate family might secure temporary or seasonal employment in an agricultural or fishing activity, and whose parents or guardians have been informed of the child's eligibility for migrant education services.

"Currently migratory child" includes a child who, without the parent or guardian, has continued to migrate annually to secure temporary or seasonal employment in an agricultural or fishing activity

(b) "Former migratory child" means a child who was formerly eligible to be counted and served as a currently migratory child within the past five years, but who is no longer a currently migratory child, and who lives in an area served by an ESEA Title I Migrant Education project, and whose parents have been informed of the child's eligibility for migrant education services but have not removed the child from the program

(c) "Agricultural activity" means any activity directly related to the production or processing of agricultural products and the cultivation or harvesting of trees.

(d) "Fishing activity" means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or as a principal means of personal subsistence.

(e) "Operating agency" means a local educational agency operating under a subgrant of state migrant education funding, or a public or private nonprofit agency under a special arrangement with the department to carry out a migrant education program.

(f) "Migrant region" means an operating agency comprised of a county or a combination of counties, or a public or private nonprofit agency not controlled in whole or part by a school district, or a combination of counties and agencies, meeting the criteria of subdivision (a) of Section 54444.1

(g) "Quality control" means the development of program quality standards by the state and the conduct of quality review procedures and processes at the operating agency, school district, and school level by state and other professional staff and parents, in conjunction

with other interested parties, on a regular basis to assure the maintenance of high quality migrant education programs.

(h) "Supplementary services" means services provided to migratory children which are above the services already provided by a school or school district to other children of that school or school district.

(i) "Average monthly enrollments" means the average monthly number of pupils who are enrolled in a migrant education program. Average monthly enrollments shall be computed by totaling the number of migrant pupils reported by an operating agency during the months of September to June, inclusive, and dividing that total by 10.

(j) "Department" means the State Department of Education.

(k) "Superintendent" means the Superintendent of Public Instruction.

SEC. 3. Section 54443 of the Education Code is repealed.

SEC. 4. Section 54443 is added to the Education Code, to read:

54443. (a) Migratory children shall be served according to their needs in the following order:

(1) School-aged currently migratory children.

(2) School-aged former migratory children.

(3) Preschool currently migratory children.

(4) Preschool former migratory children.

(b) A project may provide instructional or supporting services to former migratory children only if the participation of these children does not prevent the participation of currently migratory children in the same preschool or school-aged group, and does not dilute the effectiveness of the state migrant education program for currently migratory children.

(c) Eligibility provisions shall be determined in a manner consistent with federal statutes and regulations.

SEC. 5. Section 54443.1 is added to the Education Code, to read:

54443.1. Migrant education programs shall include all of the following:

(a) An individual assessment of the educational and relevant health needs of each participating pupil within 30 days of enrollment. This assessment shall include assessments concurrently provided pursuant to compensatory education, bilingual-bicultural education, school improvement programs, and other programs serving the pupil.

(b) A general needs assessment developed in compliance with federal requirements summarizing the needs of the population to be served.

(c) A comprehensive program to meet the educational, health, and related needs of participating pupils which is supplemental to the program the operating agency is otherwise required to provide. The program shall include, but need not be limited to, the following:

(1) Academic instruction.

(2) Remedial and compensatory instruction.

(3) Bilingual and multicultural instruction.

(4) Vocational instruction.

(5) Counseling and career education services.

(6) Preschool services in accordance with Section 54443.

(7) Other educational services that are not available in sufficient quantity or quality to eligible migratory children.

(8) The acquisition of instructional materials and equipment necessary to adequately provide the appropriate services.

(9) Other related services to meet the special needs of eligible migratory children which are necessary to enable these children to effectively participate in instructional services.

(10) The coordination and teaming of existing resources serving migrant pupils, such as bilingual-crosscultural education, health screening, and compensatory education.

(d) A brief individual learning plan listing the services to be provided to each pupil shall be provided in writing or at a parent conference to the parent or guardian of each participating pupil, annually and each time the pupil moves to a new district.

(e) Staffing and staff development plans and practices to meet the needs of pupils and implement the program.

(f) Parent and community involvement as specified in Section 54444.2.

(g) Evaluations which shall include annual pupil progress and overall program effectiveness and quality control reports.

School districts and other education agencies shall be eligible to apply for funding to serve migrant pupils upon application to their respective region, or, if they meet the criteria established in subdivision (b) of Section 54444.1, to the department. Operating agencies shall include in their application a description of how the entities will coordinate the planning, budgeting, and operation of the migrant education programs with the planning, budgeting, and operation of other federal and state education programs addressing the needs of the same or similar pupils of the operating agency. The description shall include time lines and cover services provided through school improvement, nonmigrant Title I, state compensatory and limited- and non-English proficient, Title VII, and other funds. If the application meets state and federal requirements, negotiations for an appropriate service agreement shall begin involving the parties listed in subdivision (a) or (b) of Section 54444.1

SEC. 6. Section 54444 of the Education Code is amended to read:

54444. In implementing the plan adopted by the State Board of Education, the Superintendent of Public Instruction is authorized to:

(a) Contract with county superintendents of school or local educational agencies to supply services to migrant children residing within specified geographical regions

(b) Enter into agreements or otherwise cooperate with other states or agencies of the state or the federal government in providing or coordinating services to migrant children including the

Mini-Corps Program as well as participation in or utilization of the Migrant Student Record Transfer System, or other equivalent information systems as may be used by the state.

SEC. 7. Section 54444.1 is added to the Education Code, to read:

54444.1 (a) In implementing the state master plan for services to migrant children, the Superintendent of Public Instruction shall establish the service regional system as the primary method for the delivery of services to migrant children. The superintendent shall review and approve plans for the establishment of service regions and shall incorporate the following criteria in the approval of regional plans:

(1) The boundaries of regions shall include all geographic areas with migrant and seasonal agricultural workers and fishermen.

(2) Regional service centers shall be located in areas with high concentrations of migrant and seasonal agricultural workers and fishermen. Regional headquarters shall be located in areas: (i) requiring large numbers of these workers for a period of at least two consecutive months during each year, (ii) in areas which normally contract for migrant and seasonal agricultural workers with families rather than single adults, and (iii) in areas where migrant and seasonal agricultural workers are involved in the transition from hand labor to mechanization.

(3) Regions shall be located in each geographic area of the state, except areas within the boundaries of directly funded districts.

(4) Except areas within the boundaries of directly funded districts, regions shall be contiguous to one another and should have no less than 1,500 and no more than 8,000 currently migratory children based upon full-time equivalent enrollment. In no event shall a county be split among two separate regions in order to meet the requirements of this paragraph.

(5) Regions shall be organized so as to provide quality services to all affected parties and maintain fiscal procedures in conformity with requirements adopted by the department.

(6) The boundaries of regions shall be drawn in such a manner as to avoid excessive commuting by personnel or by participants in the programs, not to exceed 100 miles from the school site to the operating agency.

(7) If a proposed region cannot meet the criteria established in paragraph (4) and (6) of subdivision (a), or both, it may request that the criteria be waived by the board. The waiver request shall be based upon a study, conducted by the entities, including their respective parent advisory councils, comprising the proposed region, which explains why the waiver is required and which describes likely outcomes if the waiver is not granted.

(8) This subdivision shall become operative on July 1, 1982.

(b) Agencies meeting the criteria set forth in this subdivision and subdivision (f) of Section 54441 may apply to the department for designation as a region. The application shall be in a format with sufficient information and at times designated by the

Superintendent of Public Instruction. The application shall include documentation of active participation, review and comment by the appropriate parent advisory councils, and signatures by parent advisory council chairpersons that the review and comment has taken place, and shall further include documentation that the agencies and parent representative comprising the proposed regions have met as a group prior to submission of the application and have agreed upon the formation of, and participation in, the region and a general delineation of the services which will be provided in the region.

Directly funded districts shall be invited by the regions to participate in regional activities and meetings. Staff and parent advisory council members in the districts shall also be invited to regional inservice activities and conferences.

This subdivision shall become operative July 1, 1982.

(c) The State Department of Education may fund directly local educational agencies, in whole or in part, to provide services to eligible migrant children if it is cost effective to do so; if the applicant agency serves not less than 1,500, nor more than 8,000, currently migratory children; has sufficient programmatic and fiscal resources to deliver an effective migrant education program; is in compliance with the federal and state requirements regarding migrant education programs; maintains an ongoing and functional parent advisory council which has voted on a biennial basis to approve the participation in the directly funded program, including the approval of a majority of the members who are the parents of migrant children; and maintains fiscal procedures in conformity with the requirements adopted by the department. All districts which are directly funded on January 1, 1982, may continue to be funded directly, provided that the districts comply with the criteria prescribed by this subdivision, except for the size criterion.

(d) The responsibilities of the various parties involved in the delivery of services to migrant children shall be set forth in a service agreement. A service agreement shall be a legally binding contract signed by the duly constituted authorities at the state, county, district, or private or public nonprofit agencies, or a combination thereof. In the regional delivery system, there shall be two parties to every service agreement; the region and the district or other operating agencies in which the eligible migrant pupils are enrolled. When a district or agency is funded directly by the state, the parties to the service agreement shall include the department and the district or operating agency in which the eligible migrant pupils are enrolled. The basic responsibilities of these three parties shall be as specified in Section 54444.4.

The parties, whether regional or directly funded, shall take the necessary steps to ensure the effective involvement of the Migrant Parent Advisory Committee for that district or agency. Representatives of the Migrant Parent Advisory Committee shall have the right to be present and participate in all deliberations

between the parties regarding the service agreement or any subsequent changes thereto. The service agreement shall include a signed statement from the officers of the Migrant Parent Advisory Committee signifying that such participation has occurred.

This subdivision shall become operative July 1, 1982.

(e) The Superintendent of Public Instruction shall develop an annual operating calendar for regions and directly funded districts including dates for the submission and approval of applications and service agreements. Any changes in regional boundaries for the subsequent fiscal year shall be made and approved by December 31 of the current year. Any changes in funding allocations for regions shall be made by December 31 of the current year or immediately after notification of a federal grant award.

This subdivision shall become operative July 1, 1982.

(f) The Superintendent of Public Instruction shall preserve the supplemental nature of the migrant education program. The program shall be maintained outside the supervision or above the administrative level of the consolidated application programs. The superintendent shall not incorporate the migrant education program into the consolidated application process, except as provided below:

(1) Commencing with the 1983–84 school year, directly funded districts may apply for migrant education funds as part of their consolidated application provided the district parent advisory council on migrant education approves the inclusion.

(2) The department shall commission an independent report describing the degree to which districts have succeeded in coordinating migrant education services with related educational and health programs serving migrant pupils. The report shall state whether significantly greater coordination has occurred since the 1981–82 school year and shall provide recommendations on how to promote further program integration, where that is desirable. The report shall be presented to the Legislature and the board no later than July 1, 1983.

If the department's report concludes that substantial program integration is not taking place, the superintendent shall convene a task force broadly representative of individuals interested in, and knowledgeable about, migrant education programs, which shall include state, regional, and district parent advisory council members. This task force shall review the findings of the study and reassess various strategies to achieve integration while maintaining the separate and supplemental nature of the program. The task force shall present its report to the board no later than May 1, 1984. After review of the department and task force reports, the board may take such steps as it deems necessary to improve migrant education program integration. This may include use of the consolidated application provided that the requirements of subdivision (c) of Section 54444.1, except those related to size, are met.

(3) Commencing with school year 1982–83 and pending the recommendations of the department study and task force report, a

copy of the district's annual application for migrant education funds as required by Section 54443.1 shall be attached to the district's annual consolidated application.

SEC. 8. Section 54444 2 is added to the Education Code, to read:

54444.2. (a) The Superintendent of Public Instruction shall take the steps necessary to assure effective parental involvement throughout the state migrant education program, which shall include, but need not be limited to, the following:

(1) The superintendent shall adopt rules and regulations requiring each operating agency receiving migrant education funds or services to actively solicit parental involvement in the planning, operation, and evaluation of its programs through the establishment of, and consultation with, a parent advisory council.

The membership of each parent advisory council shall be comprised of members who are knowledgeable of the needs of migrant children and shall be elected by the parents of migrant children enrolled in the operating agency's programs. The composition of the council shall be determined by the parents at a general meeting to which all parents of pupils enrolled in the migrant program shall be invited. Parents shall be informed, in a language they understand, that the parents have the sole authority to decide on the composition of the council. All parent candidates for the council shall be nominated by parents; nonparent candidates shall be nominated by the groups they represent (i.e., teachers by teachers, administrators by administrators, other school personnel by other school personnel, and pupils by pupils). All other community candidates shall be nominated by the parents. Each parent advisory council shall hold meetings on a regular basis during the operation of the regular program, but not less than six times during the year.

At least two-thirds of the members of each parent advisory council shall be the parents of migrant children. Each parent advisory council shall have the responsibilities listed in subdivision (a) of Section 54444.4.

(2) The superintendent shall establish a statewide parent advisory council which shall participate in the planning, operation, and evaluation of the state migrant education program. The membership of the statewide parent advisory council shall be comprised of members who are knowledgeable of the needs of migrant children and shall be nominated and elected by the parents of migrant children enrolled in the operating agencies. At least two-thirds of the members of the State Parent Advisory Council shall be the parents of migrant children. The state council shall meet to review the operation of the program and other issues once every two months.

The superintendent shall also sponsor an annual State Parent Advisory Council Conference. The conference shall be scheduled during the spring of every year. Within 60 days from the conclusion of the conference, the State Parent Advisory Council shall prepare and submit a report to the Legislature, State Board of Education, the superintendent, and the Governor regarding the status of the

migrant education program.

(3) The superintendent and each operating agency shall furnish, without charge, to the statewide and operating agency parent advisory councils and, upon request, to each member, a copy of all applicable state and federal migrant education statutes, rules and regulations, and guidelines. In addition, the superintendent and each operating agency shall furnish, without charge, to the statewide and operating agency parent advisory councils and, upon request, to each member, copies of all applicable state and federal audits, monitoring reports, and evaluations.

(4) The superintendent and each operating agency shall establish and implement training programs for members of the statewide and operating agency parent advisory councils to enable them to carry out their responsibilities. Each training program shall be developed in consultation with the parent advisory councils and shall include appropriate training materials in a language understandable to each member. Costs incurred in providing training under this paragraph, including federally authorized expenses associated with the attendance of members at training sessions, shall be funded, to the extent that funds are available, by federal funds allocated to the state, based upon the educational and related health needs of migratory children defined in subdivisions (a) and (b) of Section 54441, and may be supported by funds from the state migrant education program

(b) Each operating agency which provides services on a statewide basis shall be exempt from the requirement that it create its own parent advisory council, but shall consult the statewide parent advisory council in the planning, operation, and evaluation of its programs.

SEC. 9. Section 54444.3 is added to the Education Code, to read:

54444.3. (a) Each operating agency receiving Title I Migrant Education funding shall conduct summer school programs for eligible migrant children in kindergarten and grades 1 to 12, inclusive. The summer school programs shall respond to the individual needs of participating pupils and shall build on and be consistent with the instructional programs offered to these pupils during the regular school year. Each summer school program shall be funded, to the extent that funds are available, by federal funds earmarked for migrant education programs, and shall meet the following criteria·

(1) That summer school programs meet the following time requirements:

(A) For kindergarten classes, not less than 180 minutes per day, based upon the full apportionment day of 240 minutes, including recesses, for not less than 20 teaching days.

(B) For grades 1 to 8, not less than 200 minutes per day, based upon the full apportionment day of 240 minutes, including recesses and passing time but excluding noon intermissions, for not less than 20 teaching days.

(C) For grades 7 to 12, not less than 240 minutes per day, including passing time but excluding noon intermissions, for not less than 30 teaching days.

Exemptions from the requirements of this paragraph may be made by the Superintendent of Public Instruction upon petition submitted to him by the district. The basis for the exemption shall be agricultural labor factors, climatic conditions, specialized educational programs, and other conditions appearing to the superintendent to warrant exemption.

For purposes of this paragraph, holidays designated in Section 37220 other than Saturday and Sunday may be deducted from the required number of teaching days.

(2) That the program has been established with the prior written approval of the superintendent based upon the submission of an application which is in the form prescribed and furnished by the superintendent. Each application shall designate the persons who will exercise administrative or supervisorial responsibilities for the summer school program and shall be submitted prior to the establishment of the summer school program.

(3) That the summer school program contains coursework which is of the same level of difficulty in each subject as that provided to pupils enrolled in regular classes of instruction within the school district in the preceding year.

(4) That instructional programs are taught by staff with cultural training or background and understanding of the special needs of migrant children, and who are properly credentialed for the subjects and grade levels to which they are assigned.

(5) That the summer school program supplements other summer school programs, whether required or optional and whether federally or state funded, operated by the school district, including the programs for graduating high school seniors, handicapped children, pupils enrolled in grade 11, pupils enrolled in grades 7 to 12 who do not meet the district's adopted proficiency standards, and eligible compensatory education pupils.

(b) Each school district, county office of education, and community college district shall, upon request, make facilities available at cost for the operation of migrant summer school programs whenever they are available. Where available, these facilities shall be suitable for the summer climate.

If the Superintendent of Public Instruction determines that requests from prospective users of these facilities were denied without just cause, the superintendent shall reduce the district's or county superintendent's entitlement from Section A of the State School Fund by an amount equal to five thousand dollars ($5,000) or four times the costs to the prospective user for alternative facilities for the entire period for which the facilities were requested, whichever is greater.

SEC. 10. Section 54444.4 is added to the Education Code, to read:

54444.4. (a) The responsibilities of parent advisory councils at

the district, regional, and state levels shall include, but are not limited to, all of the following:

(1) The establishment of migrant education program goals, objectives, and priorities.

(2) The review of annual needs and year-end assessment, as well as program activities, for each school, and a review of individualized educational plans.

(3) Advice on the selection, development, and reassignment of migrant education program staff.

(4) Active involvement in the planning and negotiation of program applications and service agreements required under Section 54444.1.

(5) All other responsibilities required under state and federal laws or regulations.

(b) The responsibilities of the school districts or other agencies operating programs for migrant pupils include, but are not limited to, all of the following:

(1) Providing services in compliance with applicable state and federal laws or regulations.

(2) Providing information to parents.

(3) Providing support to instructional staff.

(c) The responsibilities of the region include, but are not limited to, the following:

(1) Providing funding to operating agencies within its jurisdiction in accordance with service agreements.

(2) Providing technical assistance to operating agencies operating under service agreements.

(3) Providing interagency coordination to improve the services available to participating pupils.

(4) Providing training for the parents and members of district, regional, and school parent advisory councils.

(5) Providing or arranging for staff development services for migrant education staff at the school and district levels.

(6) Providing direct services required pursuant to a service agreement entered into by the region.

(d) The responsibilities of the State Board of Education and the department shall be as set forth in the State Master Plan for Migrant Education developed under Section 54442.

SEC. 11. The State Department of Education, by July 1, 1982, shall recommend to the Joint Legislative Budget Committee and to the education policy committees of the two houses of the Legislature the formula or formulas by which the provision of all services to migratory children shall be funded equitably.

SEC. 12. Sections 1 to 6, inclusive, and 8 to 10, inclusive, of this act shall become operative July 1, 1982.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because all costs associated with the operation of

programs authorized under this act are reimbursed to the state and the local agencies or school districts from federal funds.

CHAPTER 943

An act to amend Section 87272 as amended and added by Chapter 1374 of the Statutes of 1980, and to add Section 87274.5 to, the Education Code, relating to teaching and related credentials, making an appropriation therefor.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. The Legislature finds and declares that under current law the criminal history of every applicant for a community college credential, whether or not employed by a community college district, is investigated through a crime report based upon the applicant's fingerprints and that a credential may not be issued prior to the completion of an investigation of past criminal activity. The Legislature also finds that additional reports are received and investigated upon for all persons holding community college credentials, whether or not that person is employed by a community college district.

It is the intent and purpose of the Legislature to implement a system for the issuance of community college credentials in a manner which will not unnecessarily intrude upon the privacy of applicants for community college credentials, which will reduce the cost of investigating applications for credentials, and which will ensure as much as possible that only those who are fit for service in the California Community Colleges shall receive a credential. It is also the intent of the Legislature to authorize the Board of Governors of the California Community Colleges to issue a certificate of eligibility to an applicant for a community college credential without requiring the conducting of an investigation of past criminal activity until such time as the person is employed by a community college district, after which the credential shall be issued or denied in accordance with the applicable provisions of law.

SEC. 2. Section 87272 of the Education Code as amended by Chapter 1374 of the Statutes of 1980, is amended to read:

87272. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials, and the fingerprint investigative check conducted by the Department of Justice. The fees shall be set by the board in such a manner that revenues shall be produced sufficient to support the credentialing related activities and functions of both agencies, including continuing research and evaluation activities. In no case shall a fee

exceed thirty dollars ($30) without express legislative approval.

This section shall remain in effect only until July 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends such date.

SEC. 3. Section 87272 of the Education Code as added by Chapter 1374 of the Statutes of 1980, is amended to read:

87272. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials, and the fingerprint investigative check conducted by the Department of Justice The fees shall be set by the board in such a manner that revenues shall be produced sufficient to support the credentialing related activities and functions of both agencies, including continuing research and evaluation activities. In no case shall a fee exceed twenty-five dollars ($25) without express legislative approval.

This section shall become operative July 1, 1985.

SEC. 5. Section 87274.5 is added to the Education Code, to read:

87274.5. (a) The board of governors of the California Community Colleges may issue a certificate of eligibility for any of the credentials it is authorized to issue. A certificate of eligibility shall be deemed a credential and may only be issued if the applicant has satisfied the educational and occupational requirements for the credential and has met the requirements of Section 87214.

(b) A certificate of eligibility issued by the board of governors pursuant to this section shall authorize the holder to be employed by a community college district to perform the services authorized by the credential and designated on the certificate for a period of not more than 120 days from the date the holder is first employed by a community college district.

(c) The board of governors shall either grant or deny a credential to a holder of a certificate of eligibility within 120 days from the date the holder is first employed by a community college district.

(d) The board of governors may adopt regulations for the effective implementation of this section.

CHAPTER 944

An act to add Article 8 (commencing with Section 25730) to Chapter 7 of Division 2 of Title 3 of the Government Code, relating to counties and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Article 8 (commencing with Section 25730) is added to Chapter 7 of Division 2 of Title 3 of the Government Code, to read:

Article 8. Electric power

25730. The board of supervisors of any county may construct, acquire, and develop works, which works are constructed after the effective date of this article, for the generation of hydroelectric power and transmission lines for the conveyance thereof, and may operate and maintain the works, or contract for such operation or maintenance. The construction of the plant or plants and transmission lines may be financed by any method of financing county works.

25731. The hydroelectric plant or plants and transmission lines constructed pursuant to Section 25730 may be leased for operation to, or the power generated may be sold to, a public utility or another public agency engaged in the distribution, use, or sale of electricity. The power generated may be used by the county for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the county to customers other than to a public utility or another public agency. Any power sold to a public utility or another public agency engaged in the distribution or sale of electricity shall be marketed at the bus bar. For purposes of this section, "bus bar" means the high tension disconnect switch or switches of the hydroelectric works.

25732. The power to construct, acquire and develop works for the generation of hydroelectric power and to operate and maintain such works shall only apply to works constructed, acquired, developed, operated, and maintained after the effective date of this article.

27933. The power to construct, acquire, develop, operate, and maintain works and facilities for the generation of hydroelectric power shall not include, and nothing in this article shall be interpreted to allow, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the county and the owner and operator of that works or property.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide necessary authority for counties to generate hydroelectric power and to thereby make such additional power available at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 945

An act to amend Section 12051 of the Penal Code, relating to firearms.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 12051 of the Penal Code is amended to read:

12051. (a) Applications for licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his or her age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number and the caliber

Applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. Such forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application.

(b) Any person who files an application required by subdivision (a) knowing that statements contained therein are false is guilty of a misdemeanor. Any person knowingly making a false statement on the application regarding the denial or revocation of a concealed weapons license, a criminal conviction, a finding of not guilty by reason of insanity, the use of a controlled substance, a dishonorable discharge from military service, a commitment to a mental institution, or a renunciation of United States citizenship is guilty of a felony.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 946

An act to amend Sections 12306, 14353, 17405.1, 18392, 22608, and 24608 of the Financial Code, relating to fees.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 12306 of the Financial Code is amended to read:

12306. The cost of every examination of a licensee or other person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year. For the purposes of this section only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

SEC. 2. Section 14353 of the Financial Code is amended to read

14353. If an examination is made or services performed, the credit union examined or to which services are rendered shall pay to the commissioner the cost thereof, including the salary or other compensation paid to the persons making the examination or rendering special services and overhead costs in connection therewith as fixed by the commissioner. In determining the cost of services or examinations, the commissioner may use the estimated average hourly cost for all persons performing services for or examinations of credit unions for the fiscal year. If recovery of these costs cannot be made from the credit union, these costs may be added to the assessment provided for in Section 14350.

SEC. 3. Section 17405.1 of the Financial Code is amended to read:

17405.1. The cost of every inspection and examination of a licensee or other person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of an inspection or examination, the commissioner may use the estimated average hourly cost for all persons performing inspections or examinations of licensees or other persons subject to this division for the fiscal year.

For the purposes of this section only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2

of the Government Code or by a judicial hearing in any court of competent jurisdiction.

SEC. 4. Section 18392 of the Financial Code is amended to read:

18392. The industrial loan company examined shall pay to the commissioner the cost of any examination, investigation or services, including the salary or other compensation paid to the persons making the examination or investigation or rendering services, and overhead costs in connection therewith as fixed by the commissioner. In determining the cost of examination, investigation, or services, the commissioner may use the estimated average hourly cost for all persons performing examinations, investigations, or services for industrial loan companies for the fiscal year.

SEC. 5. Section 22608 of the Financial Code is amended to read:

22608. (a) The cost of each examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

(b) For the purpose of this section only, no person other than a licensee shall be deemed to be a person subject to this division until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction.

SEC. 6. Section 24608 of the Financial Code, as added by Senate Bill 140 of the 1981–82 Regular Session, is amended to read:

24608. (a) The actual cost of each examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

(b) For the purpose of this section only, no person other than a licensee shall be deemed to be a person subject to this division until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or by a judicial hearing in any court of competent jurisdiction

SEC 7 Section 6 of this bill which amends Section 24608 of the Financial Code as added by Senate Bill 140 of the 1981–82 Regular Session shall become operative only if Senate Bill 140 is chaptered and in that case shall become operative without regard to whether

Senate Bill 140 is chaptered before or after this bill.

CHAPTER 947

An act to amend Sections 6593, 7304, 7401, 8971, 38104, 38115, 38204, 38301, 38631, 41024, and 41052 of, to add Sections 7658, 8106.5, 8878, 11407, 30283, 32256, 38203.5, 38453, 40103, and 41097 to, to add Article 2.1 (commencing with Section 7486) to Chapter 4 of Part 2 of Division 2 of, and to repeal Sections 7453, 7454, 7455, and 7456 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 6593 of the Revenue and Taxation Code is amended to read:

6593. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 6459, 6513, and 6591.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 1.5. Section 7304 of the Revenue and Taxation Code is amended to read:

7304 "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol containing more than 10 percent gasoline, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type of engine. It does not include kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, ethanol, or methanol.

SEC. 1.6. Section 7304 of the Revenue and Taxation Code is amended to read:

7304. "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol containing more than 15 percent gasoline, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type of engine. It does not include kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, ethanol, or methanol

SEC. 2. Section 7401 of the Revenue and Taxation Code is amended to read:

7401 The provisions of this part requiring the payment of license taxes do not apply to any of the following.

(a) Natural gasoline distributed to a duly licensed distributor under such regulations as the board may prescribe.

(b) Motor vehicle fuel exported from this state by the distributor or delivered by the distributor to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(c) Motor vehicle fuel distributed, or delivered on the order of the owner, to a distributor who has furnished bond as prescribed by Sections 7453 and 7454 of not less than fifty thousand dollars ($50,000), nor more than five hundred thousand dollars ($500,000), and who has established to the satisfaction of the board that this bond, together with property to which the lien imposed by Section 7872 attaches, is sufficient security to assure payment of all license taxes as they may become due to the state from him under this part.

(d) Motor vehicle fuel sold to the United States armed forces for use in ships or aircraft, or for use outside this state.

(e) Motor vehicle fuel distributed to any licensed distributor, or to any licensed broker who has furnished bond or other security in the form and amount required of distributors under Article 1 (commencing with Section 7451) of Chapter 4 of this part, for sale to the United States armed forces for use in ships or aircraft or use outside this state. Notwithstanding any other provisions of this part, the receiving of motor vehicle fuel in this state from a licensed distributor and the sale and delivery of the fuel to the United States armed forces pursuant to this subdivision shall not constitute a broker a distributor under this part.

Every distributor claiming an exemption shall report the exports, sales or distributions to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this state subject fully to the provisions of this part.

SEC. 3. Section 7453 of the Revenue and Taxation Code is repealed

SEC. 4. Section 7454 of the Revenue and Taxation Code is repealed

SEC. 5 Section 7455 of the Revenue and Taxation Code is repealed.

SEC. 6 Section 7456 of the Revenue and Taxation Code is repealed.

SEC 7 Article 2 1 (commencing with Section 7486) is added to Chapter 4 of Part 2 of Division 2 of the Revenue and Taxation Code, to read

Article 2.1. Bonds

7486. Before granting a license authorizing a person to engage in business as a distributor or broker, the board may require the person to file with the board, in such form as it prescribes, a bond or bonds duly executed by the person as principal and a corporation, such as

is mentioned in Section 1056 of the Code of Civil Procedure, as surety, payable to the state, conditioned upon faithful performance of all the requirements of this part, and expressly providing for the payment of all license taxes, penalties, and other obligations of the person arising out of this part.

7487. Subject to the limitations provided in this section, the board shall fix the total amount of the bond or bonds required of any distributor or broker and may increase or reduce the amount at any time. The total amount of the bond or bonds required of any distributor or broker shall never be more than three times the estimated average monthly tax liability of the distributor or broker but not in excess of five hundred thousand dollars ($500,000).

7488. Any recovery on a bond shall decrease the liability of the surety thereon to the extent of the recovery, but the mere recovery of part of the penalty of a bond shall not of itself cancel the remaining liability under the bond; neither shall the execution of a new bond nor the revocation of any license affect existing liabilities under any bond. A surety, however, may relieve itself of further liability pursuant to Section 2851 of the Civil Code.

7489. In lieu of a bond or bonds, under such conditions as the board may prescribe, a distributor or broker may deposit with the State Treasurer any of the following:

(a) An amount of lawful money of the United States equivalent to the amount of the bond or bonds.

(b) Bonds or other obligations of the United States, the State of California, or any county or city and county of this state of an actual market value not less than the amount of the bond or bonds fixed by the board.

(c) Certificates of deposit, not exceeding the federally insured amount, in an amount equivalent to the amount of the bond or bonds, issued by a bank doing business in the state and insured by the Federal Deposit Insurance Corporation.

(d) Investment certificates or share accounts, not exceeding the federally insured amount, in an amount equivalent to the amount of the bond or bonds, issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation.

SEC 8. Section 7658 is added to the Revenue and Taxation Code, to read:

7658. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 7655, 7656, and 7661.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief

SEC. 9. Section 8106.5 is added to the Revenue and Taxation Code, to read:

8106.5. In lieu of the collection and refund of the tax on motor vehicle fuel exported by a licensed distributor for use outside the state in such a manner as would entitle a distributor to claim a refund under subdivision (b) of Section 8101, credit may be given the distributor upon his or her tax return and the determination of the amount of his or her tax in accordance with such rules and regulations as the board may prescribe.

SEC. 10. Section 8878 is added to the Revenue and Taxation Code, to read:

8878. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 8803 and 8876.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 11. Section 8971 of the Revenue and Taxation Code is amended to read:

8971. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the filing of a notice of state tax lien under Section 7171 of the Government Code, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the state to collect the amount delinquent together with penalties and interest.

SEC. 12. Section 11407 is added to the Revenue and Taxation Code, to read:

11407. If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 11319, 11405, and 11430.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 13. Section 30283 is added to the Revenue and Taxation Code, to read:

30283. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 30185, 30223, and 30281

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 14. Section 32256 is added to the Revenue and Taxation

Code, to read:

32256. If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 32253, 32254, and 32291.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 15. Section 38104 of the Revenue and Taxation Code is amended to read:

38104. "Timber owner" means any person who owns timber immediately prior to felling or the first person who acquires either the legal title or beneficial title to timber after it has been felled from land owned by a federal agency or any other person or agency or entity exempt from property taxation under the Constitution or laws of the United States or under the Constitution or laws of the State of California. "Timber owner" includes any person who owns or acquires legal title or beneficial title to downed timber in this state.

"Timber owner" also includes the seller of timber located on land owned by that seller if the timber sales agreement, contract, or other document provides for the payment of the purchase price on the basis of actual timber volume scaled and does not contain a passage of title clause.

SEC. 16. Section 38115 of the Revenue and Taxation Code is amended to read:

38115. A timber yield tax is hereby imposed on every timber owner who harvests his timber or causes it to be harvested on or after April 1, 1977, and on every timber owner of felled or downed timber who acquires title to such felled or downed timber in this state from an exempt person or agency described in Section 38104 on or after that date, and on every person who, without authorization, intentionally or unintentionally harvests or causes to be harvested timber owned by another, at the rate of 6 percent of the total immediate harvest value of that timber or at such other rate as may be fixed pursuant to Chapter 3 (commencing with Section 38202) of this part. The immediate harvest value shall be determined as of the scaling date.

SEC. 17. Section 38203.5 is added to the Revenue and Taxation Code, to read:

38203.5 No adjustment of yield tax rates certified for the years 1979, 1980, or 1981 shall be made to reflect any portion of the property tax rate levied on the unsecured roll for the 1978–79 tax year, less the rate for voter-approved debt, which is in excess of four dollars ($4) per one hundred dollars ($100) of assessed value. The yield tax rate for 1982, however, shall be calculated as if the yield tax rates for those years had been adjusted to reflect the excess property tax rates.

SEC. 18. Section 38204 of the Revenue and Taxation Code is

amended to read:

38204. (a) On or before December 31, 1976, and periodically thereafter as determined by the board, the board after consultation with the Timber Advisory Committee and after public hearings held pursuant to the Administrative Procedure Act, shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values. The board may designate areas for timber standing on lands owned by local agencies and on timberland as defined in Section 51100 of the Government Code and designate separate areas for timber standing on national forest lands owned by the United States government. On or before March 1, 1977, for timber harvested between April 1 and December 31, 1977 and on or before December 31, 1977, and on June 30 and December 31 of each year thereafter for timber harvested during the succeeding two calendar quarters, the board, after consultation with the Timber Advisory Committee, shall estimate the immediate harvest values of each species or subclassification of timber within such areas as of the initial date of the period. Such values shall be determined under rules adopted pursuant to the Administrative Procedure Act from the best evidence available, including (1) gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, or (2) gross proceeds from sales of logs, or of finished products, adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest, or a combination of (1) and (2), and shall be determined in a manner which makes reasonable allowance for differences in age, size, quality, cost of removal, accessibility to point of conversion, market conditions and other relevant factors.

(b) The board, either on its own motion or in response to application from a timber owner, may modify the immediate harvest values to reflect material changes in timber values that result from fire, blowdown, ice storm, flood, disease, insect damage or other cause, for any area or part thereof in which damaged timber is located The board shall specify any additional accounting or other requirements to be complied with in reporting and paying the tax on such timber

SEC. 19. Section 38301 of the Revenue and Taxation Code is amended to read:

38301. A timber reserve fund tax is hereby imposed on every timber owner who harvests his timber or causes it to be harvested on and after April 1, 1977, to and including December 31, 1982, every timber owner of felled or downed timber who acquires title during that period to such felled or downed timber in this state from an exempt person or agency described in Section 38104, and on every person who, without authorization, intentionally or unintentionally harvests or causes to be harvested timber owned by another, at the rate of 0.5 percent of the total immediate harvest value of that timber, or at such other rate as may be fixed pursuant to Section

38303. This tax is in addition to the tax imposed by Section 38115. The immediate harvest value shall be determined as of the scaling date.

SEC. 20. Section 38453 is added to the Revenue and Taxation Code, to read:

38453. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 38405, 38423, and 38451.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 21. Section 38631 of the Revenue and Taxation Code is amended to read:

38631. If any amount in excess of five thousand dollars ($5,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 22. Section 40103 is added to the Revenue and Taxation Code, to read:

40103. If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 40065, 40083, and 40101.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 23. Section 41024 of the Revenue and Taxation Code is amended to read:

41024. Every service user in this state is liable for the surcharge until it has been paid to this state, except that payment to a service supplier registered under this part is sufficient to relieve the user from further liability for the tax.

Any surcharge collected from a service user which has not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit such surcharge. Nothing in this part shall impose any obligation upon a service supplier to take any legal action to enforce the collection of the utility users surcharge imposed by this part The service supplier shall provide the board with amounts uncollected which total three

dollars ($3) or more on a cumulative basis with respect to a single service user along with the names, addresses and reasons of the service users refusing to pay the surcharge imposed by this part.

SEC. 24. Section 41052 of the Revenue and Taxation Code is amended to read:

41052. On or before December 1, 1978, and the 60th day of each calendar quarter following, a return for the preceding quarter shall be filed with the board in such form as the board may prescribe.

The service supplier will include a list of any service users who have refused to pay a cumulative total of three dollars ($3) or more of the surcharge imposed by this part with each return filing.

SEC. 25. Section 41097 is added to the Revenue and Taxation Code, to read:

41097. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 41054, 41082, and 41095.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 26 The Legislature finds and declares that there are public purposes for making the expenditure of public funds as provided in Section 38203.5 of the Revenue and Taxation Code, as added by this act. Those public purposes are to avoid the public expense and taxpayer confusion that would result from collecting additional taxes for the 1979 year while at the same time refunding excessive taxes for the 1980 year where, in many instances, comparable amounts would be collected from and refunded to the same taxpayers. Those public purposes are also to avoid the public expense and taxpayer confusion that would result from reducing the 1981 yield tax rate and increasing the 1981 reserve fund tax rate by identical and hence, offsetting percentages.

SEC. 27. Section 1.5 of this act shall become operative only if Senate Bill No. 654 is not chaptered.

SEC. 28. Section 1.6 of this act shall become operative only if this bill and Senate Bill No. 654 are both chaptered.

CHAPTER 948

An act to amend Sections 11055 and 11550 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) Except for purposes of Chapter 4 (commencing with Section 11150) of this division, the controlled substances listed in this section are included in Schedule II

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl- 14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(i) Raw opium.

(ii) Opium extracts.

(iii) Opium fluid extracts.

(iv) Powdered opium.

(v) Granulated opium.

(vi) Tincture of opium.

(vii) Apomorphine.

(viii) Codeine.

(ix) Ethylmorphine.

(x) Hydrocodone.

(xi) Hydromorphone.

(xii) Metopon.

(xiii) Morphine.

(xiv) Oxycodone.

(xv) Oxymorphone.

(xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Alphaprodine

(2) Anileridine.

(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphon.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone—intermediate, 4-cyano-2(N,N-dimethylamino)-4,4-diphenylbutane.
(13) Moramide—intermediate, 3-methyl-4-morpholino-2,2-diphenylbutanoic acid.
(14) Pethidine.
(15) Pethidine—intermediate—A, 4-cyano-N-methyl-4-phenylpiperidine.
(16) Pethidine—intermediate—B, ethyl 4-phenylpiperidine-4-carboxylate.
(17) Pethidine—intermediate—C, N-methyl-4-phenylpiperidine-4-carboxylic acid
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Phenmetrazine and its salts.
(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
(4) Methylphenidate.

(e) Any material, compound, mixture, or preparation which contains any quantity of phencyclidine or the following analog or analogs determined by the Department of Justice to have a potential for abuse associated with a depressant effect on the central nervous system.

(1) 1-(1-phenylcyclohexyl) pyrolidine.
(2) 1-(1(2-thienyl) cyclohexyl) piperidine.
(3) 1-(1-phenylcyclohexyl) morpholine.

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this subdivision after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft

of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1st after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house; unless the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, in which event the rule or regulation shall be effective until January 1st after the next calendar year.

SEC. 2. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, excepting when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in subdivision (e) of Section 11055, excepting when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail

SEC. 3 No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 949

An act to amend Section 364.1 of, and to add Section 371.3 to, the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1 Section 364 1 of the Health and Safety Code is amended to read.

364.1. The state department shall review the program proposals and approve programs which meet criteria established pursuant to Section 363. The state department shall, through contractual arrangements, reimburse local health departments with approved programs at an amount of four dollars and fifty cents ($4.50) per participating child in fiscal year 1981–82 for administration and services, pursuant to Section 361. The total local assistance allocation for fiscal year 1981–82 shall not exceed the $1.5 million provided by the 1981 Budget Act. Subsequent reimbursement per participating child shall be determined through the annual budgetary process.

SEC. 2. Section 371.3 is added to the Health and Safety Code, to read:

371.3. It is the intent of the Legislature that priority for funding be given to existing local programs already approved and the remaining available moneys be allocated pursuant to Section 371.5.

CHAPTER 950

An act to amend Section 7351 of, and to add and repeal Sections 7304.5, 7351.5, and 8651.8 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 7304.5 is added to the Revenue and Taxation Code, to read.

7304.5. (a) "Motor vehicle alcohol fuel" includes any liquid alcohol fuel produced from any source consisting of no more than 15 percent gasoline or diesel, by whatever name the liquid may be

known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type of engine.

(b) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 2. Section 7351 of the Revenue and Taxation Code is amended to read:

7351. For the privilege of distributing motor vehicle fuel, not including motor vehicle alcohol fuel, a license tax is hereby imposed upon distributors at the rate of seven cents ($0.07) for each gallon of fuel distributed.

SEC. 3. Section 7351.5 is added to the Revenue and Taxation Code, to read:

7351.5. (a) For the privilege of distributing motor vehicle alcohol fuel a license tax is hereby imposed upon distributors at one-half the rate prescribed for the privilege of distributing motor vehicle fuel by Section 7351 for each gallon of fuel distributed.

(b) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date

SEC. 4. Section 8651.8 is added to the Revenue and Taxation Code, to read·

8651 8. (a) Notwithstanding the provisions of Section 8651, the excise tax imposed upon ethanol or methanol containing not more than 15 percent gasoline or diesel fuels shall be one-half the rate prescribed by Section 8651 for each gallon of fuel used.

(b) All references in this code to Section 8651 shall be deemed, with respect to the rate imposed upon ethanol or methanol, to also refer to this section.

(c) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date

SEC 5 Sections 1, 2, and 3 of this act shall become operative only if Assembly Bill No. 357 is not chaptered

SEC 6 Section 4 of this act shall become operative only if this bill and Assembly Bill No. 357 are both chaptered.

SEC 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 951

An act to amend Section 33641 of the Health and Safety Code, and to add, repeal, and add Sections 7202.5 and 7202.6 of, to add Sections 7200 1, 7202.8, and 7212 to, and to amend Sections 7203.5, 7204, and 7204.3 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 33641 of the Health and Safety Code is amended to read:

33641 An agency may issue such types of bonds as it may determine including bonds on which the principal and interest are payable·

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with such proceeds together with financial assistance from the state or federal government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of Article 6 (commencing with Section 33670) of this chapter.

(d) In whole or in part from taxes imposed pursuant to Section 7202 6 of the Revenue and Taxation Code which are pledged therefor

(e) From its revenues generally.

(f) From any contributions or other financial assistance from the state or federal government.

(g) By any combination of these methods.

SEC. 1.5. Section 7200 1 is added to the Revenue and Taxation Code, to read:

7200.1. As used in this part, "redevelopment agency" means only a redevelopment agency in which the governing board is composed solely of the entirety of the membership of the city council of the city in which the agency is located.

This section shall be interpreted to mean that each individual on the governing board of a redevelopment agency shall be the same person that serves on the city council.

SEC 2 Section 7202.5 is added to the Revenue and Taxation Code, to read:

7202.5 In addition to the provisions set forth in paragraphs (1) to (10), inclusive, of subdivision (i) of Section 7202, a city sales and use tax ordinance may provide that any person subject to a sales and use tax under the city's ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use taxes due to the redevelopment agency of such city pursuant to Section 7202 6

SEC. 2 5. Section 7202.5 is added to the Revenue and Taxation Code, to read:

7202.5 In addition to the provisions set forth in paragraphs (1) to (8), inclusive, of subdivision (h) of Section 7202, a city sales and use

tax ordinance may provide that any person subject to a sales and use tax under the city's ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use taxes due to the redevelopment agency of such city pursuant to Section 7202.6.

SEC. 3. Section 7202.6 is added to the Revenue and Taxation Code, to read:

7202.6. (a) The redevelopment agency of any city which has adopted a sales and use tax ordinance pursuant to this part and containing the provision described in Section 7202.5 may adopt a sales and use tax ordinance in accordance with the provisions of this part, provided the redevelopment agency sales and use tax is levied under an ordinance including all of the following provisions:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the project area at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by him at retail in the project area, and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the project area. The rate of tax imposed by the ordinance shall not exceed the rate of tax imposed by the city ordinance.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the redevelopment agency as the taxing agency shall be substituted for that of the state (but the name of the redevelopment agency shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the agency.

(4) A provision that the agency shall contract prior to the operative date of the agency sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the agency which shall continue in effect so long as the county and the city within which the agency is located have operative sales and use tax ordinances enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, city or redevelopment agency in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the project area and the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(8) A provision that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from the use tax.

(9) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the project area and the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(10) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) The ordinance shall contain an enacting clause which states as follows: "The redevelopment agency of the City of _____ does ordain as follows:" Such ordinance shall be signed by the chairman of the agency and attested by the clerk or secretary of the agency, and shall take effect immediately upon its final passage, provided, however, that the ordinance shall become operative on the first day of the first calendar quarter commencing more than 180 days after adoption of the ordinance. In all other respects, such ordinance shall be introduced and passed, and notice given by publication, in the manner provided by law for general law cities

(c) The exercise of the taxing power implemented pursuant to this section in any fiscal year shall be deemed a transfer of financial responsibility from the community to the agency for such fiscal year within the meaning of subdivision (a) of Section 3 of Article XIII B of the California Constitution.

(d) Any redevelopment agency adopting a sales and use tax ordinance pursuant to this section shall not levy a sales or use tax in excess of the rate of sales and use tax levied by the city.

(e) Any redevelopment agency imposing sales and use taxes pursuant to this section shall use 20 percent of the revenues from

these taxes to promote the supply of housing for low- and moderate-income families unless the agency finds that the unemployment rate in the contiguous census tract block groups or enumeration districts within the city's boundaries equal 1½ times the average statewide rate of unemployment for the previous calendar quarter based on data prepared by the Employment Development Department.

"Calendar quarter" means three consecutive months beginning with January. Adjustments shall be made for fluctuations in unemployment rates due to seasonal employment opportunities based on historical data. If the calendar quarter on which the agency is basing its finding has historically been a quarter of high unemployment for that city or county over the past five years, the agency shall not use that quarter to support its finding.

(f) Prior to adopting an ordinance which contains the provisions described in this section, the redevelopment agency shall consider the applicability of Section 4 of Article XIII A of, and Article XIII B of, the California Constitution to the terms of the proposed ordinance.

SEC. 3.5 Section 7202.6 is added to the Revenue and Taxation Code, to read:

7202.6. (a) The redevelopment agency of any city which has adopted a sales and use tax ordinance pursuant to this part and containing the provision described in Section 7202.5 may adopt a sales and use tax ordinance in accordance with the provisions of this part, provided the redevelopment agency sales and use tax is levied under an ordinance including the following provisions:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the project area at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by him at retail in the project area, and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the project area. The rate of tax imposed by the ordinance shall not exceed the rate of tax imposed by the city ordinance.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the redevelopment agency as the taxing agency shall be substituted for that of the state (but the name of the redevelopment agency shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the

agency.

(4) A provision that the agency shall contract prior to the operative date of the agency sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the agency which shall continue in effect so long as the county and the city within which the agency is located have operative sales and use tax ordinances enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, city or redevelopment agency in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the project area and the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) The ordinance shall contain an enacting clause which states as follows: "The redevelopment agency of the City of _____ does ordain as follows:" Such ordinance shall be signed by the chairman of the agency and attested by the clerk or secretary of the agency, and shall take effect immediately upon its final passage, provided, however, that the ordinance shall become operative on the first day of the first calendar quarter commencing more than 180 days after adoption of the ordinance. In all other respects, such ordinance shall be introduced and passed, and notice given by publication, in the manner provided by law for general law cities.

SEC. 4. Section 7202.8 is added to the Revenue and Taxation Code, to read:

7202.8. Any pledge of taxes pursuant to Section 33641 of the Health and Safety Code made with respect to taxes imposed under Section 7202.6 to the payment of principal and interest on bonds of a redevelopment agency shall constitute the obligation of a contract between the redevelopment agency and the holder of the bonds and

shall be protected from impairment by the United States and California Constitutions. The provisions of Section 7202.6 which authorize the imposition of the taxes may not be repealed during the time that any of the bonds remain outstanding.

SEC. 5. Section 7203.5 of the Revenue and Taxation Code is amended to read:

7203.5. The State Board of Equalization shall not administer and shall terminate its contract to administer any sales or use tax ordinance of a city, county, redevelopment agency, or city and county, if such city, county, redevelopment agency, or city and county imposes a sales or use tax in addition to the sales and use taxes imposed under an ordinance conforming to the provisions of Sections 7202 and 7203.

The board shall give such city, county, redevelopment agency, or city and county written notice of termination, stating the reasons therefor and the effective date of the termination, which shall be not earlier than the first day of the first calendar quarter commencing at least 30 days after the mailing of the notice to the city, county, redevelopment agency, or city and county. If the cause for termination is not cured within the time specified in the notice, the board shall not administer the ordinance until the cause for termination is removed and a new contract for the administration of the ordinance executed. Such contract shall be operative not earlier than the first day of the first calendar quarter commencing after its execution. During the period of time that the board is not administering the sales and use tax ordinance of a city, county, redevelopment agency, or city and county, no ordinance of such city, county, redevelopment agency, or city and county shall be considered to be an ordinance enacted in accordance with this part.

Nothing in this section shall be construed as prohibiting the levy or collection by a city, county, redevelopment agency, or city and county of any other substantially different tax authorized by the Constitution of California or by statute or by the charter of any chartered city.

SEC. 6 Section 7204 of the Revenue and Taxation Code is amended to read:

7204. All sales and use taxes collected by the State Board of Equalization pursuant to contract with any city, city and county, redevelopment agency, or county shall be transmitted by the board to such city, city and county, redevelopment agency, or county periodically as promptly as feasible. The transmittals required under this section shall be made at least twice in each calendar quarter.

SEC. 7. Section 7204.3 of the Revenue and Taxation Code is amended to read:

7204.3. The board shall charge a city, city and county, redevelopment agency, or county, as the cost of the board's services in administering the sales and use tax ordinance of the local entity, 0.82 percent of all sales and use taxes available for distribution to the city, city and county, or county on and after July 1, 1972 Such

amounts shall be deducted from the taxes collected by the board for the city, city and county, or county.

SEC. 8. Section 7212 is added to the Revenue and Taxation Code, to read:

7212 Any redevelopment agency adopting a sales and use tax ordinance pursuant to Section 7202.6 shall pay to the board its costs of preparation to administer and operate the sales and use tax ordinance The agency shall pay such costs monthly as incurred and billed by the board. The costs include all preparatory costs, including costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing of forms, developing instructions for the board's staff and for taxpayers, and other necessary preparatory costs which shall include the board's direct and indirect costs as specified by Section 11256 of the Government Code. Any disputes as to the amount of preparatory costs incurred shall be resolved by the Director of Finance, and his decision shall be final. The maximum amount of all preparatory costs to be paid by the district shall not, in any event, exceed five hundred seventy thousand dollars ($570,000). If for any reason the ordinance adopted pursuant to Section 7202.6 is declared to be invalid, the board shall not be required to refund any or all revenues collected pursuant to that ordinance, but rather those revenues shall be distributed to the city within which the redevelopment agency operates.

SEC. 9. Sections 7202.5 and 7202.6 of the Revenue and Taxation Code, as added by Sections 2.5 and 3.5 of this act, shall become operative on January 1, 1984, if Section 7202 of the Revenue and Taxation Code, as added by Section 3.2 of Chapter 5 of the Statutes of 1979, becomes operative on that date, in which event Sections 7202.5 and 7202.6 of the Revenue and Taxation Code, as added by Sections 2 and 3 of this act, shall be repealed on that date.

SEC. 10. The Legislature intends that the provisions of this act shall not supersede or conflict with the excess sales tax transfer provisions of Chapter 282 of the Statutes of 1979.

SEC. 11. Notwithstanding any other provision of this act, the State Board of Equalization shall not administer any sales tax imposed by a redevelopment agency pursuant to this act unless and until an appellate court makes a determination which is final on the merits that such a tax is not a "special tax" within the meaning of Section 4 of Article XIII A of the California Constitution.

CHAPTER 952

An act to amend Sections 41515, 41604, and 42314 of, and to add Section 41605 to, the Health and Safety Code, to amend Section 25134, as added by Chapter 1010 of the Statutes of 1978, and to repeal Section 25134, as added by Chapter 1009 of the Statutes of 1978, of the

Public Resources Code, and to amend Section 218.5 of the Public Utilities Code, relating to air pollution.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 41515 of the Health and Safety Code is amended to read:

41515. The Legislature finds and declares (a) that present methods of generating and using energy in California result in substantial waste of such energy through the loss of exhaust steam and heat which is not recovered or otherwise put to use, and that this waste of energy results in adverse environmental and economic impacts and accelerates the need for new powerplant construction, and increases dependence upon imported oil, (b) that the use of cogeneration technology can substantially increase the efficiency of energy use in California and can also result in environmental and economic benefits for the people of the state, (c) that the expanded use of cogeneration technology is specifically encouraged as a matter of national energy policy through the tax and regulatory incentives provided in the National Energy Act, and through state legislation which encourages the expeditious approval of cogeneration projects, and (d) the construction and operation of cogeneration facilities will result in an incremental air quality emissions benefit to the extent they reduce demand on existing utility combustion generation facilities in the same air basin and that such benefit should be recognized in determining requirements for new cogeneration projects.

SEC. 2. Section 41604 of the Health and Safety Code is amended to read:

41604. (a) The districts shall provide for, not later than July 1, 1982, and shall periodically revise as appropriate, the necessary mitigation of the air quality impact of projects smaller than 50 megawatts expected to be permitted by 1987, pursuant to Section 42314, so that state and federal ambient air quality standards may be achieved and maintained or that reasonable further progress be made toward attainment.

(b) If appropriate, the districts shall submit to the state board the necessary mitigation measures required by subdivision (a) of Section 41604 for inclusion in the 1982 state implementation plan revisions.

SEC. 3. Section 41605 is added to the Health and Safety Code, to read:

41605. (a) In considering the offset requirement for a cogeneration technology project, the district shall include the incremental emissions benefit derived from the electrical generating portion of a cogeneration technology project in comparison to the emissions that would be produced by an existing hydrocarbon

combustion based electric generation system in the absence of the cogeneration technology project.

(b) By May 1, 1982, the districts and the state board, in cooperation, shall develop a procedure to determine the availability and magnitude of the offsets resulting from the incremental emissions benefits, including an accounting of electrical generation credits calculated for purposes of paragraph (2) of subdivision (a) of Section 42314 as necessary to assure that state and federal ambient air quality standards may be achieved and maintained or that reasonable further progress be made toward attainment.

(c) The cogeneration project proponent, and the owner or operator of the substituted combustion based electric generation system, shall provide to the state board or a district, as the case may be, the information not publicly available from state or local agencies which is necessary to make the determinations required by this section. The information shall include, but is not limited to, the following:

(1) Emission source test data.

(2) Chronological fuel use data.

(3) Chronological electric load data.

SEC. 4. Section 42314 of the Health and Safety Code is amended to read:

42314. Notwithstanding any other provision of any state or local new source review or prevention of significant deterioration rules and regulations, the district shall issue permits for the following:

(a) (1) The construction and operation of a cogeneration technology project, if the project will utilize, for each affected pollutant only, the appropriate degree of pollution control technology (BACT or LAER) as defined and to the extent required by the rules of the district.

(2) Pursuant to procedures developed in accordance with Section 41605, for the electrical generation portion of any cogeneration project offsets shall be provided by the applicant only for those pollutant emissions which exceed the calculated average of emissions from hydrocarbon combustion based electrical generating facilities operated by the serving utility in the same air basin to provide the same amount of electrical energy. In no event shall any calculated utility pollutant emissions displacements which may be considered in accordance with this section be banked or otherwise reserved for future use.

(3) Except as provided in paragraph (2), offsets shall be provided in accordance with the requirements of local rules and regulations.

(4) For cogeneration projects smaller than 50 megawatts for which offsets are required under either paragraph (2) or (3), the applicant shall be required to provide offsets only to the extent they are available from facilities it owns or operates in the district and would mitigate the project's impacts.

(5) In providing the electrical generation credit for the project pursuant to paragraph (2), and for the purposes of this section only,

the utility, where not an applicant, shall not be required to furnish emission offsets on a case-by-case basis for the project, nor shall this section permit the district on a case-by-case basis to limit the ability of the utility to operate its existing hydrocarbon combustion facilities in accordance with the requirements of the Public Utilities Code or the governing body of a public utility owned by a municipality or other political subdivision of the state.

(b) The construction of a resource recovery project, if all of the following conditions are met:

(1) The project produces 50 megawatts or less of electricity.

(2) The project will utilize the appropriate degree of pollution control technology required by the new source review rule of the district.

(3) The project applicant has, in the judgment of the district, made a good faith effort to secure all available emission offsets to mitigate the impact of the project, but that sufficient offsets or other mitigation measures are not available. The applicant, however, shall be required to secure all the offsets which are available to mitigate the air quality impact of the project, except for resource recovery projects which constitute a modification to an existing source under the district's new source review rule, in which case the applicant shall only be required to provide offsets from facilities which the applicant owns or operates within the air basin.

SEC. 5. Section 25134 of the Public Resources Code, as added by Chapter 1010 of the Statutes of 1978, is amended to read:

25134. "Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the cogeneration project's total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input.

SEC. 6. Section 25134 of the Public Resources Code, as added by Chapter 1009 of the Statutes of 1978, is repealed.

SEC. 7. Section 218.5 of the Public Utilities Code is amended to read:

218.5. "Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the facility's total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act

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CHAPTER 953

An act to amend Sections 1130, 1152, 1164, 1165, 1170, and 1203 of, and to add Section 1177 to, the Harbors and Navigation Code, relating to pilots.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. (a) Before he can pilot a vessel, every pilot shall execute an official bond in the sum of five thousand dollars ($5,000), to be approved by the board. The bonds of pilots appointed by the board shall be filed with the board.

(b) For every violation of the provisions of this division, or of rules and regulations promulgated pursuant to such provisions, a pilot shall incur a liability on his official bond, to the party aggrieved, to the amount of the damages sustained.

(c) The pilots may appoint one of their members to act as port agent to carry out the orders of the board, other applicable laws, and otherwise administer the affairs of the pilots. The appointment shall be subject to the confirmation of the board.

SEC. 2. Section 1152 of the Harbors and Navigation Code is amended to read:

1152. The members of the board shall receive as compensation for their services such amount as may from time to time be determined by the board not exceeding three hundred dollars ($300) each per month. The members and the officers and employees of the board shall be allowed their necessary and verified expenses in the performance of their duties.

SEC. 3. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) A pilot shall be eligible for the pension provided in Section 1163 if he meets all of the following requirements:

(1) Held a license as a pilot and served at least five years in that capacity.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the Board of Pilot Commissioners, based upon competent medical evidence, that such pilot is unable to perform the duties of a pilot. As used in this chapter, "disabled" means a disability of permanent or extended and uncertain duration, as determined by the board, on the basis of competent medical opinion.

(c) (1) A widow of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if her deceased pilot husband died after January 1, 1972, and if he had held a license as a pilot.

(2) In order for a widow to be eligible for any pension benefits pursuant to this chapter, she shall have been legally married to the deceased pilot for at least one year prior to his death

(3) A widow of a deceased pilot shall neither be eligible for nor receive pension benefits pursuant to this chapter if she remarries.

SEC. 4. Section 1165 of the Harbors and Navigation Code is amended to read:

1165. (a) In addition to and concurrently with the basic pilotage rate described in Section 1190, a charge shall be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate shall be determined as follows.

(1) On December 1 and June 1, of each year, the number of persons eligible to receive benefits under the plan, their identities, the amount each will be entitled to receive, and the total amount to be paid out to all such persons during each month of the next six-month period, shall be determined by the fiduciary agent.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots licensed under this division for the 12-month periods ending the previous September 30 and the previous March 31, respectively. The rate shall be expressed as mills per gross registered ton and shall be calculated to the nearest one-hundredth of a mill.

(3) Based on the foregoing calculations, if the total amount to be paid out yearly will exceed three hundred thousand dollars ($300,000), the rate shall be established so that the pension plan will produce maximum revenues of three hundred thousand dollars ($300,000) per year and the benefits shall be reduced accordingly.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective on January 1 of the following year with respect to the September 30 calculations, and on July 1 of that year with respect to the March 31 calculations, and shall be in effect for the succeeding six-month period.

(c) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotages during that month or year.

(d) Benefits pursuant to the new rate calculations shall be paid commencing in February and August of each year and shall continue through and include July of the same year and January of the following year. The period during which benefits are paid is the benefit year.

SEC. 5. Section 1170 of the Harbors and Navigation Code is amended to read:

1170. The board shall appoint and license such number of pilots, not less than 24, nor more than 40, as is sufficient to accomplish the purposes of this division.

SEC. 6. Section 1177 is added to the Harbors and Navigation Code, to read:

1177. Hearings for the purpose of appointing pilots pursuant to this chapter shall be conducted in accordance with the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 1203 of the Harbors and Navigation Code is amended to read:

1203. The pilot members and industry members of the committee shall serve without compensation or reimbursement of expenses. The public member of the committee shall be paid a per diem of three hundred dollars ($300) for each day in which he is necessarily engaged in the duties of the committee and his necessary travel expenses.

SEC. 8. The amendments to Section 1164 of the Harbors and Navigation Code made by Section 3 of this act shall not apply to any widow receiving pension benefits pursuant to Chapter 3 (commencing with Section 1160) of Division 5 of the Harbors and Navigation Code on the effective date of this act.

CHAPTER 954

An act to amend Section 3 of Chapter 1130 of the Statutes of 1975, relating to railroads.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 3 of Chapter 1130 of the Statutes of 1975 is amended to read:

Sec. 3. The Department of Transportation shall acquire the following, to the extent that sufficient funds are available in the Abandoned Railroad Account in the State Transportation Fund:

(a) That portion of the property of the Sacramento Northern Railway within the City of Fairfield in the County of Solano consisting of three parcels lying northeast and southwest of the

intersection of Travis Boulevard and Pennsylvania Avenue.

(b) That portion of the abandoned right-of-way of the Sacramento Northern Railway from near 16th and B Streets in the City of Sacramento to M Street in Rio Linda, in the County of Sacramento.

(c) That portion of Southern Pacific Transportation Company property within the City of Riverside in the County of Riverside along Magnolia Street from the southwesterly city limits to Banbury Street.

(d) Those portions of abandoned right-of-way of the Sacramento Northern Railway in the City of Concord in the County of Contra Costa consisting of one 400-foot segment between Salvio Street and Willow Pass Road to the north of the passenger station of the San Francisco Bay Area Rapid Transit District; and one 1,000-foot segment between Mt. Diablo Street and Cowell Road and one 7,000-foot segment between Cowell Road and a point thereon that is approximately 150 feet north of the intersection thereof with Rockne Drive, both of which segments are to the south of that station.

SEC. 2. The Department of Transportation shall expend funds from the Abandoned Railroad Account in the State Transportation Fund for the purchase of abandoned railroad rights-of-way, with the first priority being the purchase of the portion of the Southern Pacific Railroad between Manchester Boulevard and Compton Creek in the County of Los Angeles referred to as the Wilmington Branch. The amount of funds so expended shall not exceed a sum equal to the amount which would have been sufficient to acquire the Baldwin Park Branch under subdivision (c) of Section 3 of Chapter 1130 of the Statutes of 1975. The allocation for the purchase of the Wilmington Branch shall include an amount necessary to provide staff support necessary to acquire the right-of-way and to prepare plans for its development for transit purposes.

CHAPTER 955

An act to amend Section 69104 of the Government Code, relating to courts.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 69104 of the Government Code is amended to read:

69104. The Court of Appeal for the Fourth Appellate District consists of three divisions. One division shall hold its regular sessions at San Diego and shall have six judges. One division shall hold its regular sessions at San Bernardino and shall have four judges. One division shall hold its regular sessions in Orange County and shall

have four judges

SEC. 2. It is the intent of the Legislature that funding for the library and equipment for the division of the Fourth Appellate District holding sessions in Orange County shall be achieved by local funding or public or private donation. Funds from other sources may not be spent for those purposes.

It is the further intent of the Legislature that funding for support staff be provided from existing resources, and that funding for the four judges of the third division of the Fourth Appellate District is provided in the Budget Act.

CHAPTER 956

An act to add Chapter 5 (commencing with Section 12400) to Division 9 of the Elections Code, relating to campaign funds.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Chapter 5 (commencing with Section 12400) is added to Division 9 of the Elections Code, to read:

CHAPTER 5. LIMITATIONS ON USES OF CAMPAIGN FUNDS

12400. The Legislature finds and declares that the political process is strengthened and public confidence in elected officials will be enhanced by limiting the uses of campaign contributions. However, the making or receipt of a campaign contribution does not create an actual or resulting trust or a trust-like relationship limiting the uses of campaign contributions.

The Legislature further finds that any restrictions on the use of political funds must be carefully drawn and narrowly construed to prevent any chilling effect on the political process and the freedom of elected officials to carry out legitimate governmental duties.

12401. Notwithstanding any other provision of law, campaign funds, including funds of political action committees, shall not be used for personal use. A payment from campaign funds is for personal use if the payment creates a substantial personal benefit and does not have more than a negligible political, legislative, or governmental purpose. However, a payment from campaign funds is not for personal use if it is to replace articles lost, damaged, or stolen in connection with political, legislative, or governmental activity.

12402. The following expenditures shall be considered the personal use of campaign funds, and shall not be made, unless there is a reasonable relationship to political, legislative, or governmental

purposes:

(a) Payments for professional services or personal debts, including, but not limited to, personal income taxes and settlements of civil actions, and related attorneys fees.

(b) Payments or reimbursements for expenditures incurred for travel.

For the purposes of this section, payments or reimbursements for travel by the immediate family, of a candidate or officeholder when traveling in conjunction with the candidate or officeholder shall be considered to be for the same purpose as the candidate's or officeholder's travel.

(c) Payments or reimbursements for personal gifts of one hundred dollars ($100) or more.

12403. Notwithstanding Section 12401, no expenditure of campaign funds shall be made for payments or reimbursements for the purchase, lease of more than one year, or refurbishing of vehicles, appliances, equipment, or real property where the lessee is, or the legal title resides in, a candidate, officeholder, a member of his or her immediate family, or a treasurer of a committee, or for the payment of criminal fines, other than payments for traffic citations.

12404. Upon leaving any elective office, or at the end of the post election reporting period following the defeat of a candidate for elective office, whichever occurs last, surplus campaign funds under the control of a former candidate or officeholder or his or her controlled committee shall only be used or held for the following purposes:

(a) The repayment of personal or committee loans or other obligations if there is a reasonable relationship to political, legislative, or governmental activity.

(b) The payment of outstanding campaign expenses.

(c) Contributions to any candidate, committee, or political party.

(d) The pro rata repayment of contributors.

(e) Donation to any religious, scientific, educational, social welfare, civic, or fraternal organization no part of the net earnings of which inures to the benefit of any private shareholder or individual or to any charitable or nonprofit organization which is exempt from taxation under subsection (c) of Section 501 of the Internal Revenue Code of 1954 or Section 17214 or Sections 23701a to 23701j, inclusive, or Section 23701(*l*), 23701n, 23701p, or 23701s of the Revenue and Taxation Code.

(f) Held in a segregated fund for future political campaigns not to be expended except for political activity reasonably related to preparing for future candidacy to elective office.

12405. (a) Any person who willfully and knowingly violates this chapter shall be liable in a civil action brought by the civil prosecutor for an amount up to five hundred dollars ($500) or two times the amount of the unlawful expenditure, whichever is greater. If two or more persons are responsible for any violation, they shall be jointly and severally liable. In determining the amount of liability the court

may take into account the presence or absence of good faith and the seriousness of the violation

(b) The Attorney General is the civil prosecutor responsible for enforcing the provisions of this chapter.

(c) The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General. For the purposes of this subdivision, "county in which a violation occurs" means the county in which the candidate or committee making the expenditure is domiciled pursuant to Section 84215 of the Government Code In addition, an elected city attorney may act as the civil prosecutor with respect to any violations of this chapter occurring within the city related to elections for city office or city ballot measures.

(d) Any person may file with the civil prosecutor a written request for the civil prosecutor to commence an action. The request shall include a statement of the grounds for believing a cause of action exists and shall be signed under penalty of perjury. The civil prosecutor shall respond within 60 days after receipt of the request.

(e) The court may award to a defendant who prevails in any action authorized by this chapter his or her costs of litigation, including reasonable attorney's fees.

12406. Notwithstanding any other provision of law, the receipt, use, or expenditure of any contribution shall not create an actual or resulting trust, except as provided in Section 29795.

12407. This chapter shall not be construed to impose any reporting obligations in addition to those obligations imposed by other provisions of law, nor shall this chapter apply to the expenditure of campaign funds in conjunction with any pending litigation.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 957

An act to amend Section 116.2 of the Code of Civil Procedure, relating to small claims court

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 116.2 of the Code of Civil Procedure is amended to read:

116.2. The small claims division shall have jurisdiction in actions:

(a) For recovery of money only where the amount of the demand does not exceed one thousand five hundred dollars ($1,500).

(b) To enforce payment of delinquent unsecured personal property taxes in an amount not to exceed one thousand five hundred dollars ($1,500), if the legality of the tax is not contested by the defendant.

(c) In unlawful detainer, after default in rent for residential property, where the term of tenancy is not greater than month to month and the amount claimed does not exceed one thousand five hundred dollars ($1,500).

(d) To issue the writ of possession authorized by Section 1861.5 of the Civil Code where the plaintiff's claim does not exceed one thousand five hundred dollars ($1,500).

CHAPTER 958

An act to amend Sections 116.2, 116.7. 117, 117.1, 117.14, and 117.18 of, and to add Sections 116.1, 117.6, and 117.20 to, the Code of Civil Procedure, and to add Section 818.9 to the Government Code, relating to small claims court.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 116.1 is added to the Code of Civil Procedure, to read:

116.1. The Legislature hereby finds and declares that individual minor civil disputes are especially important to the parties involved and of significant social and economic consequence collectively. The Legislature further finds and declares that in order to resolve such disputes in an expeditious, inexpensive, and fair manner, it is essential to provide a judicial forum accessible to all parties directly involved in resolving such disputes. The small claims divisions of municipal and justice courts have been established to provide such a forum and thereby comprise a fundamental element in the administration of justice and the protection of the rights and property of individuals. To help fulfill this purpose, it is the intent of the Legislature that the small claims divisions of municipal and justice courts and all rules of the Judicial Council regarding small claims actions shall operate to ensure that the convenience of parties and witnesses who are individuals shall prevail, to the extent possible,

over the convenience of any other parties or witnesses.

SEC. 2. Section 116.2 of the Code of Civil Procedure is amended to read:

116.2. The small claims division shall have jurisdiction in actions:

(a) For recovery of money only where the amount of the demand does not exceed one thousand five hundred dollars ($1,500);

(b) To enforce payment of delinquent unsecured personal property taxes in an amount not to exceed one thousand five hundred dollars ($1,500), if the legality of the tax is not contested by the defendant;

(c) In unlawful detainer, after default in rent for residential property, where the term of tenancy is not greater than month to month and the amount claimed does not exceed one thousand five hundred dollars ($1,500).

(d) To issue the writ of possession authorized by Section 1861.5 of the Civil Code where the plaintiff's claim does not exceed one thousand five hundred dollars ($1,500).

SEC. 3. Section 116.7 of the Code of Civil Procedure is amended to read·

116.7. Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding holidays. They may also be scheduled at any public building within the judicial district, including places outside the courthouse. Each small claims division of a municipal court with four or more judicial officers shall conduct at least one night session or Saturday session per month.

For purposes of the night or Saturday session requirement of this section, the term "session" shall include, but not be limited to, a proceeding conducted by a member of the State Bar acting as a mediator or referee.

SEC 4. Section 117 of the Code of Civil Procedure is amended to read:

117. (a) The hearing and disposition of small claims actions shall be informal, the object being to dispense justice promptly between the parties. The parties shall have the right to offer evidence by witnesses at the hearing or, with the permission of the court, at another time The judge may consult witnesses informally and otherwise investigate the controversy. If the defendant fails to appear, the judge shall still require plaintiff to present evidence to prove his claim The judge shall give judgment and make such orders as to time of payment or otherwise as he or she deems to be just and equitable for disposition of the controversy The provisions of Section 579 of this code may be applied.

(b) The prevailing party in any action in the small claims court is entitled to costs of the action and also the costs of execution upon a judgment rendered therein Such costs shall include costs of service of the order for the appearance of the defendant.

SEC 5. Section 117 1 of the Code of Civil Procedure is amended to read·

117 1. The claim described in Section 116 2 shall be on simple

nontechnical forms approved or adopted by the Judicial Council. Such forms or the instructions which accompany such forms shall inform the claimant that he or she cannot be represented by an attorney and that he or she has no right of appeal from a judgment of the small claims court; and that, if he or she cannot afford the filing fee or fee for service of the claim by the sheriff, marshal, or constable he or she may ask that such fees be waived by the court by proceeding in forma pauperis, using the forms approved by the Judicial Council for such purpose.

SEC. 6. Section 117.6 is added to the Code of Civil Procedure, to read:

117.6 When an action is filed against a principal and his or her guaranty or surety pursuant to a guarantor or suretyship agreement, a reasonable attempt shall be made to complete service on the principal. If service is not completed on the principal, the action shall be transferred to the court of appropriate jurisdiction.

SEC. 7. Section 117.14 of the Code of Civil Procedure is amended to read:

117.14 (a) A fee of six dollars ($6) shall be charged and collected for the filing of a claim under oath for the commencement of any action if the number of claims filed by the plaintiff in each court in the preceding 12 calendar months is 12 or less; and a fee of twelve dollars ($12) shall be collected for the filing of any additional claims. For each defendant to whom a copy of the claim is mailed by the clerk a fee of three dollars ($3) shall be charged and collected Fees as provided in Sections 26828 and 26834 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution or an abstract of judgment Except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter, or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees collected hereunder shall be deposited with the treasurer of the city and county or county under whose jurisdiction any such court shall exist.

(b) The number of claims filed by a plaintiff during the preceding 12 calendar months shall be determined pursuant to a declaration made by the plaintiff under penalty of perjury stating the number of claims so filed and submitted to the clerk with the current claim.

SEC. 8 Section 117.18 of the Code of Civil Procedure is amended to read:

117.18 In each county, individual assistance shall be made available to advise small claims court litigants and potential litigants at no additional charge. Except as otherwise provided in this section, each county may determine the characteristics of the advisory service in accordance with local needs and conditions. The advisory service may be provided in person, by telephone, or by any other means reasonably calculated to provide timely and appropriate assistance Adjacent counties may provide advisory services jointly The service shall operate in conjunction and cooperation with the

small claims divisions of the courts, but shall be administered in such a manner as to be independent of control of the court. Persons providing assistance may be volunteers and shall be members of the State Bar, law students, paralegals, or persons experienced in resolving minor disputes and familiar with small claims court rules and procedures. Persons providing assistance shall not appear in court as an advocate for any party. The Judicial Council, in consultation with the Department of Consumer Affairs, shall adopt rules to ensure that litigants receive adequate notice of the availability of assistance, to prescribe other qualifications and the conduct of those who provide assistance, and to address other matters as are deemed necessary and appropriate.

SEC. 9. Section 117.20 is added to the Code of Civil Procedure, to read:

117.20. Any small claims division may use law clerks to assist the judge with legal research of small claims cases. The Judicial Council shall adopt rules to implement this section.

SEC. 10. Section 818.9 is added to the Government Code, to read:

818 9. A public entity, its employees, and volunteers shall not be liable because of any advice provided to small claims court litigants pursuant to Section 117.18 of the Code of Civil Procedure.

SEC. 11. It is the intent of the Legislature that each county's costs mandated by this Act be paid for from the increased revenues generated within each county by the Act. In order to assure that such financing is adequate to pay for mandated local costs, this Act has provided for programs which in order to be implemented by any county, require that county to make decisions which will substantially affect the cost of such programs.

SEC. 11.5. No county shall be required to incur greater expenses to provide services required by this Act than the additional revenues generated by this Act. However, any county shall maintain a uniform level of service within any given year.

SEC. 12 No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 959

An act to amend Sections 69100, 69101, 69102, 69104, and 69105 of, and to add Section 69106 to, the Government Code, relating to courts of appeal

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 69100 of the Government Code is amended to read:

69100. The state is divided into six court of appeal districts designated and constituted as follows:

(a) The Counties of San Francisco, Marin, Sonoma, Napa, Solano, Lake, Mendocino, Humboldt, Del Norte, Contra Costa, Alameda, and San Mateo shall constitute the First Appellate District.

(b) The Counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles shall constitute the Second Appellate District.

(c) The Counties of Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Yolo, Placer, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Alpine, and Mono shall constitute the Third Appellate District.

(d) The Counties of Inyo, San Bernardino, Riverside, Orange, San Diego, and Imperial shall constitute the Fourth Appellate District.

(e) The Counties of Stanislaus, Tuolumne, Merced, Mariposa, Madera, Fresno, Kings, Tulare, and Kern shall constitute the Fifth Appellate District.

(f) The Counties of Santa Clara, Santa Cruz, Monterey, and San Benito shall constitute the Sixth Appellate District.

SEC. 1.5. Section 69101 of the Government Code is amended to read·

69101. The Court of Appeal for the First Appellate District consists of four divisions having four judges each, and one division having three judges, and shall hold its regular sessions at San Francisco

SEC. 2. Section 69102 of the Government Code is amended to read:

69102. The Court of Appeal for the Second Appellate District consists of five divisions having four judges each, and two divisions having three judges One division of three judges shall hold its regular sessions at Santa Barbara, and the other divisions shall hold their regular sessions at Los Angeles.

SEC. 3 Section 69104 of the Government Code is amended to read:

69104. The Court of Appeal for the Fourth Appellate District consists of three divisions. One division shall hold its regular sessions at San Diego and shall have six judges One division shall hold its regular sessions at San Bernardino and shall have four judges. One division shall hold its regular sessions in Orange County and shall have four judges

SEC. 4. Section 69105 of the Government Code is amended to read:

69105. The Court of Appeal for the Fifth Appellate District consists of one division having eight judges and shall hold its regular sessions at Fresno.

SEC. 5. Section 69106 is added to the Government Code, to read:

69106. The Court of Appeal for the Sixth Appellate District consists of one division having three judges and shall hold its regular sessions at San Jose.

SEC. 6. It is the intent of the Legislature that funding for the library and equipment for the division of the Fourth Appellate District holding sessions in Orange County shall be achieved by local funding or public or private donation. Funds from other sources may not be spent for those purposes.

It is the further intent of the Legislature that funding for support staff be provided from existing resources, and that funding for the four judges of the third division of the Fourth Appellate District is provided in the Budget Act.

CHAPTER 960

An act to amend Sections 8230, 8231, and 8239 of, and to amend and repeal Section 12002.5 of, the Fish and Game Code, relating to fishing, and making an appropriation therefor.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 8230 of the Fish and Game Code is amended to read:

8230. The following definitions apply to the provisions of this article:

(a) "Appeals board" means the Commercial Salmon Fishing Appeals Board created pursuant to Section 8236.

(b) "Qualification period" means the calendar years 1974 through 1979.

(c) "Qualified individual" means any of the following:

(1) A natural person who during the qualification period has qualified by landing at least one salmon sold for commercial purposes as evidenced by a fish landing receipt issued pursuant to Section 8011 and having a commercial fishing license A person may also qualify by other evidence of such landing or by acting as such a person's partner, agent, servant, or employee and directly engaging in assisting such person in taking and landing at least one salmon and being licensed to commercially fish for salmon.

(2) A natural person who during the qualification period has made a substantial investment in becoming a commercial salmon fisherman, including, but not limited to a person who owns a vessel

which was under construction as of December 16, 1977, or any vessel contracted for purchase or construction as of December 16, 1977. A vessel shall be deemed to be under construction if the keel or fiberglass mold of the vessel was laid as of December 16, 1977. A vessel shall be deemed to be contracted for purchase if a valid contract for purchase and transfer of title was entered into as of December 16, 1977. A vessel shall be deemed to be contracted for construction if a valid contract for construction was entered into as of December 16, 1977.

(3) A natural person who purchased a commercial salmon permit valid through December 31, 1981, and either presents this permit to an authorized department license agent or whose name appears on the department's list of 1980–81 commercial salmon permitholders.

SEC. 1.5. Section 8231 of the Fish and Game Code is amended to read:

8231. Salmon may not be taken for commercial purposes except under a nontransferable, revocable permit issued by the department to a qualified individual otherwise authorized to engage in commercial fishing. Such permit shall be valid from date of issuance through December 31, 1983.

SEC. 2. Section 8239 of the Fish and Game Code is amended to read:

8239. This article shall remain in effect only until January 1, 1984, and as of that date is repealed unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 3. Section 12002.5 of the Fish and Game Code is amended to read:

12002.5. Notwithstanding Sections 12000, 12001, and 12002, a certificate of boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the registrant, his agent, servant, employee, or person acting under his direction or control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the violation in question involved a vessel licensed pursuant to Section 7920.

Notwithstanding Sections 12000, 12001, and 12002, a certificate of boat registration of a vessel licensed pursuant to Section 7920 may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of any other person for a violation of Section 7121, if the fish or amphibia involved in the violation were taken from the vessel and that person committed a prior violation of Section 7121 within three years on the vessel.

However, the certificate shall not be revoked for a violation which is unrelated to the vessel for which the certificate of registration is to be revoked. Any violation committed without the knowledge of the master, or an agent or employee of the registrant, is unrelated to the vessel.

This section shall remain in effect only until January 1, 1985, and

as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends that date.

CHAPTER 961

An act to amend Sections 35039, 35042, 35110, 35111, 35152, 35162, 54782.6, 54784, 56046, 56068, 56141, 56157, 56172, 56173, 56198, 56310, 56380, 56386, 56410, and 56437 of, and to add Section 56438.1 to, the Government Code, relating to local governments.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 35039 of the Government Code is amended to read:

35039. "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll; where such person is no longer the owner, then the person entitled to be shown as owner of the land on the next equalized assessment roll; where land is subject to a recorded written agreement of sale, any person shown therein as purchaser; and, any public agency owning land.

For the purpose of mailed notice provided pursuant to Section 35055, "landowner" or "owner of land" means each person to whom land is assessed, as shown upon the last equalized assessment roll of the county, at the address shown upon the assessment roll.

SEC. 2. Section 35042 of the Government Code is amended to read.

35042. "Municipal reorganization" means either.

(a) One or more change of organization of a city proposed in a single proposal for each of two or more cities, and may include the incorporation of a new city; or

(b) Two or more changes of organization proposed in a single proposal for any single city.

SEC. 3 Section 35110 of the Government Code is amended to read:

35110. A proposal for municipal incorporation, change of organization or municipal reorganization may be made by petition Any such petition shall contain substantially the following.

(a) State that the proposal is made pursuant to this part

(b) State the nature of the proposed municipal incorporation, change of organization, or municipal reorganization

(c) Set forth a description of the boundaries of the affected territory accompanied by a map showing such boundaries.

(d) State the reason or reasons for the proposed incorporation, change of organization, or municipal reorganization

(e) State whether the petition is signed by registered voters or owners of land.

(f) Designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses.

(g) Request that proceedings be taken for incorporation, change of organization, or municipal reorganization pursuant to this part.

SEC. 4. Section 35111 of the Government Code is amended to read:

35111. If a petition is for incorporation or for consolidation, the petition may propose a name for the new or consolidated city.

The proposed name for the new or consolidated city may contain the word "town."

SEC. 5. Section 35152 of the Government Code is amended to read:

35152. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a petition or resolution of application whether such petition or application is complete and acceptable for filing or incomplete. The application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the chief petitioners or the legislative body making the proposal. A certificate of filing shall be in the form prescribed by the executive officer. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice hereof as provided in this part. The date of such hearing shall be not more than 90 days after issuance of the certificate or after the application is deemed to have been accepted, whichever is earlier, and the date for conducting the hearing, as determined herein, shall be mandatory. In the event that an application is determined not to be complete, the executive officer shall immediately transmit such determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

SEC. 6. Section 35162 of the Government Code is amended to read:

35162. The conducting authority or any affected county, city, district, landowner, voter, taxpayer, inhabitant, or other interested person desiring any addition, deletion, amendment, or revision of any commission resolution making determinations or of any term, condition, or other provision therein, including the boundaries of the affected territory determined and established by the commission, shall file written application therefor with the executive officer within 60 days of the adoption of the commission resolution, who shall present the same to the commission at its next meeting.

Once a request for a rehearing is filed with the executive officer, the conducting authority shall be notified by the executive officer, and the conducting authority shall not take final action until the

commission has made a determination on the requested change.

Reconsideration of the application shall be made prior to final action of the conducting authority and in no case to exceed 60 days from the date of notification by the executive officer.

The commission, in its discretion, may either (a) without further notice and hearing, deny or approve the application in whole or in part, or (b) provide for notice and hearing upon said application in the same manner as for the original proposal, prior to denying or approving the same.

The determinations of the commission as specified in its resolution, or in any such amended resolution, including the commission's determinations as to boundaries of the affected territory, shall be final and conclusive, and no further changes shall be made except as provided in this section.

SEC. 7. Section 54782.6 of the Government Code is amended to read·

54782.6. The commission of any county shall be enlarged to seven members if, pursuant to Article 4 (commencing with Section 54850), the commission of any county (i) orders representation of special districts upon the commission and (ii) adopts rules and regulations affecting the functions and services of special districts. In addition to the commission members selected pursuant to Sections 54780, 54781, and 54782, two commission members shall be selected by an independent special district selection committee to represent special districts in the county.

The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district; provided, however, that in the event the presiding officer of an independent special district will be unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place Such districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of such district, as shown on the last equalized county assessment roll or rolls. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer and members representing a majority of the eligible districts shall constitute a quorum.

The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held (i) whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission or (ii) upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

The selection committee shall appoint two regular members and one alternate member to the commission; the members so appointed shall be elected or appointed special district officers residing within the county; provided, however, that the members so appointed shall not be members of the governing body of a city or county. If one of the regular district members is absent from a commission meeting, disqualifies himself or herself from participating in a meeting or is automatically disqualified from participating therein, the alternate district member is authorized to serve and vote in his or her place for that meeting. When the commission is considering any proposal affecting the district for which the regular member is a special district officer, such member is automatically disqualified from participating in proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place upon such proposal.

In the event the office of a regular district member becomes vacant, the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular district member to fill the vacancy.

SEC. 8 Section 54784 of the Government Code is amended to read:

54784 In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to, and in the manner provided in, Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5 Regular members of the commission shall be appointed by such city selection committee pursuant to Section 54780.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, or is automatically disqualified from participating therein pursuant to this section, the alternate member is authorized to serve and vote in his or her place for that meeting Except in the case of counties with not more than two cities where a local commission's rules and regulations authorize members' participation pursuant to Section 54784.1, when the commission is considering a proposal for the annexation of territory to a city of which one of the members of the commission is an officer, the member is disqualified from participating in the proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place for such purpose.

In the event the office of a regular city member becomes vacant, the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular city member to fill the vacancy.

SEC 8 5 Section 54784 of the Government Code is amended to read

54784. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5. Regular members of the commission shall be appointed by the city selection committee pursuant to Section 54780 or 54780.1.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, or is automatically disqualified from participating therein pursuant to this section, the alternate member is authorized to serve and vote in his or her place for that meeting. Except in the case of counties with not more than two cities where a local commission's rules and regulations authorize members' participation pursuant to Section 54784.1, when the commission is considering a proposal for the annexation of territory to a city of which one of the members of the commission is an officer, the member is disqualified from participating in the proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place for such purpose.

In the event the office of a regular city member becomes vacant the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 9. Section 56046 of the Government Code is amended to read:

56046. "Landowner" or "owner of land" means: any person shown as the owner of land on the last equalized assessment roll; where such person is no longer the owner, then any person entitled to be shown as owner of land on the next assessment roll; where land is subject to a recorded written agreement of sale, any person shown therein as purchaser, and any public agency owning land. "Landowner" or "owner of land" shall not include a public agency which owns highways, rights-of-way, easements, waterways, or canals.

For the purpose of mailed notice provided pursuant to Section 56089, the definition of landowner or owner of land shall be each person to whom land is assessed, as shown upon the last equalized assessment roll of the county, at the address shown upon such assessment roll

SEC 10. Section 56068 of the Government Code is amended to read·

56068 "Reorganization" means·

(a) Two or more changes of organization proposed in a single proposal for any single subject district; or

(b) One or more changes of organization proposed in a single proposal for.

(1) Each of two or more subject districts, including cities, landowner-voter districts or resident-voter districts and may include the formation of one or more new districts consisting of all or any part of the territory of any of the subject districts; or

(2) Any single such subject district and shall include the formation of one or more new districts consisting of all or any part of the territory of such subject district.

SEC. 11. Section 56141 of the Government Code is amended to read:

56141. If a petition is for a consolidation, or for the formation of a new district as part of a reorganization, the petition may propose a name for the consolidated or new district

If a petition is for a district reorganization which includes as part thereof a municipal incorporation, the petition may state the name of the new city. The proposed name of the new city may contain the word "town."

SEC. 12. Section 56157 of the Government Code is amended to read:

56157. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a petition whether such petition is complete and acceptable for filing or incomplete. An application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. If the petition, including any supplemental petition, shall be certified to be sufficient, and contains all the information and data required pursuant to Section 56140 and is in the form prescribed by the commission, the executive officer shall accept the proposal for filing. When the executive officer accepts a proposal for filing, the executive officer shall immediately issue a certificate of filing to the chief petitioners, if any. A certificate of filing shall be in the form prescribed by the executive officer and shall give notice of the sufficiency of the petition. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give notice thereof in the manner provided in Part 4 (commencing with Section 56250) In the event that a petition is determined not to be complete, the executive officer shall immediately transmit such determination to the chief petitioner or petitioners specifying those parts of the petition which are incomplete and the manner in which they can be made complete.

SEC. 13 Section 56172 of the Government Code is amended to read:

56172. Petitions for the consolidation of two or more districts shall be signed by not less than 5 percent of the registered voters within each of the several districts.

SEC. 14 Section 56173 of the Government Code is amended to read

56173 Petitions for the dissolution of a district shall be signed as follows:

(1) By not less than 5 percent of the registered voters within the district, or

(2) By not less than 5 percent of the number of landowners within the district who also own not less than 5 percent of the assessed value of land within the district.

SEC. 15. Section 56198 of the Government Code is amended to read:

56198. Except when a commision is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a resolution of application whether such resolution of application is complete and acceptable for filing or incomplete. An application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. Upon receipt of a resolution of application, the executive officer shall ascertain whether, except for provisions relating to signers and signatures, the resolution and any supporting documents contain all the information and data required pursuant to Section 56140 and is in the form prescribed by the commission. If the executive officer finds that the resolution contains all such information and is in the prescribed form, the executive officer shall accept the proposal made therein for filing and immediately issue a certificate of filing to the affected county, city or district making the proposal. A certificate of filing shall be in the form prescribed by the executive officer. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give notice thereof in the manner provided by Part 4 (commencing with Section 56250) In the event that a resolution of application is determined not to be complete, the executive officer shall immediately transmit such determination to the applicant specifying those parts of the resolution of application which are incomplete and the manner in which they can be made complete.

SEC. 16. Section 56310 of the Government Code is amended to read:

56310. Except as otherwise provided in Section 56322, the board of directors of the conducting district, unless authorized by the commission pursuant to Section 56261.1, shall adopt a resolution initiating proceedings for an annexation or detachment which resolution shall comply with the commission's resolution making determinations and shall.

(a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition).

(b) State the distinctive short form designation assigned by the commission to the territory proposed to be annexed or detached and set forth a description of the exterior boundaries of such territory.

(c) State whether the territory proposed to be annexed or detached is inhabited or uninhabited.

(d) State the reason or reasons for the proposed annexation or

detachment, as set forth in the proposal thereof.

(e) Set forth any terms and conditions of the proposed annexation or detachment.

(f) Fix a time, date and place of hearing on the proposed annexation or detachment, which shall be not less than 15 days nor more than 60 days after the date of adoption of the resolution initiating proceedings.

(g) State that any interested person desiring to make written protest against said annexation or detachment shall do so by written communication filed with the clerk of the conducting district not later than the hour set for hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by him; a protest by a voter shall contain the residential address of such voter.

SEC. 17. Section 56380 of the Government Code is amended to read:

56380 The board of supervisors, unless authorized by the commission pursuant to Section 56261.1, shall adopt a resolution initiating proceedings for consolidation. which resolution shall comply with the commission's resolution making determinations and shall:

(a) State the names of all districts proposed to be consolidated, the name, if any, of the proposed new consolidated district, and the county or counties in which the same are located.

(b) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition).

(c) State the reason or reasons for the proposed consolidation, as set forth in the proposal therefor.

(d) Set forth any terms and conditions of the proposed consolidation.

(e) Fix a time, date and place of hearing on the proposed consolidation which shall be not less than 15 days nor more than 60 days after the date of adoption of the resolution initiating proceedings.

(f) State that any interested person desiring to make written protest against such consolidation shall do so by written communication filed with the clerk of the county not later than the hour set for hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by the landowner, a protest by a voter shall contain the residential address of such voter.

SEC 18 Section 56386 of the Government Code is amended to read

56386 Not later than 30 days after the conclusion of the hearing, the board of supervisors shall adopt a resolution and make one of the following determinations·

(a) Disapproving the proposed consolidation;

(b) Ordering the proposed consolidation, subject to confirmation

by the voters upon the question of consolidation.

(c) Ordering the proposed consolidation without election when authorized by the commission pursuant to Section 56261 1.

SEC. 19. Section 56410 of the Government Code is amended to read:

56410. The board of supervisors, unless authorized by the commission pursuant to Section 56261.1, shall adopt a resolution initiating proceedings for a merger or establishment of a subsidiary district, which resolution shall comply with the commission's resolution making determinations and shall:

(a) State the names of the city and the district which is the subject of the proposed merger or establishment of a subsidiary district.

(b) State whether the proceedings pertain (i) to a then existing subsidiary district proposed to be merged with the city or (ii) to a nonsubsidiary district proposed to be merged with or established as a subsidiary district of said city, as may be determined during the course of the proceedings.

(c) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition).

(d) State the reason or reasons for the proposed merger or establishment of a subsidiary district, as set forth in the proposal therefor.

(e) Set forth any terms and conditions of the proposed merger or establishment of a subsidiary district.

(f) Fix a time, date and place of hearing on the proposed merger or establishment of a subsidiary district, which shall be not less than 15 days nor more than 60 days after the date of adoption of the resolution initiating proceedings

(g) State that any interested person desiring to make written protest shall do so by written communication filed with the clerk of the county not later than the hour set for hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by the landowner; a protest by a voter shall contain the residential address of such voter.

SEC. 20. Section 56437 of the Government Code is amended to read:

56437. Except as otherwise provided in Sections 56438 and 56438 1, there shall be no right of majority protest upon a proposed reorganization and all orders of reorganization shall be made subject to confirmation of the voters upon the question of such reorganization

SEC 21. Section 56438.1 is added to the Government Code, to read·

56438 1 Where a proposed reorganization includes the incorporation of a new city, Section 35257 shall apply

SEC 22 It is the intent of the Legislature, if this bill and Assembly Bill 607 are both chaptered and become effective January

1, 1982, both bills amend Section 54784 of the Government Code, and this bill is chaptered after Assembly Bill 607, that the amendments to Section 54784 proposed by both bills be given effect and incorporated in Section 54784 in the form set forth in Section 8.5 of this act. Therefore, Section 8.5 of this act shall become operative only if this bill and Assembly Bill 607 are both chaptered and become effective January 1, 1982, both amend Section 54784, and this bill is chaptered after Assembly Bill 607, in which case Section 8 of this act shall not become operative.

SEC. 23. If this bill and Assembly Bill 2004 are both chaptered and become effective January 1, 1982, both bills amend Section 54784 of the Government Code, and this bill is chaptered after Assembly Bill 2004, the amendments to Section 54784 made by Assembly Bill 2004 shall prevail, and the amendments to Section 54784 made by this act shall not become operative.

CHAPTER 962

An act to add Section 21083.3 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 21083.3 is added to the Public Resources Code, to read:

21083.3. (a) If a parcel has been zoned to accommodate a particular density of residential development or has been designated in a community plan to accommodate a particular density of residential development and an environmental impact report was certified for that zoning or planning action, the application of this division to the approval of any subdivision map or other project that is consistent with the zoning or community plan shall be limited to effects upon the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report. However, all public agencies with authority to mitigate the significant effects shall undertake or require the undertaking of any feasible mitigation measures specified in the prior environmental impact report relevant to a significant effect which the project will have on the environment or, if not, then the provisions of this section shall have no application to that effect. The lead agency shall make a finding, at a public hearing, as to whether those mitigation measures will be undertaken. An effect of a project upon the environment shall not be considered peculiar to the parcel or to the project, for purposes of this subdivision, if uniformly applied development policies or standards

have been previously adopted by the city or county, with a finding based upon substantial evidence, which need not include an environmental impact report, that the development policies or standards will substantially mitigate that environmental effect when applied to future projects.

Where a community plan is the basis for application of this section, any rezoning action consistent with the community plan shall be a project subject to exemption from this division in accordance with the provisions of this subdivision.

(b) As used in subdivision (a), "community plan" means a part of the general plan of a city or county which (1) applies to a defined geographic portion of the total area included in the general plan, (2) complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code by including or referencing each of the mandatory elements specified in Section 65302 of the Government Code, and (3) contains specific development policies adopted for the area included in the community plan and identifies measures to implement those policies, so that the policies which will apply to each parcel can be determined.

(c) No person shall have standing to bring an action or proceeding to attack, review, set aside, void, or annul a finding of a public agency made at a public hearing pursuant to subdivision (a) with respect to the conformity of the projectprepared for the zoning or planning action, unless he or she has participated in that public hearing. However, this subdivision shall not be applicable if the local agency failed to give public notice of the hearing as required by law. For purposes of this subdivision, a person has participated in the public hearing if he or she has either submitted oral or written testimony regarding the proposed determination, finding, or decision prior to the close of the hearing.

(d) Any plan adopted prior to January 1, 1982, which does not comply with the definitional criteria specified in subdivision (b) may be amended to comply with that criteria, in which case, the plan shall be deemed a "community plan" within the meaning of subdivision (b); provided, that, (1) an environmental impact report was certified for adoption of the plan and (2) at the time of the conforming amendment, the environmental impact report has not been held inadequate by a court of this state, and the environmental impact report is not the subject of pending litigation challenging its adequacy.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 963

An act to amend Sections 21230, 21263, 21263.4, 21263.5, 21339, 21364, 21365.6, 21382, and 21382.2 of, to add Sections 20047 and 21206 to, and to repeal Sections 21364.2, 21381, and 21382.5 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1 Section 20047 is added to the Government Code, to read:

20047. "Disability," "disabled," or "incapacitated" means, with respect to qualification for an allowance payable to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment which is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended and uncertain duration.

SEC. 1.5. Section 21206 is added to the Government Code, to read:

21206. Notwithstanding any other provision of law, a parent having custody of surviving children eligible to receive an allowance payable under this part shall not be required to become the guardian of those children in order to be paid the benefits prescribed for those children on their behalf.

SEC. 2. Section 21230 of the Government Code is amended to read:

21230. Notwithstanding Section 21224, the adjustments in allowances for local members provided by this article for the time commencing on and after the annual adjustment date following the date specified by the contracting agency in its contract shall be subject to the following limitations:

(a) No adjustment shall be made for any year for which the adjustment is less than 1 percent of the base allowance.

(b) No monthly allowance in any year may exceed an amount equal to the base allowance increased by 3, 4, or 5 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made. A contracting agency shall designate the applicable percentage and may amend its contract to increase the percentage

(c) No monthly allowance in any year shall be less than the base allowance.

(d) No adjustment shall be made in any year in which the actuarial interest rate is less than 5.25 percent

However, the adjusted allowances in years following the year in

which the contract of an agency subject to this section is terminated may not exceed the adjusted allowance in the year of contract termination or the amount determined in accordance with subdivision (b) of Section 21224, whichever is the greater.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required as a result of making this section applicable shall be computed as a level percentage of member compensation. The additional contribution rate required, at the time this section is added to a contract, shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1975, by express provision in the contract making the contracting agency subject to this section.

SEC. 3. Section 21263 of the Government Code is amended to read:

21263. Upon the death of a patrol or state safety member whose retirement for service or disability is effective on or after the operative date of this section, a monthly allowance derived from employer contributions equal to a percentage of the amount of his retirement allowance as it was at his death based on service credited to him as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life or until remarriage. The percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there is no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If, at the time of the retired member's death, there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him for support. If, on the effective date of his retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement,

no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

SEC. 4. Section 21263.4 of the Government Code is amended to read:

21263.4 Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his retirement allowance as it was at his death and based on service credited to him as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life or until remarriage. If there is no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If, at the time of the retired member's death, there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him for support. If, on the effective date of retirement, there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than optional settlement 1, shall apply only to a portion of his allowance as provided in Section 21330 with respect to allowances under Section 21263. If, on the effective date of his retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

Notwithstanding Section 20019.1 making provisions applicable to state miscellaneous members applicable to school members, this section shall not apply to school members

SEC. 5 Section 21263.5 of the Government Code is amended to read:

21263.5. Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his retirement allowance as it was at his death based on

service credited to him as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life or until remarriage. The percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service If there is no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If, at the time of the retired member's death, there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him for support. If, on the effective date of retirement, there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than optional settlement 1, shall apply only to a portion of the allowance as provided in Section 21330 with respect to allowances under Section 21263. If, on the effective date of his retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

Notwithstanding Section 20019.1, this section shall not apply to school members.

SEC. 6. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if his beneficiary predeceases him, elect to have the actuarial equivalent as of the date of election of the allowance payable for the remainder of his lifetime under the optional settlement previously chosen applied to a lesser allowance during his remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be within 12 months following the death of the beneficiary who predeceased the member. In the case of such a member whose beneficiary died prior to January 1, 1975, the election shall be made prior to January 1, 1976.

SEC. 7. Section 21364 of the Government Code is amended to read:

21364. The special death benefit consists of the following:

(a) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the

annuity provided under subdivision (c) is paid

(b) An amount sufficient, when added to the amount provided under subdivision (a), to provide, when applied according to tables adopted by the board, a monthly death allowance equal to one-half of his or her final compensation in the membership category applicable to him or her at the time of the injury or the onset of the disease causing death, payable to the surviving spouse to whom he or she was married prior to sustaining the injury or disease resulting in death, as long as the surviving spouse lives or until his or her remarriage; or, if there is no surviving spouse or if the spouse dies or remarries before all children of the deceased member attain age 22, to his or her children under 22 collectively until every child shall have died, married, or attained age 22. However, no child shall receive any part of the allowance after marrying or attaining age 22. During the lifetime of the surviving spouse or until the spouse remarries, an additional percentage of the death benefit allowed by this section, exclusive of the annuity under subdivision (c), shall be paid to the spouse of a member who is killed in the performance of his or her duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his or her duty, for each of his or her children during the lifetime of the child, or until the child marries or reaches the age of 22, as follows: for one child, 25 percent; for two children, 40 percent; and for three or more children, 50 percent.

(c) An annuity which is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of his or her death, plus his or her accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to him or her at the time of the injury or the onset of the disease causing death.

If the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches the age of 22.

The computation for time prior to entering the membership category applicable to the deceased at the time of the injury or the onset of the disease causing death shall be based on the compensation earnable by him or her in the position first held by him or her in that category.

"Spouse," for purposes of this section, means a wife or husband.

On and after October 1, 1965, this section shall apply to all contracting agencies and to the employees of all contracting agencies whether or not the agencies have previously elected to be subject to this section.

Any child whose eligibility for an allowance pursuant to this section, commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his adoption.

SEC. 8. Section 21364 2 of the Government Code is repealed.

SEC. 9. Section 21365.6 of the Government Code is amended to read·

21365.6. The surviving spouse of a member who has attained age 50, and who is eligible to receive an allowance pursuant to Section 21365 5, shall instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2. The surviving spouse of a member who has attained age 50, and who is eligible to receive a special death benefit in lieu of an allowance under Section 21365.5, may elect to instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2.

The allowance shall be payable as long as the surviving spouse lives or until remarriage. Upon the death or remarriage of the surviving spouse, the benefit shall be continued to minor children, as defined in Section 25 of the Civil Code, or a lump sum shall be paid as provided under circumstances specified in Section 21365 5 or in Sections 21364 and 21366, as the case may be.

This section shall only apply with respect to state members, other than school members, whose death occurs on and after July 1, 1976.

All references in this code to Section 21365.5 shall be deemed to include this section in the alternative.

SEC. 10. Section 21381 of the Government Code is repealed

SEC 11. Section 21382 of the Government Code is amended to read:

21382. (a) If the death benefit provided by Section 21361 is payable on account of a member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian or conservator of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid one hundred eighty dollars ($180) per month.

(B) If there are two children, the children shall be paid three hundred sixty dollars ($360) per month divided equally between them.

(C) If there are three or more children, the children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A widow or widower who has attained or attains the age of 62 years and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be seventy dollars ($70) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if such surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death

(d) The amendments to this section enacted at the 1971 Regular Session of the Legislature shall apply only to 1959 survivor allowances payable April 1, 1972, and thereafter.

SEC. 12. Section 21382.2 of the Government Code is amended to read:

21382.2. (a) In lieu of benefits provided in Section 21382, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) if there is one such child or five hundred thirty-eight dollars ($538) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between

them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an allowance is being paid under subparagraph (B) of paragraph (2)

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if such surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach age 22, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all school members, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

A contracting agency may, by amending its contract, elect to make this section applicable to local members employed by the agency.

SEC. 13. Section 21382.5 of the Government Code is repealed.

CHAPTER 964

An act making an appropriation to pay the settlement of the claims of Frank T. Barr, et al., and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund in augmentation of Item 819-001-001, Budget Act of 1981, to pay the settlement of the claims of the plaintiffs against the State of California in the action entitled Frank T. Barr, et al. v. State of California, et al., No. 413987, brought in the Superior Court of the State of California for the County of San Diego.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay the settlement of an action brought by the plaintiffs, and ending a hardship to these persons as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 965

An act to add and repeal Chapter 12 (commencing with Section 8870) of Division 1 of Title 2 of the Government Code, relating to state government.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Chapter 12 (commencing with Section 8870) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 12. INTERAGENCY MANAGEMENT TEAM

8870. There is hereby created an Interagency Management Team which shall conduct management assessments of state agencies pursuant to Section 8872. The team shall be composed of three employees from the Department of Finance, one of whom shall serve as director of the team and shall be appointed by the Governor; and one employee each, of the office of the Controller,

appointed by the Controller, and of the State Personnel Board, appointed by the executive officer of the board

Staff for the team shall be provided and housed by the Department of Finance.

8871. (a) The Department of Finance shall determine the initial startup costs of the program and assess each executive branch agency on a proportional basis, from current budget sources, for these costs.

(b) The costs of conducting management assessments pursuant to subdivision (b) of Section 8872 shall be determined by the Department of Finance and charged against the current year budget of the agency assessed.

8872. (a) All agencies submitting claim schedules to the Controller for payment shall submit on a separate claim schedule as designated by the Controller those claims to be paid pursuant to an invoice which has been in the agency's office longer than 20 days. All such claims shall be supported by the invoice which shall be date stamped on the back with the date of receipt by the agency.

(b) The Controller shall notify the Interagency Management Team, the Governor, and the Legislature on January 1 of each year of each agency which for the previous calendar year had failed to forward to the Controller within 20 days of receipt of the first invoice 5 percent or more of the total claims for contracted goods or services processed by the agency. Upon receipt of this notice, the Interagency Management Team shall schedule and conduct management assessment of the contract payment process of the agencies identified and shall report its findings to the Governor, the Legislature, and the agency.

8873. The Legislative Analyst shall submit a report to the Legislature regarding the effect of this chapter in improving the administration of state agencies and the prompt payment of state obligations.

8874. This chapter shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

CHAPTER 966

An act to amend Section 1464, as amended by Section 7 of Chapter 166 of the Statutes of 1981, to amend Section 13510 of, to amend and repeal Section 1464, as amended by Section 8 of Chapter 166 of the Statutes of 1981, and to add Section 1464 to, the Penal Code, relating to training, and making an appropriation therefor.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government

Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 34.03 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 1.5. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the

funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 34.03 percent of the funds deposited in the Assessment Fund during the preceding month

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 2. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read·

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44.17 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on July 1, 1982, and shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 2.5. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30 83 percent of the funds deposited in the Assessment Fund during the preceding month

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44 17 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1983, and shall remain in effect only until January 1, 1986, and as of that date is repealed

SEC 3 Section 1464 is added to the Penal Code, to read·

1464. There shall be levied an assessment in an amount equal to

four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows·

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24 58 percent of the funds deposited in the Assessment Fund during the preceding month Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24 17 percent of the funds deposited in the Assessment Fund during the preceding month

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1986.

SEC. 4. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness, which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a municipal court, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, or peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may, from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a municipal court, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. All such rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards, to include vision, hearing, physical ability, and emotional stability. Job-related standards which are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) Nothing in this section shall prohibit a local law enforcement agency from establishing selection and training standards which exceed the minimum standards established by the commission.

SEC. 5. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness, which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a municipal court, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1

who conduct criminal investigations, or peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may, from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a municipal court, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, regularly employed and paid inspectors and investigators of a district attorney's office as defined in Section 830.1 who conduct criminal investigations, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. All such rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1, of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards, to include vision, hearing, physical ability, and emotional stability. Job-related standards which are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards

(c) Nothing in this section shall prohibit a local law enforcement agency from establishing selection and training standards which exceed the minimum standards established by the commission.

SEC. 5 5. It is the intent of the Legislature, if this bill and Assembly Bill 1297 are both chaptered and become effective January 1, 1982, both bills amend Section 1464 of the Penal Code, and this bill is chaptered after Assembly Bill 1297, that the amendments to Section 1464 proposed by both bills be given effect and incorporated in Section 1464 in the form set forth in Sections 1.5 and 2.5 of this act. Therefore, Sections 1 5 and 2.5 of this act shall become operative only if this bill and Assembly Bill 1297 are both chaptered and become effective January 1, 1982, both amend Section 1464, and this bill is chaptered after Assembly Bill 1297, in which case Sections 1 and 2 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill 201 are both chaptered and become effective January 1, 1982, both bills amend Section 13510 of the Penal Code, and this bill is chaptered after Senate Bill 201, that the amendments to Section 13510 proposed by both bills be given effect and incorporated in Section 13510 in the form set forth in Section 5 of this act Therefore, Section 5 of this act shall become operative only if this bill and Senate Bill 201 are both chaptered and become effective January 1, 1982, both amend Section 13510, and this bill is chaptered after Senate Bill 201, in which case Section 4 of this act shall not become operative

CHAPTER 967

An act to amend Section 11105 of the Penal Code, relating to criminal records.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830 3, subdivisions (a), (b), and (c), of Section 830 5, and Section 830 5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state

(6) Parole officers of the state

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852 08 of the Penal Code

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished pursuant to this section, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. Any state agency required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to

offset costs incurred pursuant to such sections when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

CHAPTER 968

An act to amend Sections 6252, 6256, 11120, 11121, 11121.5, 11121.7, 11121.9, 11122, 11123, 11124, 11124.1, 11125, 11125.1, 11125 2, 11126, 11126 1, 11126.3, 11126.5, 11126.7, 11127, 11128, 11129, 11130, 11130.5, 11130.7, 11131, 54951.7, 54952.3, 54952.7, 54953.3, 54956.5, 54957.2, 54957.5, 54957 7, 54957.9, 54960 5, and 54961 of, and to add Sections 6253.1, 6254.5, 6256.1, 6256.2, 6257, 11121 2, 11121 8, 11125 5, 54952 2, and 54953.7 to, and to repeal Section 6257 of, the Government Code, and to amend Sections 15200.1 and 15200.2 of the Welfare and Institutions Code, relating to governmental operations, and making an appropriation therefor

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 6252 of the Government Code is amended to read:

6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county, city, whether general law or chartered; city and county; school district, municipal corporation; district, political subdivision; or any board, commission or agency thereof, or other local public agency.

(c) "Person" includes any natural person, corporation, partnership, firm, or association.

(d) "Public records" includes any writing containing information

relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(f) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment

SEC. 1.5. Section 6252 of the Government Code is amended to read·

6252. As used in this chapter·

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; and nonprofit organizations of local governmental agencies and officials which are supported solely by public funds.

(c) "Person" includes any natural person, corporation, partnership, firm, or association.

(d) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of or maintained by the Governor's office means any writing prepared on or after January 6, 1975.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents

(f) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment

SEC 2 Section 6253.1 is added to the Government Code, to read

6253.1. Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself which allow greater access to records than prescribed by the minimum standards set forth in this chapter.

SEC. 3. Section 6254.5 is added to the Government Code, to read

6254.5. Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from the provisions of this act, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254, 6254.7, or other similar provisions of law For the purposes of this section, before a disclosure of an otherwise exempt public record by a state or local agency to a federal agency, is made, the federal agency shall agree in writing to comply with the provisions of this act. For purposes of this section,"agency" includes a member, agent, officer or employee of the agency acting within the scope of his or her membership, agency, office, or employment

This section, however, shall not apply to disclosures·

(a) Made pursuant to the Information Practices Act (commencing with Section 1789 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

SEC. 3.1. Section 6256 of the Government Code is amended to read·

6256. Any person may receive a copy of any identifiable public record or copy thereof. Upon request. an exact copy shall be provided unless impracticable to do so Computer data shall be provided in a form determined by the agency

Each agency, upon any request for a copy of records shall determine within 10 days after the receipt of such request whether to comply with the request and shall immediately notify the person making the request of such determination and the reasons therefor

SEC 3.2. Section 6256.1 is added to the Government Code, to read:

6256 1. In unusual circumstances, as specified in this section, the time limit prescribed in Section 6256 may be extended by written notice by the head of the agency to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than 10 working days.

As used in this section "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request·

(a) The need to search for and collect the requested records from

field facilities or other establishments that are separate from the office processing the request.

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

SEC. 3.3. Section 6256.2 is added to the Government Code, to read:

6256.2. Nothing in this chapter shall be construed to permit an agency to delay access for purposes of inspecting public records. Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

SEC. 3.4. Section 6257 of the Government Code is repealed.

SEC. 3.5. Section 6257 is added to the Government Code, to read:

6257. Except with respect to public records exempt by express provisions of law from disclosure, each state or local agency, upon any request for a copy of records, which reasonably describes an identifiable record, or information produced therefrom, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt by law.

SEC. 4. Section 11120 of the Government Code is amended to read:

11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

SEC. 5. Section 11121 of the Government Code is amended to read:

11121. As used in this article "state body" means every state board, or commission, or similar multimember body of the state

which is required by law to conduct official meetings and every commission created by executive order, but does not include:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of this code.

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act, Sections 9027 et seq., of this code.

(d) State agencies when they are conducting proceedings pursuant to Section 3596 of this code.

(e) State agencies provided for in Section 1702 of the Health and Safety Code, except as provided in Section 1720 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

SEC. 5.2. Section 11121.2 is added to the Government Code, to read:

11121.2. As used in this article, "state body" also means any board, commission, committee, or similar multimember body which exercises any authority of a state body delegated to it by that state body.

SEC. 5 3. Section 11121.5 of the Government Code is amended to read:

11121.5. Under the provisions of this article, the official student body organization at any campus of the California State University and Colleges, or of the California Community Colleges, shall be treated in the same manner as a state body.

SEC. 6. Section 11121.7 of the Government Code is amended to read:

11121.7. As used in this article, "state body" also means any board, commission, committee, or similar multimember body on which a member of a body which is a state body pursuant to Section 11121, 11121.2, or 11121.5 serves in his or her official capacity as a representative of such state body and which is supported, in whole or in part, by funds provided by the state body, whether such body is organized and operated by the state body or by a private corporation

SEC. 7. Section 11121.8 is added to the Government Code, to read:

11121.8. As used in this article, "state body" also means any advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

SEC. 7.1. Section 11121.9 of the Government Code is amended to read:

11121.9 Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

SEC. 7.3. Section 11122 of the Government Code is amended to read:

11122. As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

SEC 7.5. Section 11123 of the Government Code is amended to read·

11123 All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

SEC 8. Section 11124 of the Government Code is amended to read:

11124 No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

SEC. 9. Section 11124 1 of the Government Code is amended to read·

11124.1 Any person attending an open and public meeting of the state body shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the state body that such recording constitutes, or would constitute, a disruption of the proceedings.

SEC 10. Section 11125 of the Government Code is amended to read.

11125. (a) The state body shall provide notice of its meeting to any person who requests such notice in writing. Notice shall be given at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The notice requirement shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body

at the same meeting on matters brought before the body by members of the public.

(b) The notice of a meeting of a body which is a state body as defined in Section 11121, 11121.2, 11121.5, or 11121.7, shall include a specific agenda for the meeting, which shall include the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the provision of this notice.

(c) The notice of a meeting of an advisory body, which is a state body as defined in Section 11121.8, shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice.

(d) Notice of a meeting of a state body which complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

SEC. 10.1. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by a member, officer, employee, or agent of such body for discussion or consideration at a public meeting of such body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6257 The writings described in subdivisions (b), (c), and (d) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to exempt from public inspection any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC 10 3 Section 11125 2 of the Government Code is amended to read.

11125 2 Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

SEC 11 Section 11125.5 is added to the Government Code, to read:

11125.5. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125.

For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting.

(a) Work stoppage or other activity which severely impairs public health, safety, or both.

(b) Crippling disaster which severely impairs public health, safety, or both

(c) Difficulties with examinations for licensure which require immediate attention

(d) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, which require immediate attention.

(e) Consideration of applications for licensure where a decision must be made in less than 10 days.

(f) Consideration by a licensing agency of proposed legislation which requires immediate attention due to legislative action which

may be taken prior to the next regularly scheduled meeting of the agency, or due to time limitations imposed by law.

However, newspapers of general circulation and radio or television stations which have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. In the event that telephone services are not functioning the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify such newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at such meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

SEC. 12. Section 11126 of the Government Code is amended to read·

11126. (a) Nothing contained in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal such employee shall be given written notice of his or her right to have a public hearing rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at such closed session shall be null and void. The state body also may exclude from any such public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session the body may deliberate on the decision to be reached in a closed session

For the purposes of this section, the term "employee" shall not include any person who is elected to, or appointed to a public office by, any state body; provided, however, that officers of the California State University and Colleges who receive compensation for their services other than per diem and ordinary and necessary expenses shall, when engaged in such capacity, be considered employees

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade or administer examinations

(c) Nothing in this article shall be construed to prevent an

advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided that the advisory body does not include a quorum of the members of the state body it advises. Such matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code or similar provision of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

(i) Nothing in this article shall be construed to prevent the Trustees of the California State University and Colleges from holding closed sessions dealing with site selection for such state university and colleges.

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of

which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by such state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body from holding a closed session to confer with legal counsel regarding pending litigation when discussion in open session concerning those matters would adversely affect or be detrimental to the public interest.

(r) Nothing in this article shall be construed to prevent a state body which invests in retirement, pension, or endowment funds from holding closed sessions to confer with legal counsel regarding pending litigation, when discussion in open session concerning these matters would adversely affect, or be detrimental to, those funds. For purposes of subdivision (q) and this subdivision, litigation shall be considered pending when a complaint, claim or petition for writ of mandate has been filed, or the threat of litigation is imminent in the

sound opinion of the state body.

(s) Nothing in this article shall be construed to prevent the examining committee established by the Board of Forestry pursuant to Section 763 of the Public Resources Code from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions when considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

SEC. 13. Section 11126.1 of the Government Code is amended to read:

11126.1. The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

SEC. 14. Section 11126.3 of the Government Code is amended to read:

11126.3. Prior to holding any closed session, the state body shall state the general reason or reasons for the closed session, and cite the specific statutory authority, including the particular section and subdivision, or other legal authority under which the session is being held. In the closed session, the state body may consider only those matters covered in its statement. The statement shall be made as part of the notice provided for the meeting and of any order or notice required by Section 11129. Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

SEC. 15. Section 11126 5 of the Government Code is amended to read:

11126 5. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

SEC. 16. Section 11126.7 of the Government Code is amended to read:

11126.7. No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article

SEC. 17. Section 11127 of the Government Code is amended to read:

11127. Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

SEC 18. Section 11128 of the Government Code is amended to read:

11128. Each closed session of a state body shall be held only during a regular or special meeting of the body.

SEC. 19. Section 11129 of the Government Code is amended to read:

11129 Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body which is noticed pursuant to Section 11125 A copy of the order or notice of continuance shall be conspicuously posted on or near the

door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

SEC. 20. Section 11130 of the Government Code is amended to read:

11130. Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to actions or threatened future action by members of the state body.

SEC. 21. Section 11130.5 of the Government Code is amended to read:

11130.5. A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 where it is found that a state body has violated the provisions of this article. Such costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

SEC. 22. Section 11130.7 of the Government Code is amended to read:

11130.7. Each member of a state body who attends a meeting of such body in violation of any provision of this article, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

SEC. 23. Section 11131 of the Government Code is amended to read:

11131. No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

SEC. 24. Section 54951.7 of the Government Code is amended to read:

54951.7. "Local agency" includes any nonprofit corporation, created by one or more local agencies, any one of the members of whose board of directors is appointed by such local agencies and which is formed to acquire, construct, reconstruct, maintain or operate any public work project.

SEC. 25. Section 54952.2 is added to the Government Code, to

read:

54952.2. As used in this chapter, "legislative body" also means any board, commission, committee, or similar multimember body which exercises any authority of a legislative body of a local agency delegated to it by that legislative body.

SEC. 26. Section 54952.3 of the Government Code is amended to read:

54952.3. As used in this chapter "legislative body" also includes any advisory commission, advisory committee or advisory body of a local agency, created by charter, ordinance, resolution, or by any similar formal action of a legislative body or member of a legislative body of a local agency.

Meetings of such advisory commissions, committees or bodies concerning subjects which do not require an examination of facts and data outside the territory of the local agency shall be held within the territory of the local agency and shall be open and public, and notice thereof must be delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting.

If the advisory commission, committee or body elects to provide for the holding of regular meetings, it shall provide by bylaws, or by whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. No other notice of regular meetings is required.

"Legislative body" as defined in this section does not include a committee composed solely of members of the governing body of a local agency which are less than a quorum of such governing body.

The provisions of Sections 54954, 54955, 54955.1, and 54956 shall not apply to meetings under this section.

SEC. 27. Section 54952.7 of the Government Code is amended to read:

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

SEC. 28. Section 54953.3 of the Government Code is amended to read:

54953.3. A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may

attend the meeting regardless of whether a person signs, registers, or completes the document.

SEC. 29. Section 54953.7 is added to the Government Code, to read:

54953 7. Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body

SEC. 30. Section 54956.5 of the Government Code is amended to read:

54956.5. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with the 24-hour notice requirement of Section 54956.

For purposes of this section, "emergency situation" means any of the following·

(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting by telephone and shall exhaust all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings. In the event that telephone services are not functioning the notice requirements of this section shall be deemed waived, and the legislative body, or designee thereof, shall notify such newspapers, radio stations, or television stations of the fact of the holding of the special meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

Notwithstanding the provisions of Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee thereof, notified or attempted to notify, a copy of the rollcall vote,

and any actions taken at such meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

SEC. 31. Section 54957.2 of the Government Code is amended to read:

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

SEC. 32. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by a member, officer, employee, or agent of such body for discussion or consideration at a public meeting of such body, are public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting.

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) Nothing in this section shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for

a copy of a public record pursuant to Section 6257. The writings described in subdivisions (b), (c), and (d) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1), and subdivisions (b), (c), and (d) shall not be construed to exempt from public inspection any record covered by that act, or to limit the public's right to inspect any record required to be disclosed by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a legislative body of the local agency. Nothing in this chapter shall be construed to require a legislative body or a local agency to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC. 33 Section 54957 7 of the Government Code is amended to read:

54957.7. Prior to or after holding any closed session, the legislative body of the local agency shall state the general reason or reasons for the closed session, and may cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the legislative body may consider only those matters covered in its statement. In the case of special, adjourned, and continued meetings, the statement shall be made as part of the notice provided for the special, adjourned, or continued meeting. Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

SEC. 34. Section 54957.9 of the Government Code is amended to read:

54957.9. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

SEC. 35. Section 54960 5 of the Government Code is amended to read.

54960.5. A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 where it is found that a legislative body of the local agency has violated the provisions of this article. Such costs and fees shall be paid

by the local agency and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

SEC. 36 Section 54961 of the Government Code is amended to read:

54961. No local agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex. This section shall apply to every local agency as defined in Section 54951, 54951.1, or 54951.7

SEC. 37. Section 15200.1 of the Welfare and Institutions Code, as amended by Chapter 69 of the Statutes of 1981, is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Support Enforcement Incentive Fund, from which the department shall make payments to each county to be deposited in the county general fund, amounts equivalent to 22½ percent of that portion of the amounts received or collected after October 1, 1981, from noncustodial parents which is used to reduce or repay aid paid pursuant to this chapter and which qualifies for federal incentive funds.

Where more than one county has participated in such enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in such enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

SEC. 38. Section 15200 2 of the Welfare and Institutions Code, as amended by Chapter 69 of the Statutes of 1981, is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Interstate Collection Incentive Fund, from which the department shall make payments to California counties and other states, amounts equivalent to 22½ percent of that portion of the amounts received or collected after October 1, 1981, from noncustodial parents residing outside California which is used to reduce or repay aid paid pursuant to this chapter and which qualifies for federal incentive funds.

The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the noncustodial parent support payment.

Where a county makes a collection for another state, the department shall forward any incentive payment received from such state to the county making the collection from the noncustodial parent.

SEC. 39. It is the intent of the Legislature, if this bill and Assembly Bill 729 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 6252 of the Government Code, and this bill is chaptered after Assembly Bill 729, that Section 6252 of the Government Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 729, and that on the effective date of Assembly Bill 729 Section 6252 of the Government Code, as amended by Section 1 of this act, be further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 6252 proposed by Assembly Bill 729. Therefore, if this bill and Assembly Bill 729 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 729 is chaptered before this bill and amends Section 6252, Section 1.5 of this act shall become operative on the effective date of Assembly Bill 729.

SEC. 40. The provisions of Sections 37 and 38 of this act shall be applied retroactively to October 1, 1981.

CHAPTER 969

An act to add Section 65914 to the Government Code, relating to costs of suit.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 65914 is added to the Government Code, to read:

65914. (a) In any civil action or proceeding, including but not limited to an action brought pursuant to Section 21167 of the Public Resources Code, against a public entity which has issued planning, subdivision, or other approvals for a housing development, to enjoin the carrying out or approval of a housing development or to secure a writ of mandate relative to the approval of, or a decision to carry out the housing development, the court, after entry of final judgment and the time to appeal has elapsed, and after notice to the plaintiff or plaintiffs, may award all reasonably incurred costs of suit, including attorney's fees, to the prevailing public entity if it finds all of the following:

(1) The housing development meets or exceeds the requirements for low- and moderate-income housing as set forth in Section 65915.

(2) The action was frivolous and undertaken with the primary purpose of delaying or thwarting the low- or moderate-income nature of the housing development or portions thereof.

(3) The public entity making application for costs under this section has prevailed on all issues presented by the pleadings, and,

if an intervenor, the public entity actively, through counsel or otherwise, took part on a continuing basis in the defense of the lawsuit.

(4) A demand for a preliminary injunction was made by the plaintiff and denied by a court of competent jurisdiction, such denial not having been reversed on appeal, or the action or proceeding was dismissed as a result of a motion for summary judgment by any defendant, and not reversed on appeal

(b) In any appeal of any action described in subdivision (a), the reviewing court may award all reasonably incurred costs of suit, including attorney's fees, to the prevailing public entity if the court reviews and upholds the trial court's findings with respect to paragraphs (1) to (4), inclusive, of subdivision (a).

CHAPTER 970

An act to add Section 529.2 to the Code of Civil Procedure, relating to injunctions.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 529.2 is added to the Code of Civil Procedure, to read:

529.2. In all civil actions, including, but not limited to, actions brought pursuant to Section 21167 of the Public Resources Code, brought by any plaintiff, other than the state, a county, a municipal corporation, or other public agency, to challenge a housing project which is a development project, as defined by Section 65928 of the Government Code, and which meets or exceeds the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, a defendant may, if the bringing of the action or the seeking by the plaintiff of particular relief including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish a written undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of a action or proceeding as the result of a delay in carrying out the development project. The motion shall be made on the grounds that: (1) the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project, and (2) the plaintiff will not suffer undue economic hardship by filing the undertaking.

If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff

file the undertaking in an amount specified in the court's order as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars ($500,000).

If at any time after the plaintiff has filed an undertaking the housing development plan is changed by the developer in bad faith so that it fails to meet or exceed the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, the developer shall be liable to the plaintiff for the cost of obtaining the undertaking.

An action on the undertaking provided by this section shall be brought in the same manner as for an undertaking made pursuant to Section 529.

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 3. This act shall only apply to actions originally filed on or after January 1, 1982.

CHAPTER 971

An act to add and repeal Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, and to amend Section 98.6 of the Revenue and Taxation Code, relating to property tax revenues.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Article 3.6 (commencing with Section 50078) is added to Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 3.6. Fire Protection and Prevention Assessments

50078 Any district which provides fire protection or prevention services directly, by contract with another local agency, or which provides fire protection and prevention services pursuant to the Fire Protection District Law of 1961, Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code, may, by ordinance adopted after notice and hearing, determine and levy an assessment for fire protection and prevention services pursuant to this article

50078.2. The ordinance shall establish uniform schedules and

rates based upon the type of use of property and the risk classification of the structures or other improvements on, or the use of, the property. The risk classification may include, but need not be limited to, the amount of water required for fire suppression on that property, the structure size, type of construction, structure use, and other factors relating to potential fire and panic hazards and the costs of providing the fire protection and prevention by the district to that property. The assessment shall be related to the benefits to the property assessed.

50078.4. The legislative body of the district shall cause to be prepared and filed with the clerk of the district a written report which shall contain a description of each lot or parcel of property proposed to be subject to the assessment, the amount of the assessment for each such lot or parcel for that fiscal year, the basis of the assessment, and the schedule of the assessment.

50078.6. The clerk shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 of the Government Code and to be posted in at least three public places within the district. The clerk shall also cause a copy of the notice of the filing of the report and of the time, date, and place of hearing thereon to be mailed to each parcel or property owner whose property would be subject to the assessment The notice shall be mailed at least two weeks prior to the date set for hearing to those persons whose name and address appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or as known to the clerk.

50078.8. At any time not later than the hour set for the hearing, any holder, whether a fee owner, lessee, or otherwise, of the interest in the property which is proposed to be assessed and who will be obligated to pay any proposed assessment, may make written protest against the proposed assessment. The protest shall be in writing, shall contain a description of the property and the interest in the property which each signer thereof represents, sufficient to identify the property, and, if the signers are not shown on the last equalized assessment roll as the owners of that property, shall contain or be accompanied by written evidence that such signers are the holders of the property interest proposed to be charged and who will be obligated to pay the proposed charge. All such protests shall be delivered to the county clerk and, for the purposes of Section 50078.12, no other protests or objections shall be considered.

50078.10. (a) At the time, date, and place stated in the notice the legislative body shall hear and consider all objections or protests, if any, to the report referred to in the notice and shall also hear and determine all protests as provided in Section 50078.12. The legislative body may continue the hearing from time to time.

(b) Any written protest may be withdrawn, in writing, by the person who made the protest at any time prior to the conclusion of the protest hearing or any such adjournment thereof.

50078.12. If the legislative body finds that the protest is made by

holders of property interests proposed to be assessed and who will be obligated to pay the proposed assessment for fire protection and prevention service representing more than 5 percent of the total amount of expected revenue from the assessment, and protests are not withdrawn so as to reduce the same to less than 5 percent, the proposed assessment so protested shall be submitted to approval by a majority of the voters of the district voting on the proposition

50078.13. The district shall pay the county for costs, if any, incurred by the county in conducting the election

50078 14 If it shall be necessary, in order to find whether a 5 percent protest exists, to determine whether any or all of the signers of written protests are the holders of property interests proposed to be assessed and who will be obligated to pay the proposed assessment, the legislative body shall make the determination from the latest equalized assessment roll, any written evidence submitted with a written protest, and any other evidence received at the hearing. The legislative body shall be under no duty to obtain or consider any other evidence as to the holding of property interests, and its determination of valid protests shall be final and conclusive.

50078.15 If no protests or objections in writing have been delivered to the clerk up to the hour set for hearing thereon, or if valid protests have been found by the legislative body to be less than 5 percent of the total amount of expected revenue, or have been overruled, the legislative body may, upon the conclusion of the hearing adopt, revise, change, reduce, or modify each or any assessment. The legislative body shall make a determination upon each assessment as described in the report or as determined at the hearing, and thereafter, by ordinance, shall determine and levy the assessment

50078.16 The legislative body may provide for the collection of the assessment in the same manner, and subject to the same penalties as, other fees, charges, and taxes fixed and collected by, or on behalf of the district. If the assessments are collected by the county, the county may deduct its reasonable costs incurred for that service before remittal of the balance to the district's treasury.

50078.18. This article shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1988, deletes or extends that date.

SEC 2. Section 98.6 of the Revenue and Taxation Code is amended to read.

98.6 (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each such special district equal to the amount of state assistance payment for such special district for the 1978–79 fiscal year divided by the sum of such state assistance

payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 96 or 97, and 98, shall be reduced shall be equal to such allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

Within 15 days of such notice, the governing body shall hold a public hearing for the purpose of determining the distribution of such funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council and shall publish such notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The notice shall include the following: (1) the amount of funds available to special districts, and (2) the time and place of the hearing.

Within 30 days of the notice of allocation, the governing body shall determine the amount of funds to be disbursed to each special district. In determining the amount of funds to be disbursed to each special district, the governing body shall not.

(1) Consider as district revenues any assessments, charges, or special taxes collected pursuant to Section 50077 or 50078 or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(2) Allocate to a district which collected those assessments, charges, or special taxes, an amount less than the amount which would have been allocated to the district had it not collected any assessments, charges, or special taxes

(3) Consider revenues distributed to the district from the supplemental unsecured property tax revenue as defined in Section 97.1.

The funds provided for by this subdivision shall be used exclusively for special districts and shall not be used for any general county or municipal expenses.

(c) Notwithstanding paragraphs (1), (2), and (3) of subdivision (b), the governing body may reduce the allocation to a district which collected those assessments, charges, or special taxes:

(1) To an amount which is generated by that district pursuant to paragraph (2) of subdivision (a)

(2) As a result of an emergency resolution adopted pursuant to Section 29127 of the Government Code.

The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

SEC. 3. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6 (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each such special district equal to the amount of state assistance payment for such special district for the 1978–79 fiscal year divided by the sum of such state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 96 or 97, and 98, shall be reduced shall be equal to such allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section

Within 15 days of such notice, the governing body shall hold a public hearing for the purpose of determining the distribution of such funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council and shall publish such notice in a newspaper of general circulation in the county not less than three days prior to the hearing The notice shall include the following (1) the amount of funds available to special districts, and (2) the time and place of the hearing

Within 30 days of the notice of allocation, the governing body shall determine the amount of funds to be disbursed to each special district In determining the amount of funds to be disbursed to each special district, the governing body shall not

(1) Consider as district revenues any assessments, charges, or special taxes collected pursuant to Section 50077 or 50078 or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code

(2) Allocate to a district which collected those assessments, charges, or special taxes, an amount less than the amount which would have been allocated to the district had it not collected any assessments, charges, or special taxes.

(3) Consider revenues distributed to the district from the supplemental unsecured property tax revenue as defined in Section 97.1.

The funds provided for by this subdivision shall be used exclusively for special districts and shall not be used for any general county or municipal expenses.

(c) Notwithstanding paragraphs (1), (2), and (3) of subdivision (b), the governing body may reduce the allocation to a district which collected those assessments, charges, or special taxes:

(1) To an amount which is generated by that district pursuant to paragraph (2) of subdivision (a).

(2) As a result of an emergency resolution adopted pursuant to Section 29127 of the Government Code

The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

Disbursements to cities with more than one subsidiary special district may be made to the city Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

SEC. 4 It is the intent of the Legislature, if this bill and Senate Bill 1180 are both chaptered and become effective January 1, 1982, both bills amend Section 98 6 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill 1180, that the amendments to Section 98.6 proposed by both bills be given effect and incorporated in Section 98 6 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill 1180 are both chaptered and become effective January 1, 1982, both amend Section 98 6, and this bill is chaptered after Senate Bill 1180, in which case Section 2 of this act shall not become operative

SEC 5 Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

CHAPTER 972

An act to amend Sections 56171, 56191, 56194, and 56200 of, and to add Section 56362 1 to, the Education Code, relating to special education.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 56171 of the Education Code is amended to read:

56171. In developing a local plan under Section 56170, each district shall·

(a) Involve special and regular teachers selected by their peers and parents selected by their peers in an active role

(b) Cooperate with the county office and other school districts in the geographic areas in planning its option under Section 56170 and, commencing with fiscal year 1982–83 and each fiscal year thereafter, notify the county office of its intent to elect an alternative option from those specified in Section 56170, at least one year prior to the proposed effective date of the implementation of such alternative plan.

(c) Cooperate with the county office to assure that the plan is compatible with other local plans in the county and any county plan of a contiguous county.

(d) Join with the county office in countywide planning pursuant to subdivision (a) of Section 56140

(e) Submit to the county office for review any plan developed under subdivision (a), or (b) of Section 56170.

SEC. 2. Section 56191 of the Education Code is amended to read:

56191 The members of the community advisory committee shall be appointed by, and responsible to, the governing board of each participating district or county office, or any combination thereof participating in the local plan Appointment shall be in accordance with a locally determined selection procedure that is described in the local plan. Where appropriate, this procedure shall provide for selection of representatives of groups specified in Section 56192 by their peers. Such procedure shall provide that terms of appointment are for at least two years and are annually staggered to ensure that no more than one half of the membership serves the first year of the term in any one year

SEC 3 Section 56194 of the Education Code is amended to read:

56194 The community advisory committee shall have such authority and fulfill such responsibilities as are defined for it in the local plan. Such responsibilities shall include, but need not be limited to, all the following

(a) Advising the policy and administrative entity of the district,

special education services region, or county office, regarding the development, amendment, and review of the local plan. Such entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

(f) Assisting in parent education, including parent awareness of the importance of regular school attendance, and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

SEC. 4. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following

(a) Compliance assurances, including general compliance with Public Law 94-142, Section 504 of Public Law 93-112, and the provisions of this part.

(b) Description of services to be provided by each district and county office. Such description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) Description of the governance and administration of the plan.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into such agreements pursuant to subdivision (b) or (c) of Section 56170

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating such services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure The annual budget plan shall be adopted at a public hearing held by the district, special education services region, or county office, as appropriate Notice of this hearing shall be posted in each school in the services region at least 15 days prior to the hearing The annual budget plan may be revised during the fiscal year, and such revisions may be submitted to the

superintendent as amendments to the allocations set forth in the plan. However, such revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct such review prior to submission of the plan to the superintendent.

(g) Description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

SEC 5. Section 56362.1 is added to the Education Code, to read:

56362.1. For the purposes of Section 56362, "caseload" shall include, but not be limited to, all pupils for whom the resource specialist performs any of the services described in subdivision (a) of Section 56362.

SEC 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections because funding for any costs associated with the notice of hearing requirements in subdivision (e) of Section 56200 of the Education Code is provided in category (d) of Item 610-101-001 of the Budget Act of 1981 (Ch. 99, Stats. 1981) and will be provided in appropriate Budget Act items in subsequent years. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 7. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 973

An act to amend Sections 830.3 and 830.31 of the Penal Code, and to amend Section 165 of the Vehicle Code, relating to peace officers.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 830.3 of the Penal Code is amended to read.

830 3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there

is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, and designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, and members of the Arson-Bomb Investigating Unit in the Office of the State Fire Marshal, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement

of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his department, or office

(j) Marshals and police appointed by the Director of Parks and Recreation pursuant to Section 3324 of the Food and Agricultural Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 3324 of the Food and Agricultural Code.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of the provisions of Section 556 of the Insurance Code.

SEC. 2. Section 830.31 of the Penal Code is amended to read:

830.31 The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency

(a) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department or fire protection agency of the state, or a county, city, or district regularly paid and employed as such, provided that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated any fire law or committed insurance fraud, and the primary duty of fire department or fire protection agency members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression.

(b) Persons designated by a local agency as park rangers, and regularly employed and paid as such, provided that the primary duty of any such peace officer shall be the protection of park property and the preservation of the peace therein.

(c) Members of a community college police department appointed pursuant to Section 72330 of the Education Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 72330 of the Education Code

(d) A welfare fraud investigator or inspector, regularly employed and paid as such by a county, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of the

Welfare and Institutions Code.

(e) A child support investigator or inspector, regularly employed and paid as such by a district attorney's office, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of the Welfare and Institutions Code and Section 270.

(f) The coroner and deputy coroners, regularly employed and paid as such, of a county, provided that the primary duty of any such peace officer are those duties set forth in Sections 27469 and 27491 to 27491.4, inclusive, of the Government Code.

(g) A member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Section 28767.5 of the Public Utilities Code, provided that the primary duty of any such peace officer shall be the enforcement of the law in or about properties owned, operated, or administered by the district or when performing necessary duties with respect to patrons, employees, and properties of the district

(h) Harbor or port police regularly employed and paid as such by a county, city or district other than peace officers authorized under Section 830.1, and the port warden and special officers of the Harbor Department of the City of Los Angeles, provided that the primary duty of any such peace officer shall be the enforcement of the law in or about the properties owned, operated, or administered by the harbor or port or when performing necessary duties with respect to patrons, employees, and properties of the harbor or port.

(i) Persons designated as a security officer by a municipal utility district pursuant to Section 12820 of the Public Utilities Code, provided that the primary duty of any such officer shall be the protection of the properties of the utility district and the protection of the persons thereon

SEC. 3. Section 165 of the Vehicle Code is amended to read:

165. An authorized emergency vehicle is.

(a) Any publicly owned ambulance, lifeguard or lifesaving equipment or any privately owned ambulance used to respond to emergency calls and operated under a license issued by the Commissioner of the California Highway Patrol

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency or department employing peace officers as that term is defined in Chapter 4 5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by such officers in the performance of their duties

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the

Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned such vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when such vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC 4. Section 165 of the Vehicle Code is amended to read:

165 An authorized emergency vehicle is:

(a) Any publicly owned and operated ambulance, lifeguard or lifesaving equipment or any privately owned or operated ambulance licensed by the Commissioner of the California Highway Patrol to operate in response to emergency calls.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency or department employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by such officers in the performance of their duties.

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned such vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when such vehicle is used in responding to emergency fire, ambulance, or lifesaving calls or is actively engaged in law enforcement work.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC 5 It is the intent of the Legislature, if this bill and Assembly Bill 1683 are both chaptered and become effective January 1, 1982, both bills amend Section 165 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1683, that the amendments to Section 165 proposed by both bills be given effect and incorporated in Section 165 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill 1683 are both chaptered and become effective January 1, 1982, both amend Section 165, and this bill is chaptered after

Assembly Bill 1683, in which case Section 3 of this act shall not become operative.

CHAPTER 974

An act to add Section 65852.7 to the Government Code, to amend, add, and repeal Section 18300 of, and to add Section 18551 1 to, the Health and Safety Code, relating to mobilehome parks

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. The Legislature finds and declares that an intensifying shortage of mobilehome park spaces in many areas of the state degrades the quality of life of many Californians now living in mobilehome parks, and narrows the housing options open to many other Californians who cannot afford conventional single-family homes. The Legislature further finds and declares that there is a need to eliminate the distinctions between mobilehome park developments and conventional forms of residential land use.

SEC 2. Section 65852 7 is added to the Government Code, to read:

65852.7. A mobilehome park, as defined in Section 18214 of the Health and Safety Code, shall be deemed a permitted land use on all land planned and zoned for residential land use as designated by the applicable general plan; provided, however, that a city, county, or a city and county may require a use permit. For purposes of this section, "mobilehome park" also means a mobilehome development constructed according to the requirements of Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code, and intended for use and sale as a mobilehome condominium or cooperative park, or as a mobilehome planned unit development The provisions of this section shall apply to a city, including a charter city, a county, or a city and county.

SEC. 3. Section 18300 of the Health and Safety Code is amended to read·

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards

published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption.

(c) The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use

(4) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000)

of this division and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new mobilehome park to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other affordable housing forms

(2) A city, including a charter city, county, or city and county, shall not require a new mobilehome park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that such facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

(i) This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 4. Section 18300 is added to the Health and Safety Code, to read:

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption

(c) The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city,

county, or city and county.

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers.

(1) From establishing, subject to the requirements of Section 65852 3 of the Government Code, certain zones for mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing

standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use.

(4) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) This section shall become operative January 1, 1988.

SEC. 5. Section 18551.1 is added to the Health and Safety Code, to read:

18551.1 Any mobilehome park, the construction of which is completed on or after January 1, 1982, may, subject to Section 18551, be constructed in a manner to enable mobilehomes sited in such parks to be placed upon a foundation system, and mobilehomes sited in such park may be placed upon foundation systems.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 975

An act to amend Section 10131.6 of the Business and Professions Code, to amend Section 1689.5 of the Civil Code, to amend Section 515 010 of the Code of Civil Procedure, to amend Sections 18085 and 18123 5 of, repeal and add Part 2 (commencing with Section 18000) of Division 13 of, the Health and Safety Code, to amend Section 830.3 of the Penal Code, to amend Sections 6275, 6276, 6276.1, 6281, 6282, 6285, 6291, 6292, 6422 1, and 10759.5 of the Revenue and Taxation Code, and to amend Sections 396, 5350, 5352, 5353, 5901, and 35790 of, and to repeal Sections 5350.6, 5350.7, 5356, and 5357 and Article 11 (commencing with Section 5400) of Chapter 1 of Division 3 of, the Vehicle Code, relating to mobilehomes

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1 Section 10131 6 of the Business and Professions Code is amended to read.

10131.6. (a) Notwithstanding any other provision of law, a person licensed as a real estate broker may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any mobilehome only if the mobilehome has been registered under the provisions of Division 3 (commencing with Section 4000) of the Vehicle Code or Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code for at least one year

(b) No real estate broker who engages in the activities authorized by this section shall maintain any place of business where two or more mobilehomes are displayed and offered for sale by such person, unless the broker is also licensed as a mobilehome dealer as provided for by Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(c) As used in this chapter, "mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system "Mobilehome" does not include a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, a commercial coach, as defined in Section 18001.8 of the Health and Safety Code, or factory-built housing, as defined in Section 19971 of the Health and Safety Code

(d) In order to carry out the provisions of this section, the commissioner shall prescribe by regulation, after consultation with the Department of Housing and Community Development, methods and procedures to assure compliance with requirements of the Health and Safety Code pertaining to mobilehome registration, collection of sales and use taxes, and transaction documentation

SEC 1.5. Section 1689.5 of the Civil Code is amended to read.

1689 5. As used in Sections 1689.6 to 1689.11, inclusive

(a) "Home solicitation contract or offer" means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars ($25) or more including any interest or service charges. "Home solicitation contract" does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto.

(b) "Appropriate trade premises," means premises at which either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises.

(c) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with such a vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with such a mobilehome if either are sold under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code.

(d) "Services" means work, labor and services, including, but not limited to, services furnished in connection with the repair, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor the sale of insurance which is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the State of California.

(e) "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

SEC. 2. Section 515.010 of the Code of Civil Procedure is amended to read:

515.010. (a) The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court a written undertaking. The undertaking shall provide that the sureties are bound to the defendant in the amount of the undertaking for the return of the property to the defendant, if return thereof be ordered, and for the payment to him of any sum he may recover against plaintiff. The undertaking shall be executed by two or more sufficient sureties in an amount not less than twice the value of the property as determined by the court.

(b) If the plaintiff seeks possession of a mobilehome whose purchase price is over fifteen thousand dollars ($15,000) under the provisions of a security agreement or conditional sales contract wherein the defendant has defaulted in the payments thereof, the amount of the undertaking shall be twice the value of the defendant's interest in such mobilehome.

The court may consider the market value of the mobilehome less the amount due and owing on the conditional sales contract or security agreement and all liens and encumbrances of record with the Department of Housing and Community Development, and such other factors as may be necessary to determine the defendant's interest in the mobilehome.

SEC 2.5. Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code is repealed.

SEC. 3. Part 2 (commencing with Section 18000) is added to Division 13 of the Health and Safety Code, to read:

PART 2. MOBILEHOMES-MANUFACTURED HOUSING

CHAPTER 1 DEFINITIONS

18000. This part shall be known and may be cited as the Mobilehomes-Manufactured Housing Act of 1980.

18000.5. The provisions of this part, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. During any transition required by this part, and until July 1, 1982, the department may determine or effectuate any action or requirement in a manner which implements the legislative intent of this part and which protects appropriate interests of any parties subject to or protected by this part. Regulations implementing this part and promulgated prior to July 1, 1982, shall be deemed emergency regulations pursuant to Section 11346.1 of the Government Code.

18001 "Approved," when used in connection with any material, appliance, or construction, means meeting the requirements and approval of the Department of Housing and Community Development.

18001.3. "Branch" means a temporary location approved by the department.

18001.6. "Building" is any permanent structure built for the support, shelter, or enclosure of persons, animals, chattel, or property of any kind.

18001.8 "Commercial coach" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach as defined in Section 635 of the Vehicle Code.

18002. "Commission" is the Commission of Housing and Community Development.

18002.3. "Consumer" includes any person or entity which purchases or leases a mobilehome, commercial coach, or recreational vehicle for consideration, except a dealer or manufacturer

18002.6. (a) "Dealer" means a person not otherwise expressly excluded by subdivision (b), who is engaged in any of the following activities:

(1) For commission, money, or other thing of value, sells, exchanges, leases, buys, offers for sale, or negotiates or attempts to negotiate a sale or exchange of an interest in a mobilehome or commercial coach, or induces or attempts to induce any person to buy or exchange an interest in a mobilehome or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value from either the seller or purchaser of the mobilehome or commercial coach.

(2) Is engaged wholly or in part in the business of selling mobilehomes or commercial coaches or buying or taking in trade mobilehomes or commercial coaches for the purpose of reselling, selling, or offering for sale, or consigning to be sold, or otherwise dealing in mobilehomes or commercial coaches, whether or not these mobilehomes or commercial coaches are owned by the dealer.

(b) "Dealer" does not include any of the following:

(1) An insurance company, bank, savings and loan association, finance company, or public official coming into possession of one or more mobilehomes or commercial coaches in the regular course of business, who only sells mobilehomes or commercial coaches under a contractual right or obligation, in performance of an official duty, or under the authority of any court of law. However, a sale subject to this paragraph shall be for the purpose of preventing the seller from suffering a loss or pursuant to the authority of a court of competent jurisdiction.

(2) Persons who sell or distribute mobilehomes or commercial coaches, subject to registration or titling pursuant to Chapter 8 (commencing with Section 18075), for a manufacturer to dealers licensed under this part, or who are employed by manufacturers or distributors to promote the sale of mobilehomes or commercial coaches dealt in by that manufacturer or distributor. However, if any person also sells mobilehomes or commercial coaches at retail, the

person is a dealer and is subject to this part

(3) Persons regularly employed as salespersons by dealers licensed under this part while acting within the scope of that employment

(4) Persons exclusively engaged in the bona fide business of exporting mobilehomes or commercial coaches, or of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States, if no federal excise tax is legally payable on any of those transactions or the tax is legally refundable on the transactions. Persons not exclusively engaged in the bona fide business of exporting mobilehomes or commercial coaches but who are engaged in the business of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States shall be exempt from licensure as dealers only if their gross sales proceeds from mobilehomes or commercial coaches produce less than 10 percent of their total gross revenue from all business transacted.

(5) Persons not engaged in the purchase or sale of mobilehomes or commercial coaches as a business

(6) Persons disposing of mobilehomes or commercial coaches acquired for their own use or for use in a business of acquiring, leasing, or selling mobilehomes or commercial coaches, if the mobilehomes or commercial coaches have been so acquired and used in good faith and not acquired or used for the purpose of avoiding the provisions of this part

(7) Persons licensed as real estate brokers who buy, sell, list, or negotiate the purchase, sale, or exchange of mobilehomes pursuant to Section 10131.6 of the Business and Professions Code.

18002.8. "Department" means the Department of Housing and Community Development.

18003 "Distributor" means any person other than a manufacturer who sells or distributes new mobilehomes or commercial coaches to dealers in this state and maintains representatives for the purpose of contacting dealers or prospective dealers in this state

18003.3. "Dwelling unit" means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation.

18003 6. "Established place of business" means a place actually occupied, either continuously or at regular periods, by a licensee, where the books and records pertinent to the type of business being conducted are kept

18003.8. "Franchise" means a written agreement between two or more persons having all of the following conditions.

(a) A commercial relationship of definite duration or continuing indefinite duration

(b) The franchisee is granted the right to offer, and sell at retail, new mobilehomes or commercial coaches manufactured or distributed by the franchisor.

(c) The franchisee constitutes a component of the franchisor's distribution system.

(d) The operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, as determined by the department.

(e) The operation of a portion of the franchisee's business is substantially reliant on the franchisor for a continued supply of new mobilehomes or commercial coaches, parts, and accessories, as determined by the department.

18004. "Franchisee" means any person who, pursuant to a franchise, receives new mobilehomes or commercial coaches from the franchisor and who sells mobilehomes or commercial coaches at retail.

18004.3. "Franchisor" means any person who manufactures, assembles, or distributes new mobilehomes or commercial coaches and who grants a franchise.

18004 6. "Fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined, respectively, in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code.

In addition, the terms "fraud" and "deceit" include, but are not limited to, the following:

(a) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(b) A promise or representation not made honestly and in good faith.

(c) An intentional failure to disclose a material fact.

(d) Any act falling within the provisions of Section 484 of the Penal Code.

18004.8. "Good moral character" has the same meaning as specified in Division 1.5 (commencing with Section 475) of the Business and Professions Code.

18005. "Hearing" or "notice of hearing", as used in this part, shall mean notice and hearing under Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code except in the case of summary action pursuant to Section 18064.5.

18005.3. "Junior lienholder" means a person, other than a legal owner, having a security interest in a mobilehome or commercial coach perfected pursuant to the provisions of Section 18104.5.

18005.6. "Lease" means an oral or written contract for the use, possession, and occupation of property. "Lease" includes rent.

18005.8. "Legal owner" means a person holding a primary security interest in a mobilehome or commercial coach, as evidenced by a certificate of title issued pursuant to the provisions of this part. Where there is no separate security interest, the registered owner shall also be the legal owner.

18006. "Licensee" means a dealer, dealer branch, manufacturer,

manufacturer branch, distributor, distributor branch, representative, representative branch, or salesperson licensed pursuant to this part.

18006.3. "Manufacturer" means any person who produces from raw materials or basic components a mobilehome or commercial coach of a type subject to the provisions of this part, or who permanently alters for purposes of retail sales, rent, or lease, mobilehomes or commercial coaches by converting them into mobilehomes or commercial coaches subject to this part.

Unless a mobilehome or commercial coach manufacturer either grants franchises to franchisees in this state, or issues mobilehome or commercial coach warranties directly to franchisees in this state or consumers in this state, the manufacturer shall have an established place of business or a representative in this state.

18007. "Manufactured home," for the purposes of this part, means a mobilehome.

18008. "Mobilehome," for the purposes of this part, means a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. Mobilehome does not include a recreational vehicle, commercial coach, or factory-built housing, as defined in Section 19971

18008.5. "Mobilehome accessory building or structure" or "mobilehome accessory" includes, but is not limited to, any awning, portable, demountable, or permanent cabana, ramada, storage cabinet, carport, skirting, heater, cooler, fence, windbreak, or porch established for the use of the occupant of the mobilehome or other equipment as defined by Section 1797.3 of the Civil Code.

18009. "New mobilehome" or "new commercial coach" is a mobilehome or commercial coach which is not defined as a "used mobilehome" or "used commercial coach" under Section 18014, which is delivered for sale or lease in this state, and which has not been delivered to a first purchaser or lessor for purposes other than resale or reletting.

18009 5. "Registered owner" means a person registered by the department as the owner of a mobilehome or commercial coach, subject to the security interest of a legal owner as defined by Section 18005.8.

18010. "Recreational vehicle" is a motorhome, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, with a living area less than 220 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, bath and toilet rooms.

18010.5 "Regulations" or "rules and regulations," as used in this part, means regulations promulgated by the commission or department, as appropriate, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code

18011. "Rent" means money or other consideration given for the right of use, possession, and occupation of property.

18011.5. "Representative" means any person regularly employed by a manufacturer or distributor for the purpose of negotiating or promoting the sale of the manufacturer's or distributor's mobilehomes or commercial coaches to their franchisees, retailers, or authorized dealers or for regularly supervising or contacting franchisees or prospective franchisees in the state for any purpose.

18012. "Retailer" means a dealer.

18012.3. "Sale" or "sold," for purposes of this part does not include or extend to any sale made by a manufacturer or a distributor to a dealer or by a dealer to another dealer licensed under this part

18012.5. "Special purpose commerical coach" means a vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional, or commerical purposes, which is not required to be moved under permit, and shall include a trailer coach.

18013. (a) "Salesperson" means a person not otherwise expressly excluded by this section, who does one or more of the following.

(1) Is employed as a salesperson by a dealer, or who, under any form of contract, agreement, or arrangement with a dealer, for commission, money, profit, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate, a sale, or exchange of an interest in a mobilehome or commercial coach.

(2) Induces or attempts to induce any person to buy or exchange an interest in a mobilehome or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of the mobilehome or commercial coach.

(3) Exercises managerial control over the business of a licensed mobilehome or commercial coach dealer or who supervises salespersons employed by a licensed dealer, whether compensated by salary or commission, including, but not limited to, any person who is employed by the dealer as a general manager, assistant general manager or sales manager, or any employee of a licensed mobilehome or commercial coach dealer who negotiates with or induces a customer to enter into a security agreement or purchase agreement or purchase order for the sale of a mobilehome or commercial coach on behalf of the licensed mobilehome or commercial coach dealer.

(b) The term "salesperson" does not include any of the following:

(1) A representative of an insurance company, finance company, bank, savings and loan association, or public official, who in the regular course of business, is required to dispose of, or sell mobilehomes or commercial coaches under a contractual right or obligation of the employer, or in the performance of an official duty, or under authority of any court of law, as long as the sale is for the purpose of protecting the seller from any loss or is pursuant to the authority of a court of competent jurisdiction.

(2) A person who is licensed as a manufacturer, transporter, distributor, or representative.

(3) A person exclusively employed in a bona fide business of exporting mobilehomes or commercial coaches, or of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States

(4) A person not engaged in the purchase or sale of mobilehomes or commercial coaches as a business, disposing of mobilehomes or commercial coaches acquired for the person's own use, or for use in business when they have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this part.

(5) A person licensed as a mobilehome or commercial coach dealer doing business as a sole ownership or a member of a partnership or a stockholder and director of a corporation licensed as a mobilehome or commercial coach dealer under this part, as long as the person engages in the activities of a salesperson exclusively on behalf of the sole ownership or partnership or corporation in which the person owns an interest or stock, and the person owning the stock is a director of the corporation; otherwise, the person shall be deemed to be a mobilehome or commercial coach salesperson and subject to the provisions of Section 18045.

18013.5. (a) A "transporter" is a person engaged in the business of moving any owned or lawfully possessed mobilehome or commercial coach by lawful methods over the highways for the purpose of delivery of a mobilehome or commercial coach to dealers, sales agents of a manufacturer, purchasers, or to a new location requested by the owner

(b) The term "transporter" does not include a person engaged in the business of operating a tow car.

18014. "Used mobilehome" or "used commercial coach" means a mobilehome or commercial coach that was previously sold and registered or titled with the department, or with an appropriate agency or authority, or any other state, District of Columbia, territory or possession of the United States or a foreign state, province, or country.

CHAPTER 2 APPLICATION AND SCOPE

18015. The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county which conflict with the provisions of this part. The department may promulgate regulations to interpret and make specific the provisions of this part relating to titling and registration, occupational licensing, advertising, commercial transactions, and other related or specifically enumerated activities, and, when adopted, these rules and regulations shall apply in all parts of the state The commission may promulgate rules and regulations to interpret and make specific the other provisions of this part and when adopted these rules and regulations shall apply in all parts of

the state.

18015.5. The provisions of Chapter 4 (commencing with Section 18025), applicable to mobilehomes, shall also apply to recreational vehicles and commercial coaches, except that reasonable variations in standards for recreational vehicles and commercial coaches shall be established by regulations if the department determines these variations will not endanger public health, welfare, or safety.

18016. (a) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part and the rules and regulations promulgated pursuant thereto, provided any alternate has been approved by the department.

(b) The department may approve any alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this part and the rules and regulations promulgated pursuant thereto in quality, strength, effectiveness, fire resistance, durability, safety, and for the protection of life and health.

(c) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part and the rules and regulations promulgated pursuant thereto, or in order to substantiate claims for alternates, the department may require tests or proof of compliance to be made at the expense of the owner or his or her agent.

18016.5 (a) The Mobilehome Revolving Fund is continued in existence and renamed the Mobilehome-Manufactured Home Revolving Fund. Money transferred to, or deposited in, the fund is continuously appropriated to the department for expenditure in carrying out the provisions of this part. All fees or other moneys accruing to the department pursuant to this part shall, except as otherwise expressly provided by law, be deposited in the fund.

(b) Total money contained in the Mobilehome-Manufactured Home Revolving Fund on June 30 of each fiscal year shall not exceed the amount of money needed for operating expenses for one year for the enforcement of this part. If the total money contained in the fund exceeds this amount, the commission or department, as appropriate, shall make appropriate reductions in the schedule of fees authorized by this part.

CHAPTER 3. ENFORCEMENT

18020. The department shall enforce every provision of this part and the rules and regulations promulgated thereunder. However, the remedies provided in this part shall not preclude an aggrieved party from pursuing any other remedies he or she may have under any other provision of law.

18020.5 (a) Any person who knowingly violates any of the

provisions of this part or any rules or regulations issued pursuant to this part, except for a violation of any federal mobilehome construction and safety standard for which a penalty is provided in Section 18021, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars ($2,000), by imprisonment not exceeding 30 days, or by both.

(b) Notwithstanding Section 801 of the Penal Code, the one-year period for filing an indictment or an information or complaint with respect to any misdemeanor in subdivision (a) by a licensee in the first sale or lease of any mobilehome, commercial coach, or recreational vehicle to a consumer shall commence on the date the mobilehome, commercial coach, or recreational vehicle is delivered to the consumer.

18021. (a) Any person who knowingly violates any provision of Section 5409 of Title 42 of the United States Code, or any regulation or final order issued thereunder as it exists on the effective date of this section in this state, shall be liable to the state for a civil penalty of not to exceed one thousand dollars ($1,000) for each violation Each violation of a provision of Section 5409 of Title 42 of the United States Code, or any regulation or order issued thereunder, as it exists on the effective date of this section shall constitute a separate violation with respect to each mobilehome, or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one year from the date of the first violation.

(b) Any individual or a director, officer, or agent of a corporation, who knowingly violates Section 5409 of Title 42 of the United States Code as it exists on the effective date of this section in this state in a manner which threatens the health and safety of any purchaser, shall be subject to a state fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than one year, or by both such a fine and imprisonment.

18021.5. (a) Any person who knowingly violates any of the provisions of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars ($2,000) or by imprisonment not exceeding 30 days, or by both.

(b) The department, after notice and hearing, may suspend or revoke the license issued to a licensee, as provided for by this part, who knowingly violates any of the provisions of this part

(c) Any person who knowingly violates any provision of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, shall be liable for a civil penalty not exceeding two thousand dollars ($2,000) for each violation or for each day of a continuing violation The department shall institute or maintain an action in a court of appropriate jurisdiction to collect any civil penalty arising under this section.

(d) In addition to the other remedies provided in this section, the department may pursue any other remedies provided for in this part and may seek restitution for any monetary loss to a purchaser, seller, licensee, financing agency, governmental agency, or other person or entity suffering a monetary loss as a result of a violation of this part.

18022 (a) The director, and other representatives of the department designated by him or her, shall enforce those provisions of law now or hereafter committed to the administration of the department pursuant to this part.

(b) Any person designated in subdivision (a) may inspect any mobilehome or commercial coach of a type required to be registered under this code, or any component part thereof, in any garage, repair shop, parking lot, new or used sales facility, manufacturer's facility, display facility, or any other establishment engaged in the business of selling, repairing, or displaying mobilehomes or commercial coaches, or the integral parts thereof, for the purpose of investigating the title and registration of the mobilehome or commercial coach or sales practices thereof.

18023. The director, and any other representatives of the department designated by the director, shall have the powers of peace officers only for the purpose of service of warrants or documents and for the cooperation with other law enforcement agencies in the collection of information.

CHAPTER 4. STANDARDS

18025. It is unlawful for any person to sell, offer for sale, rent, or lease within this state, any mobilehome manufactured after September 1, 1958, or any recreational vehicle manufactured after November 13, 1968, or any trailer coach designed or used for industrial, professional, or commercial purposes manufactured after May 25, 1967, or any commercial coach manufactured after November 23, 1970, containing plumbing, heat-producing, or electrical equipment unless the equipment meets the requirements of the department for that equipment and the installation of it. The commission is authorized to promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles for plumbing, heat-producing, and electrical equipment and installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe plumbing, heat-producing, and electrical equipment and installations. All mobilehomes manufactured on or after September 22, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U S.C , Sec. 5401, et seq.).

An insignia of approval shall not be affixed to any new mobilehome unless the mobilehome has been inspected by the department while under construction pursuant to the regulations of the commission under this section.

18025.5. (a) Pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.), the department is authorized to assume responsibility for enforcement of mobilehome safety and construction standards relating to any issue with respect to which a federal standard has been established. The department may adopt regulations to ensure acceptance by the Secretary of Housing and Urban Development of California's plan for administration and enforcement of federal mobilehome safety and construction standards.

(b) The department is authorized to conduct inspections and investigations which it determines may be necessary to secure enforcement of the provisions of this part and regulations adopted pursuant thereto. For the purposes of enforcement of this part and the related regulations, persons duly designated by the director of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

(1) Enter, at any reasonable times and without advance notice, any factory, warehouse, saleslot, or establishment in which mobilehomes or commercial coaches are manufactured, stored, held for sale, sold, or offered for sale, rent, or lease.

(2) Inspect, at reasonable times and within reasonable limits and in a reasonable manner, any factory, warehouse, saleslot, or establishment, and inspect the books, papers, records, and documents to ensure compliance with the provisions of this part.

18026. All mobilehomes, recreational vehicles, and commercial coaches which are sold, offered for sale, rented, or leased within this state shall bear insignia of approval issued by the department to indicate compliance with the regulations of the commission adopted pursuant to this part, which were in effect on the date of manufacture of the mobilehome, recreational vehicle, or commercial coach.

The department may issue insignia for mobilehomes, recreational vehicles, or commercial coaches manufactured prior to the effective dates of the appropriate regulations which meet the requirements of reasonable standards of health and safety as set forth in this part or the regulations adopted pursuant thereto in effect at the time of that issue. It is unlawful for any person to remove, or cause to be removed, an insignia of approval without prior authorization by the department.

18027. No mobilehome or commercial coach manufactured in violation of the provisions of Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of this code, or Division 15 (commencing with Section 25004.2) of the Public Resources Code, or regulations adopted pursuant thereto shall be issued the department's insignia of approval.

18027.5. (a) It shall be unlawful to manufacture a truck camper as defined in Section 18010, unless the truck camper has a manufacturer's serial or identification number legibly stamped onto or permanently affixed to the interior and exterior of the truck

camper.

(b) No retailer shall sell any new truck camper unless the truck camper has a manufacturer's serial or identification number as required in subdivision (a).

18028. (a) The commission may adopt regulations for the construction of commercial coaches which it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. The regulations for commercial coaches shall be reasonably consistent with the American National Standards Institute standards for the construction of mobilehomes, as determined by the commission.

(b) All mobilehomes manufactured on or after September 22, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

18028.5. The provisions of Section 17920.9, and the rules and regulations adopted pursuant thereto, shall be applicable to the sale, offering for sale, or use in the construction of mobilehomes and commercial coaches of any foam building system, and to any mobilehome or commercial coach in which that system is used as a component. All mobilehomes manufactured on or after September 22, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

18029. It is unlawful for any person to alter or convert, or cause to be altered or converted, installations or equipment of a mobilehome, recreational vehicle, or commercial coach which bears a department insignia of approval, when the mobilehome, recreational vehicle, or commercial coach is used, occupied, sold, or offered for sale within this state, unless performance is in compliance with regulations adopted by the commission. The commission may adopt regulations providing requirements for alterations and conversions.

18029.3. Any mobilehome that is manufactured, remanufactured, altered, or converted for use as a commercial coach shall comply with the provisions of this part relating to construction, fire safety, electrical, heating, mechanical, plumbing, occupancy, and energy conservation.

18029.5. (a) The commission is authorized to promulgate rules and regulations, which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in mobilehomes, recreational vehicles, and commercial coaches All mobilehomes manufactured on or after September 22, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

(b) The chief fire official of every city, county, city and county, fire protection district, or other local fire protection agency shall file a report of each mobilehome fire occurring within his or her jurisdiction with the State Fire Marshal. The report shall be made on

forms provided by the State Fire Marshal.

The State Fire Marshal shall annually compile a statistical report of all mobilehome fires occurring within this state and shall furnish the commission with a copy of the report. The annual report shall include, but need not be limited to, the number of mobilehome fires, the causes of the fires, the monetary loss, and any casualties or fatalities resulting from the fires.

18030. If the commission determines that standards for recreational vehicles, which have been prescribed by the statutes or regulations of another state, are at least equal to the standards prescribed by the commission, the commission may so provide by regulation. Thereafter, any recreational vehicles which that other state has approved as meeting its standards shall be deemed to meet the standards of the commission, if the commission determines that the standards of the other state are actually being enforced

18030.5 A mobilehome, recreational vehicle, or commercial coach which meets the standards prescribed by this chapter, and the regulations adopted pursuant thereto, shall not be required to comply with any local ordinances or regulations prescribing requirements in conflict with the standards prescribed in this chapter.

18031. The commission, by rules and regulations, may establish a schedule of fees to pay the costs of work related to administration and enforcement of this part. The fees collected shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

18031.5. The commission shall adopt any regulations for the installation of fireplaces in mobilehomes or commercial coaches which it may determine are reasonably necessary in order to protect the health and safety of the occupants and to assure that an installation does not impair the efficiency of the primary heating or cooling system of the mobilehome or commercial coach. All mobilehomes manufactured on or after September 22, 1976, which contain fireplaces, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C , Sec. 5401, et seq.)

18032. (a) The manufacturer of any new mobilehome manufactured on or after January 1, 1977, shall affix a label to the mobilehome, if it is to be sold in this state, which contains the following information about the mobilehome·

(1) Make, model, and serial or identification number.

(2) Final assembly point.

(3) Name and location of dealer to whom delivered.

(4) Name of city or unincorporated area at which delivered.

(5) Manufacturer's suggested retail price which shall include the price of the following:

(A) The basic mobilehome unit.

(B) Extra construction features and materials.

(C) Total price of the mobilehome.

(D) A statement of whether the price includes or excludes the

towbar, wheels, wheel hubs, and axles

(b) A dealer may not display a mobilehome for sale or deliver a mobilehome which does not contain the label required by subdivision (a)

(c) Except as otherwise provided in subdivision (d), the removal or alteration of any label required by this section from the mobilehome by anyone except the retail purchaser shall be a misdemeanor

(d) The label required by this section may be removed by any person after the mobilehome is affixed to a foundation system.

CHAPTER 5. SALES AND ESCROWS

18035. (a) Every new or used mobilehome dealer, upon the buyer's signing of a purchase order, conditional sales contract, security agreement, or other document executed for the purchase or sale of a new or used mobilehome subject to registration under this part, shall establish with an escrow agent an escrow account into which shall be deposited any cash or cash equivalent received from the buyer at any time prior to delivery as whole or partial payment for the mobilehome or accessory thereto.

(b) No deposits shall be disbursed from the escrow account until at least one of the following conditions is met:

(1) The buyer receives delivery of the mobilehome on the site and the mobilehome has passed inspection pursuant to Section 18613.

(2) The mobilehome has been delivered to the location specified in the escrow instructions and the installation is to be performed by the purchaser

The public agency performing inspection of the mobilehome installation shall give a copy of the statement of installation acceptance to the buyer. If a portion of the amount in the escrow account is for accessories to the mobilehome to be installed in conjunction with the sale, that portion of the amount shall not be released except as each accessory to the mobilehome is actually installed. If no inspection is required under Section 18613, deposits may be disbursed from the escrow account upon delivery of the mobilehome to the buyer.

(c) The escrow shall terminate and a full refund shall be made to the buyer 120 days from the date of the sales contract unless delivery is made within this period However, the parties may by mutual consent extend the time in writing for 30-day periods with notice to the escrow agent.

(d) Whenever a mobilehome is accepted as whole or partial payment for another mobilehome, the transfer of title to the mobilehome accepted as whole or partial payment shall be part of the escrow if an escrow is established, and the mobilehome accepted as whole or partial payment shall be cleared of all liens prior to, or at the time of, the disbursement of any deposit to the dealer.

(e) Except for those persons or corporations described in

subdivision (a) or (c) of Section 17006 of the Financial Code, the department shall adopt and amend as necessary rules and regulations for the establishment and maintenance of the escrow accounts with escrow agents or escrow companies licensed and regulated by the state.

(f) No mobilehome dealer shall establish with an escrow agent an escrow account in an escrow company in which the mobilehome dealer has more than a 5 percent ownership interest.

(g) Prior to the close of escrow, the escrow shall be furnished with all of the following:

(1) The names and addresses of the registered owner of, the legal owner of, and lienholders on the mobilehome, as set forth in the certificate of ownership or certificate of title and the registration records of the department.

(2) Either the executed and acknowledged release of all rights, title, or interest in the mobilehome held by the registered owner, the legal owner, or lienholders or, in the event of the assumption by a new registered owner of the underlying indebtedness secured by the mobilehome, properly executed documentation of the assumption, as applicable Releases shall be conditional upon the receipt of payment from the escrow account of the amounts set forth in the releases which are necessary to terminate the interest in the mobilehome. The assumption documentation shall be as prescribed by the person or persons retaining a security interest.

(h) The escrow instructions may provide for the proration of any local property tax or fees due or to become due on the mobilehome, if any. If the license fee imposed pursuant to Section 18115 or the registration fee imposed pursuant to Section 18114 is delinquent, the escrow instructions may provide for the payment of those taxes or fees, or both, and any applicable penalties.

(i) This section creates a civil cause of action against any person who violates the provisions of this section. The prevailing party in such an action shall be awarded actual damages plus an amount not in excess of two thousand dollars ($2,000). In addition, reasonable attorney's fees and court costs shall also be awarded to the prevailing party.

18035 5. (a) Any payment made by a buyer of a mobilehome to a seller, pending execution of a conditional sale contract, shall be refunded to the buyer in the event the conditional sale contract is not executed.

(b) In the event of breach by the seller, where the buyer leaves the cash equivalent with the seller as downpayment and that cash equivalent is not returned by the seller to the buyer for any reason, the buyer may recover from the seller either the fair market value as of the date of the contract of the cash equivalent left as a downpayment or its value as stated in the contract or purchase order, whichever is greater. The recovery shall be tendered to the buyer within five business days after the breach.

18036. In the event a buyer of a mobilehome obligates himself or

herself to purchase, or receive possession of, a mobilehome pursuant to a contract or purchase order, and the seller knows that the buyer intends to obtain financing from a third party without the assistance of the seller, and the buyer is unable to obtain the financing within 30 days of the execution of the contract or purchase order, the contract or purchase order shall be deemed rescinded and all consideration thereupon, other than escrow fees, shall be returned by the respective parties without demand.

18036.5. (a) No conditional sale contract for the purchase of a mobilehome shall be enforceable, except by a bona fide purchaser, assignee, or pledgee for value or unless the violation is corrected as provided in subdivision (b), if the provisions of subsections (b) and (c) of Section 226.8 of "Regulation Z" have not been met if the contract is entered into prior to April 1, 1982, or the provisions of Section 226.18 of "Regulation Z" have not been met if the contract is entered into on or after April 1, 1982.

As used in this subdivision, "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the federal Truth in Lending Act, as amended (15 U.S.C , Sec. 1601, et seq.), and any interpretation or approval issued by a published judicial decision or by an official or employee of the Federal Reserve System fully authorized by the board under the federal Truth in Lending Act, as amended, to issue these interpretations or approvals.

(b) Any disclosure violation may be corrected by the holder However, a willful violation may not be corrected unless it is a violation appearing on the face of the contract and is corrected within 30 days of the execution of the contract or within 20 days of its sale, assignment, or pledge, whichever is later, as long as the 20-day period commences with the initial sale, assignment, or pledge of the contract. Any other violation appearing on the face of the contract may be corrected only within these time periods. A correction which will increase the amount of the contract balance or the amount of any installment, as those amounts appear on the conditional sale contract, is not effective unless the buyer concurs in writing to the correction. If notified in writing by the buyer of such a violation, the correction shall be made within 10 days' notice. The correction shall be made by mailing or delivering a corrected copy of the contract to the buyer Any amount improperly collected by the holder from the buyer shall be credited against the indebtedness evidenced by the contract or returned to the buyer. A violation corrected as provided in this section shall not be the basis of any recovery by the buyer or affect the enforceability of the contract by the holder and shall not be deemed to be a substantive change in the agreement of the parties

(c) If the violation is not corrected, the buyer may recover from the seller the total amount paid, pursuant to the terms of the contract, by the buyer to the seller or his or her assignee The amount recoverable for property traded in as all or part of the downpayment

shall be equal to the agreed cash value of the property as the value appears on the conditional sale contract or the fair market value of the property as of the time the contract is made, whichever is greater.

18037. (a) If a holder acquires a conditional sale contract without actual knowledge of the violation by the seller as set forth in Section 18036.5, the contract shall be valid and enforceable by the holder, except that the buyer is excused from payment of the unpaid finance charge

(b) If a holder acquires a conditional sale contract with knowledge of such a violation, the conditional sale contract shall not be enforceable except by a bona fide purchaser, assignee, or pledgee for value, or unless the violation is corrected as provided in subdivision (b) of Section 18036.5, and if the violation is not corrected, the buyer may recover from the person to whom payment was made the amounts specified in subdivision (c) of Section 18036.5.

(c) When a conditional sale contract is not enforceable pursuant to this section or Section 18036.5, the buyer of a mobilehome may elect to retain the mobilehome and continue the contract in force or may, with reasonable diligence, elect to rescind the contract and return the mobilehome The value of the mobilehome so returned shall be credited as restitution by the buyer without any decrease resulting from the passage of time in the cash price of the mobilehome as that price appears on the conditional sale contract.

(d) Notwithstanding an agreement to the contrary, an assignee of the seller's right is subject to all equities and defenses of the buyer against the seller; however, the assignee's liability may not exceed the amount of the debt owing to the assignee at the time of assignment. The assignee shall have recourse against the seller to the extent of any liability incurred by the assignee pursuant to this subdivision whether or not the assignment was with or without recourse

18037.5. (a) Notwithstanding any provision to the contrary in any contract for the sale or encumbrance of a mobilehome or commercial coach, at least 15 days' written notice of intent to dispose of a repossessed or surrendered mobilehome or commercial coach shall be given to all persons liable on the contract The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. The notice shall contain all of the following·

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

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

(3) Statements that, upon written request, the secured party shall extend for an additional 20 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The secured party shall provide the proper form for applying for the extensions with the substance of such form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it shall be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the secured party and received before the expiration of the initial redemption and reinstatement periods.

(4) A disclosure of the place at which the mobilehome or commercial coach will be returned to the persons upon redemption or reinstatement.

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

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

(7) Information that upon written request, the secured party shall furnish a written accounting regarding the disposition of the mobilehome or commercial coach as provided for in subdivision (b), and that the request is required to be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the secured party.

(b) Unless automatically provided to the purchaser or borrower within 45 days after the disposition of the mobilehome or commercial coach, the secured party shall provide to any person liable on the contract within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition The accounting shall itemize all of the following:

(1) The gross proceeds of the disposition

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for, and conducting the sale, and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party in retaking the mobilehome or commercial coach from any person not

a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate liens or encumbrances on the mobilehome or commercial coach, if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate lien or encumbrance shall furnish reasonable proof of its interest, and unless it does so, the secured party need not comply with its demand.

(c) In all sales which result in a surplus, the secured party shall furnish an accounting as provided in subdivision (b) whether or not requested by the purchaser or borrower. The surplus shall be returned to the purchaser or borrower within 45 days after the sale is conducted.

(d) No lienholder may repossess a mobilehome or commercial coach without first satisfying all liens on record with the department which have been perfected prior to the lien which is the basis for the repossession, or otherwise obtaining the consent of all lienholders prior to the repossession.

18038.7. No deficiency judgment shall lie in any event, after the sale of any mobilehome subject to registration pursuant to this part, for failure of the purchaser to complete his or her sale contract given to the seller to secure payment of the balance of the purchase price of the mobilehome The provisions of this section shall not apply in the event there is substantial damage to the mobilehome other than wear and tear from normal usage.

18039 No agreement entered into pursuant to this chapter shall contain any provision by which the buyer waives his or her rights under this chapter, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

18039.1. Notwithstanding any other provision of law to the contrary, if a mobilehome is affixed to a permanent foundation pursuant to Section 18551, or security for the mobilehome loan includes the real property it is affixed to or installed upon, procedures for notice of default and sale shall be governed by Chapter 2 (commencing with Section 2920) of Title 14 of the Civil Code and shall not be governed by the provisions of this chapter

CHAPTER 6 MULTIPLE LISTING BETWEEN DEALERS OF MOBILEHOMES OR COMMERCIAL COACHES

18040 Only with respect to the sale of any mobilehome or commercial coach which has not been previously installed on a foundation system pursuant to Section 18551, a dealer may solicit or obtain listings, engage in the multiple listing only with other dealers, or engage in payments only to other dealers or groups of dealers, pursuant to cooperative brokering and referral arrangements or agreements on the sale of only a mobilehome or commercial coach which has been titled by the department

18040 5 The department, after notice and hearing, may suspend

or revoke the license issued to a dealer upon determining that the person to whom the license was issued has committed any of the following acts or omissions:

(a) While acting under the authority of Section 18040, entered into an exclusive listing agreement that did not include a specified date upon which the agreement was to terminate.

(b) While acting under the authority of Section 18040, claimed or took any secret or undisclosed amount of compensation, commission, fee, or profit or failed to divulge to his or her principal the full amount of any compensation, commission, fee, or profit prior to, or at the time that, a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive, financial arrangements agreed upon between the dealer and any financial institution with regard to financial arrangements applicable solely to them.

(c) While acting under the authority of Section 18040, used any provision permitting an option to purchase, which is contained in an agreement authorizing or employing the dealer to sell, buy, or exchange mobilehomes or commercial coaches for compensation or commission, except when the dealer, prior to or coincident with the election to exercise such an option to purchase, has revealed in writing to the employer the full amount of the dealer's profit and obtained the written consent of the employer approving the amount of that profit.

(d) While acting under the authority of Section 18040, failed to disclose any liens or encumbrances, of which the dealer had knowledge, on a mobilehome or commercial coach.

18041. A mobilehome or commercial coach dealer may solicit or obtain listings of, engage in the multiple listing with other licensed mobilehome or commercial coach dealers of, or engage in payments to another mobilehome or commercial coach dealer, dealers, or multiple groups of dealers, only pursuant to cooperative brokering and referral arrangements or agreements on the sale of any used mobilehome or commercial coach which has been titled under the authority of the Vehicle Code or this part for at least one year.

CHAPTER 7. OCCUPATIONAL LICENSES

Article 1. General Requirements

18045 It shall be unlawful for any person to act as a licensee without having first procured a license or temporary permit issued by the department pursuant to this chapter, or when a license or temporary permit has been canceled, suspended, revoked, invalidated, expired, or the terms and conditions of an agreement for a stipulated penalty entered into pursuant to Section 18064.5 have not been fulfilled

18045.5. (a) The department shall not issue a dealer's license to

any applicant therefor who does not have an established place of business.

(b) The established place of business shall have an office and, in the case of a dealer or manufacturer, shall have a display or manufacturing area defined by department regulations situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single-unit or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to, and occupied for, the office or offices of the licensee, shall be located on the ground floor, and shall provide a direct entrance into the room or rooms from the exterior of the building.

(c) A licensee issued an occupational license by the department and conducting more than one type of business from an established place of business, as defined in Section 18003.6, shall provide a clear physical division between the types of business involving mobilehomes or commercial coaches or their component parts The established place of business shall be open for inspection of the premises, pertinent records, and mobilehomes or commercial coaches by any department representative during business hours

18045 6. (a) If the dealer changes the site or location of his or her established place of business, the dealer shall immediately, upon making such a change, so notify the department If a dealer for any reason whatsoever, ceases to be in possession of an established place of business from and on which he or she conducts the business for which the dealer is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the dealer's license and all relevant records in his or her possession

(b) If the dealer changes to, or adds another franchise for the sale of new mobilehomes or commercial coaches, or cancels, or, for any cause whatever, otherwise loses a franchise for the sale of new mobilehomes or commercial coaches, he or she shall immediately so notify the department.

(c) A dealer's established place of business shall have posted in a place conspicuous to the public the license issued by the department to the dealer and to each salesperson employed by the dealer

(d) Notwithstanding the provisions of Section 18050 and this section, a dealer may display mobilehomes or commercial coaches at a fair, exposition, or similar exhibit for no more than 30 days upon receipt of a branch license As used in this section, "mobilehome fair or exposition" means a display of mobilehomes or commercial coaches not limited to one dealer, except in a mobilehome park.

Mobilehomes may also be displayed as model homes and sold within a mobilehome park or mobilehome subdivision upon receipt of a branch license.

(e) A mobilehome or commercial coach dealer may be licensed to

sell mobilehomes and commercial coaches at a branch location without a display area as long as all other provisions of this section are met. The provisions of this subdivision are applicable to the sale of used mobilehomes or commercial coaches only, and only at a branch location that is not within a mobilehome park.

(f) All mobilehomes or commercial coaches displayed pursuant to subdivision (d) or (e) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business and any other information that is required by the department.

(g) Any new, unregistered mobilehome or commercial coach which is displayed at a mobilehome fair or exposition may be used as an office required pursuant to this section

18046. (a) Before any dealer's license is issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a good and sufficient bond in the amount of five thousand dollars ($5,000) with corporate surety thereon, duly licensed to do business within the state, or a cash bond in that amount, approved as to form by the Attorney General, and conditioned that the applicant shall not practice any fraud, or make any fraudulent representation, which will cause a monetary loss to a purchaser, seller, financing agency, or governmental agency or otherwise violate this article.

(b) Liability under the bond shall remain at five thousand dollars ($5,000) If the amount of liability under the bond is decreased or there is outstanding a final court judgment for which the dealer and bonding company is liable, the dealer shall not perform any activity described in subdivision (a) of Section 18002.6. In order to resume these activities, the licensee shall file an additional bond or restore the bond on file to the original amount or shall terminate the outstanding judgment for which he or she and the bonding company are liable.

(c) A dealer's license, or renewal of such a license, shall not be issued to any applicant therefor, unless the applicant files with the department a good and sufficient instrument in writing in which he or she appoints the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association, or corporation, by reason of the violation by the applicant of any of the terms and provisions of this code or any conditions of the dealer's bond The applicant shall stipulate and agree in that appointment that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence and which is served upon the director, or if he or she is absent from his or her office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally The applicant shall further stipulate and agree in writing that the agency created

by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this part or any condition of his or her bond. The instrument appointing the director as the agent for the applicant for service of process shall be acknowledged by the applicant before a notary public If the licensee is served with process by service thereof upon the director, one copy of the summons and complaint shall be left with the director or in the office of the director in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. The service on the director shall be a sufficient service on the licensee if a notice of the service and a copy of the summons and complaint is sent immediately by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall be mailed by the plaintiff or his or her attorney to the surety on the applicant's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process served upon the director. The record shall show the day and hour of service and the director shall retain the summons and complaint so served on file. When the licensee is served with process by service thereof upon the director, the licensee shall have 30 days from and after the service thereof to answer any complaint or other pleading which may be filed However, for purposes of venue, where the licensee is served with process by service thereof upon the director, the service shall be deemed to have been made upon the licensee in the county in which he or she has or last had an established place of business

(d) An applicant may, in lieu of and subject to the same conditions as the bond required by subdivisions (a) and (b), deposit with the department a cash bond in the sum of five thousand dollars ($5,000), evidence, together with an assignment to the director, of deposit of that sum in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or evidence of investment certificates or share accounts in the amount of five thousand dollars ($5,000) issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(e) The bond provided for in this section shall not be conditioned to protect the monetary interest of a financing agency which has loaned money to a licensee or assignee thereof. However, as to any conditional sales contract as defined in Section 2981 of the Civil Code acquired by way of purchase or pledge, a financing agency shall be entitled to protection under the bond if the agency is defrauded by a licensee

18046 5 The director may order a refund of a cash deposit or release an assignment of an investment certificate, share account, or bank deposit posted or filed with the department pursuant to Section

18046 at the expiration of three years from the date an applicant for a dealer's license, who has operated a business of selling mobilehomes or commercial coaches under a temporary permit, has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the funds deposited or assigned. A judge of a municipal or superior court may order the return of a cash deposit or release of assignment of such an investment certificate, share account, or bank deposit posted or filed with the department prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the security so deposited by the applicant or licensee.

If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposited cash, investment certificates, share accounts, or bank deposits, or any action is instituted by the director, department, or state to determine those entitled to any part of those funds, the director, department, or state shall be paid reasonable attorneys' fees and costs from the funds. Costs shall include those administrative costs incurred in processing claims against the security posted in lieu of bond pursuant to Section 18046.

18047. (a) If any person suffers any loss or damage by reason of any fraud practiced on him or her or fraudulent representation made to him or her by a licensed dealer or one of the dealer's salespersons acting for the dealer, in his or her behalf, or within the scope of the employment of the salesperson and such a person has possession of a written instrument furnished by the licensee containing stipulated provisions and guarantees which the person believes have been violated by the licensee, or if any person suffers any loss or damage by reason of the violation by the dealer or salesperson of any of the provisions of Chapter 8 (commencing with Section 18075) of this part or Division 3 (commencing with Section 4000) of the Vehicle Code, or if any person is not paid for a mobilehome or commercial coach sold to and purchased by a licensee, that person has a right of action against the dealer, his or her salesperson, and the surety upon the dealer's bond in an amount not to exceed the value of the mobilehome or commercial coach purchased from or sold to the dealer.

(b) If the state or any political subdivision thereof suffers any loss or damage by reason of any fraud practiced on the state or fraudulent representation made to the state by a licensed dealer, or one of the dealer's representatives acting for the dealer, in his or her behalf, or within the scope of employment of representatives, or if the state or any political subdivision thereof suffers any loss or damage by reason of the violation of the dealer or representative of any of the provisions of this code or Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, the state or any political subdivision thereof, through the department, shall have a right of action against the dealer, his or her representative, and the

surety upon the dealer's bond in an amount not to exceed the value of the mobilehomes involved.

(c) The failure of a dealer, upon demand, to pay the fees and penalties determined to be due as provided in Chapter 8 (commencing with Section 18075) or Section 4456 of the Vehicle Code is a violation of this part, Division 3 (commencing with Section 4000) of the Vehicle Code, and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code and is a loss or damage to the state in the amounts of the fees and penalties determined to be due and not paid.

(d) The claims of the state under subdivision (b) shall be satisfied first and entitled to preference over all claims under subdivision (a).

(e) The claims of any person under subdivision (a) who is not a licensee shall be satisfied first and entitled to preference over all other claims under subdivision (a).

Article 2. Applications and Renewals

18050 (a) Every applicant for an occupational license shall make application to the department for a license containing a general distinguishing number

(b) The applicant shall submit all information as may be reasonably required by the department in carrying out the provisions of this chapter, including, but not limited to, proof of successful completion within the prior six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, manufacturer branch, distributor, distributor branch, dealer, dealer branch, representative, or salesperson.

(c) Every applicant shall submit an application to the department on the forms prescribed by the department. The applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of the applicant for the purposes of this subdivision.

(d) Upon receipt of a complete application for a license which is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application

(e) A representative applicant shall provide the name, address, and license number of the manufacturer, manufacturer branch, distributor, or distributor branch employing the applicant

18050 5 The department may, for a reasonable cause shown, refuse to issue a license to an applicant when it determines any of the following·

(a) The applicant was previously the holder of a license, which license was revoked for cause and never reissued, or which license was suspended for cause and the terms of suspension have not been fulfilled

(b) The applicant was previously a limited or general partner, stockholder, director, general manager, or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a partnership or corporation, of which one or more of the limited or general partners, stockholders, directors or officers was previously the holder or a limited or general partner, stockholder, director or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled, or by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business the policy of the business will be directed, controlled, or managed by individuals, who, by reason of their conviction of violations of the provisions of this part, would be ineligible for a license and by licensing the corporation or partnership the purposes of this part would likely be defeated

(d) The applicant, or one of the limited or general partners, if the applicant be a partnership, or one or more of the officers or directors of the corporation, if the corporation be the applicant, or one or more of the stockholders, if the policy of the business will be directed, controlled, or managed by that stockholder or stockholders, has ever been convicted of a felony or a crime involving moral turpitude. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section

(e) The information contained in the application is incorrect.

(f) Upon investigation, the business history required by Section 18050 contains incomplete or incorrect information, or reflects substantial business irregularities.

(g) The decision of the department to cancel, suspend, or revoke a license has been entered, and the applicant was the licensee, or a copartner, officer, director, or stockholder of that licensee.

(h) The existence of any of the causes specified in Section 18058 as a cause to suspend or revoke the license issued to a licensee.

(i) An applicant for a dealer's license has failed to effectively endorse an authorization for disclosure of an account or accounts relating to the operation of the dealership, as provided for in Section 7473 of the Government Code.

(j) The applicant has outstanding an unsatisfied final judgment rendered in connection with an activity licensed under this part.

(k) The applicant or licensee has failed to pay over funds or property received in the course of employment to a dealer entitled thereto

(*l*) The applicant has acted as a mobilehome or commercial coach salesperson or engaged in this activity for, or on behalf of, more than a single person whose business does not have identical ownership and structure The activity shall be for a licensed dealer Nothing contained in this section shall be deemed to restrict the number of

dealerships of which a person may be an owner, officer, or director, nor to preclude a mobilehome or commercial coach salesperson from working at more than one location of a single dealer, if the business of the dealer has identical ownership and structure.

18051 (a) Except where the provisions of this part require the refusal to issue a license, the department may issue a probationary license subject to conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the exercise of the privilege shall not appear on the face of the probationary license, but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

(b) Within 60 days after issuance of a probationary license, the applicant may demand, in writing, a hearing before the director or his or her representative.

18052. (a) Pending the satisfaction of the department that the applicant meets the requirements under this article, it may issue a temporary permit to any person applying for a license for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to the license. The department may cancel a temporary permit when it determines or has reasonable cause to believe that the application is incorrect, fraudulent, or incomplete, or that the temporary permit was issued in error. The temporary permit shall be invalid immediately when canceled by the department or when the applicant's license has been issued or refused.

Upon refusal of the department to issue a license to an applicant, the applicant may demand, in writing, a hearing before the director or his or her representative within 60 days after notice of refusal and receipt of a statement of issues. The filing of a demand for a hearing shall stay the effective date of the invalidation of a temporary permit, if any, issued pursuant to subdivision (a) pending a hearing and a determination of the issues

18052.5 The department may issue a certificate of convenience to the executor, executrix, administrator, or administratrix of the estate of a deceased holder of a validly outstanding license issued under this part, or, if no executor, executrix, administrator, or administratrix has been appointed and until a certified copy of an order making the appointment is filed with the department, to the surviving spouse or another heir otherwise entitled to conduct the business of the deceased The certificate shall permit that person to exercise the privileges granted by the license for a period of one year from and after the date of death The department may issue necessary one-year renewals of that certificate pending, but not later than, disposal of the business and qualification of the vendee of the business or the surviving spouse, heir, or other persons for the license under the provisions of this part The department may restrict or

condition the certificate of convenience or the license and attach to the exercise of the privileges thereunder those terms and conditions as it determines are necessary for the protection of the public.

18053. A person whose license has been revoked or whose application for a license has been denied shall not reapply for a license for a period of at least one year from the effective date of the decision revoking the license or denying the application, except, if the decision was entered under the authority of subdivision (a), (b), (g), or (j) of Section 18050.5 or subdivision (b) of Section 18060, a reapplication, accompanied by evidence satisfactory to the department that the grounds for that decision no longer exist, may be made earlier than that one-year period

18053.5. (a) Except as otherwise provided in this section, every applicant for a mobilehome or commercial coach dealer's or salesperson's license, and every mobilehome or commercial coach salesperson who commences working for a mobilehome or commercial coach dealer, shall be required to take, and successfully complete, a written examination, prepared and administered by the department The examination shall include, but not be limited to, subjects relating to mobilehomes and commercial coaches, laws relating to contracts for the sale of mobilehomes and commercial coaches, laws covering truth in lending, and departmental and warranty requirements.

(b) The department may administer an oral examination in lieu of the written examination required by subdivision (a) under the following conditions:

(1) To any person who applies for a mobilehome or commercial coach salesperson's license.

(2) To any person who applies for a mobilehome or commercial dealer's license if the person is not the sole owner of the dealership and there are other persons within the ownership structure who meet the requirements of subdivision (a).

(3) To any person with a physical handicap if the handicap makes the taking of a written examination unreasonable.

(c) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has, continuously, for the same employer, been a salesperson of mobilehomes or commercial coaches, shall be required to take the examination specified in subdivision (a).

(d) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has continuously been a mobilehome or commercial coach dealer, shall be required to take the examination specified in subdivision (a), regardless of whether the person subsequently makes an application to do business under a different name or form of business organization However, a salesperson of mobilehomes or commercial coaches who makes an application for a mobilehome or commercial coach dealer's license shall be required to take, and successfully complete, the examination specified in subdivision (a).

(e) If the applicant for a mobilehome or commercial coach dealer's license is a corporation or partnership, only those persons who will participate in the direction, control, or management, or any combination thereof, of the sales operations of the business, or who act in the capacity of a mobilehome or commercial coach salesperson, shall be required to take and successfully complete the examination specified in subdivision (a). However, if no officer or director of the corporation or a partner, or the partners thereof participates in the direction, control, or management, or any combination thereof, of the sales operations of the business, or acts in the capacity of a mobilehome or commercial coach salesperson, the corporation or partnership shall designate and maintain a responsible managing employee who is a licensed mobilehome or commercial coach salesperson and who shall be required to take, and successfully complete, the examination specified in subdivision (a) for a dealer's license before a dealer's license may be issued.

(f) Every person who applies to the department to take the examination required under this section for a dealer's or salesperson's license shall pay to the department a fee established by the department.

18054. (a) The department, upon granting a license, shall issue to the applicant a license with a size and format established by the department containing at least the applicant's name and address and the general distinguishing number assigned to the applicant

(b) Upon presentation of authority from the Public Utilities Commission showing valid status as a transporter, a transporter may apply for, and the department, subject to the requirements of Section 18063.8, shall issue, transportation decals or other visual displays which shall have a general distinguishing number assigned to the applicant Fees for the decal or visual display shall be established by the department and shall be paid by the applicant at the time the application is made.

(c) The department shall also furnish books and forms as it may determine necessary. All books and forms are and shall remain the property of the department and may be taken up at any time for inspection.

(d) For salespersons, the department shall issue a license bearing a full face photograph of the licensee and the following information:

(1) Name and address.

(2) Physical description.

(3) The licensee's usual signature

(4) Distinguishing salesperson's license number

(5) Name and address of employing dealer or a designation indicating nonemployment

(e) A licensee shall promptly obtain a duplicate license when the original is either lost or mutilated

(f) Whenever the department cancels, suspends, or revokes a license or decal, the licensee or person in possession shall immediately return the license, documents, plates, certificates, and

other evidence of licensure to the department.

18054.5. (a) Every original salesperson's license shall expire on the third birthdate of the applicant following the date of the application for the license.

(b) Renewal of any salesperson's license shall be made for a term which shall expire on the third birthdate of the applicant following the expiration of the license renewed.

(c) Renewal of a salesperson's license may be made more than 90 days prior to the expiration date, but an additional fee shall be added if the renewal is not made within 30 days prior to expiration. However, in no event may a salesperson renew his or her license after the date of expiration.

18054.6 (a) Every representative's license issued hereunder shall expire at midnight on the 30th day of June of each year.

(b) Every application for the renewal of a representative's license which expires on the 30th day of June shall be made by the person to whom issued between June 1st and midnight of June 30th preceding the expiration date and shall be made by presenting the application form provided by the department and by payment of the full annual renewal fee for the license as established by the department

18054.7 Every occupational license and decal issued to a manufacturer, manufacturer branch, distributor, distributor branch, and dealer expires at midnight, December 31, of each year. The application for renewal and fees shall be made to the department between November 1 and November 30 of each year.

18055. (a) The department may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a licensee. The fees shall reimburse the department for costs incurred in licensing of licensees. The department may refuse to renew a license if a licensee has failed to pay any fees or penalties due the department pursuant to this part.

(b) Any licensee required to be licensed under this chapter who fails to make application for a license when required shall, in addition to the fees required pursuant to subdivision (a), pay a penalty of 50 percent of the license fee

Article 3. Infractions and Penalties

18058. It is unlawful, and a violation of this part, if a person to whom a license is issued is any of the following:

(a) Not lawfully entitled thereto.

(b) Has violated any of the provisions of this part or of Section 18613 or any rule, order, or regulation issued pursuant thereto

(c) Has committed or omitted any of the acts or omissions set forth in Sections 18058.5 through 18063.5

The department, after notice and hearing, may suspend or revoke the license issued to a licensee upon determining that these acts or omissions occurred or are in existence.

18058.5. With respect to applications, it is unlawful to file an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or to knowingly make any false statement or to knowingly conceal any material fact in the application for the license.

18059. With respect to taxation, fees, title, and registration, it is unlawful to do any of the following:

(a) Use a false or fictitious name, knowingly make any false statement, or knowingly conceal any material fact in any application for title or registration of a mobilehome or commercial coach, or otherwise commit a fraud in that application.

(b) Fail to deliver to a transferee lawfully entitled thereto a properly endorsed title or registration.

(c) Violate any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 18015 of this part.

18059.5. With respect to escrows, it is unlawful to do any of the following:

(a) Violate any of the terms or provisions of Section 18035 or 18035.5, relating to escrow, or any rule, regulation, or order issued by the department pursuant thereto.

(b) Provide any false or incomplete information to an escrow company.

18060. With respect to business operations, it is unlawful to do any of the following.

(a) Make, or knowingly or negligently permit, any illegal use of any special permits issued to or in favor of a licensee.

(b) Fail to provide and maintain a clear physical division between the type of business licensed pursuant to this part and any other type of business conducted at the established place of business.

(c) Submit a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(d) Engage in the business for which the licensee is licensed without having in force and effect a good and sufficient bond as provided by this part. This prohibition is in addition to the automatic suspension remedy in Section 18046.

(e) Fail to notify the department, within 10 days, of any change in the ownership or corporate structure of the licensee, or of the employment or termination of a mobilehome or commercial coach salesperson

18060.5 With respect to business practices, it is unlawful to do any of the following:

(a) Knowingly purchase, sell, or otherwise acquire or dispose of a stolen mobilehome or commercial coach.

(b) Violate any of the terms or provisions of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or under the authority of Section 18015

(c) Cause the state or any person to suffer any loss or damage by reason of any fraud or deceit practiced on them or fraudulent representations made to any person in the sale or purchase of a mobilehome or commercial coach or parts or accessories thereof.

(d) Violate any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(e) Move a mobilehome or commercial coach subject to registration pursuant to this part from a mobilehome park or other site of installation to another location without obtaining from the legal owner written, consent for the move as prescribed in Section 18082.

(f) Include as an added cost to the selling price of a mobilehome or commercial coach, an amount for licensing or transfer of title of the mobilehome or commercial coach, which amount is not due to the state unless, prior to the sale, the amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of those fees. However, a dealer may collect from the second purchaser of a mobilehome or commercial coach, a prorated fee based upon the number of months remaining in the registration year for that mobilehome or commercial coach, if the mobilehome or commercial coach was previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this part and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the mobilehome.

(g) Participate in the sale of a mobilehome reported to the Department of Motor Vehicles under the provisions of Section 5900 of the Vehicle Code or to the department pursuant to this part without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(h) Fail to deliver or honor the terms and conditions of any warranty, as set forth in Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(i) Display for sale, offer for sale, or sell, a mobilehome or commercial coach, representing that mobilehome or commercial coach to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed mobilehome or commercial coach.

(j) Directly or indirectly authorize or advise another licensee to change the year model of a mobilehome or commercial coach in the inventory of the other licensee.

18061. With respect to advertising, it is unlawful:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or by any other manner or means whatsoever, any statement which is untrue or misleading, and which is known, or which by the exercise

of reasonable care should be known, to be untrue or misleading, or to so make or disseminate or cause to be so disseminated any statement as part of a plan or scheme with the intent not to sell any mobilehome or commercial coach or service so advertised at the price therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any mobilehome or commercial coach not actually for sale at the premises of the dealer or available to the dealer from the manufacturer or distributor of the mobilehome or commercial coach at the time of the advertisement or offer However, this subdivision does not apply to advertising or offering for sale or exchange any used mobilehome or used commercial coach, other than a recreational vehicle, where the advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome or commercial coach and the owner of the mobilehome park, and which mobilehome or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and use would be authorized for a total and uninterrupted period of at least one year.

(c) To fail, within 48 hours, in writing, to withdraw any advertisement of a mobilehome or commercial coach that has been sold or withdrawn from sale.

(d) To advertise or represent a mobilehome or commercial coach as a new mobilehome or commercial coach if the mobilehome or commercial coach has been previously installed as a model without also advertising that it was a model.

(e) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his or her behalf, or at his or her established place of business, that no downpayment is required in connection with the sale of a mobilehome or commercial coach when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the mobilehome or commercial coach

18061.5 It is unlawful to do any of the following:

(a) Willfully violate any law, or any rule or regulation adopted by the commission or the department, relating to mobilehomes and mobilehome sales or commercial coaches and their sales.

(b) Fail to comply within a reasonable time with any written order of the department or any law enforcement agency

(c) Fail to meet the terms and conditions of a compromise agreement effected under the provisions of Section 18064 5.

(d) Cause or allow the existence of any of the conditions specified in Section 18050.5 as a cause for refusal to issue a license

(e) Lend a license to any other person or knowingly permit the use thereof by another

(f) Display or represent any license not issued to the person as

being his or her license.

(g) Fail or refuse to surrender to the department, upon its lawful demand, any license which is suspended, revoked, or canceled

(h) Permit any unlawful use of a license issued to a licensee.

(i) Photograph, photostat, duplicate, or in any way reproduce any license or facsimile thereof in such a manner that it could be mistaken for a valid license, or display or possess any photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of this part.

18062. It is unlawful for a dealer, while acting under the authority of Section 18041, to do any of the following·

(a) Enter into an exclusive listing agreement that does not include a specified date upon which the agreement is to terminate.

(b) Claim or take any secret or undisclosed amount of compensation, commission, fee, or profit prior to, or at the time that a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive financial arrangements agreed upon between the mobilehome or commercial coach dealer and any financial institution with regard to financial arrangements applicable solely to them.

(c) Use any provisions allowing an option to purchase in an agreement authorizing or employing the mobilehome dealer to sell, buy, or exchange mobilehomes or commercial coaches for compensation or commission except when the mobilehome or commercial coach dealer, prior to or coincident with the election to exercise such option to purchase, reveals in writing to the employer the full amount of a mobilehome or commercial coach dealer's profit and obtains the written consent of the employer approving the amount of the profit.

18062.2. It is also unlawful for a dealer to do any of the following:

(a) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business.

(b) Employ any person as a salesperson who is not licensed pursuant to this part, or whose license is not displayed on the premises of the dealer as provided in Section 18063.

(c) Permit the use of his or her dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of mobilehomes or commercial coaches required to be registered under this code, or to permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the mobilehomes or commercial coaches sold by, or the business of, or branch location used by, the person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of mobilehomes or commercial coaches.

(d) Advertise any specific mobilehome or commercial coach for

sale without identifying the mobilehome or commercial coach by its serial number.

(e) Advertise the total price of a mobilehome or commercial coach without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, title and registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(f) Exclude from the advertisement of a mobilehome or commercial coach for sale information to the effect that there will be added to the advertised total price at the time of sale, charges for sales tax, title and registration fees, escrow fees, and any dealer documentary preparation charge.

(g) Represent the dealer documentary preparation charge as a governmental fee.

(h) Refuse to sell a mobilehome or commercial coach to any person at the advertised total price, exclusive of sales tax, title fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and dealer documentary preparation charge, which charges shall not exceed twenty dollars ($20), while the mobilehome or commercial coach remains unsold, unless the advertisement states the advertised total price is good only for a specified time and that time has elapsed

(i) Not post the salesperson's license in a place conspicuous to the public on the premises where they are actually engaged in the selling of mobilehomes and commercial coaches for the employing dealer. The license shall be displayed continuously during their employment. If a salesperson's employment is terminated, the dealer shall return the license to the salesperson.

18062.5 It is unlawful for any manufacturer, manufacturer branch, distributor, or distributor branch to coerce or attempt to coerce any dealer in this state to do any of the following:

(a) Order or accept delivery of any mobilehome or commercial coach, part or accessory thereof, appliance, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the dealer.

(b) Order or accept delivery of any mobilehome or commercial coach with special features, appliances, accessories or equipment not included in the list price of the mobilehome or commercial coach as publicly advertised by the manufacturer or distributor.

(c) Order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(d) Participate in an advertising campaign or contest, any promotional campaign, promotional materials, training materials, showroom or other display decorations or materials at the sole expense of the dealer

(e) Enter into any agreement with the manufacturer, manufacturer branch, distributor, or distributor branch, or to do any other act prejudicial to the dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and manufacturer, manufacturer branch, distributor, or distributor branch. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this section.

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

(a) Refuse or fail to deliver, in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new mobilehome or commercial coach sold or distributed by the manufacturer or distributor, any new mobilehome or commercial coach or parts or accessories to new mobilehomes or commercial coaches that are covered by the franchise, if the mobilehome or commercial coach, parts or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

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

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

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

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

(f) Obtain money, goods, services, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and any other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

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

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

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

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

(i) Fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new mobilehome or commercial coach of a prior year model is in the dealer's inventory at the time of introduction of new model mobilehomes or commercial coaches. A manufacturer or distributor shall not authorize or enable any new model to be delivered by dealers at retail more than 30 days prior to the eligibility date of the model change allowance payment for prior year model mobilehomes or commercial coaches.

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

(k) Offer any refunds or other types of inducements to any dealer or other person for the purchase of new mobilehomes or commercial coaches of a certain make and model to be sold to the state or any

political subdivision thereof without making the same offer to all other dealers in the same make and model within the relevant market area.

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

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

(n) Compete with a dealer in the same make and model operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions A distributor shall not be deemed to be competing when a wholly owned subsidiary corporation of the distributor sells mobilehomes or commercial coaches at retail, if, prior to January 1, 1970, such subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of mobilehomes or commercial coaches at retail.

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

(p) Sell mobilehomes or commercial coaches to persons not licensed under this part for resale.

(q) Fail to return a representative's license to the department not later than the end of the third business day after termination of the representative's employment.

18063. It is unlawful for a salesperson to do any of the following:

(a) At the time of employment, not deliver to his or her employing dealer his or her salesperson's license.

(b) Fail to report in writing to the department every change of residence within five days of the change.

18063.5. It is unlawful for a representative to fail to deliver and post his or her license in a place conspicuous to the public at the place of business of the manufacturer, manufacturer's branch, distributor, distributor's branch from which the representative is directly supervised. The license shall be displayed continuously during his or her employment.

18063.8 The department may refuse to issue a decal pursuant to subdivision (b) of Section 18054, or, after notice and hearing, may revoke or suspend the privilege of utilizing such a decal, if any of the following occurs or exists:

(a) The transporter's certificated authority from the Public Utilities Commission to act as a transporter is revoked, is suspended, or does not meet other Public Utilities Commission requirements.

(b) The transporter moves a mobilehome or commercial coach subject to registration pursuant to this part from a mobilehome park or other site of installation to another location without obtaining a signed legal consent form as required by Section 18082.

18064. The department may, pending a hearing, temporarily suspend the license issued to a licensee for a period not to exceed 30 days if the director finds that the action is required in the public interest. In any such case, a hearing shall be held and a decision thereon issued within 30 days after notice of the temporary suspension.

18064.5. (a) The director may, following the filing of an accusation against a licensee under this part and prior to conducting a hearing, exercise an option, with the consent of the licensee, to enter into and adopt a stipulated penalty whereby the licensee agrees to accept the terms and conditions of the penalty without hearing or appeal by any party thereto.

(b) Except when the accusation alleges injury to, or fraud against, the public or the state, the director may, following the filing of an accusation against a licensee or prior to adopting any recommendation resulting from a hearing, exercise an option, with the consent of the licensee, to impose and require the payment of a monetary penalty of a minimum and maximum amount for each violation alleged and stipulated to by the licensee, as established by a schedule under regulations adopted by the department and costs of investigation and prosecution, without further hearing or appeal, and without any other form of penalty against the licensee which may otherwise have been imposed for the same offense or offenses had the matter proceeded to hearing or had the director adopted the decision of the hearing officer

(c) If the accusation alleges injury to, or fraud against, an individual purchaser or potential purchaser, the director may enter into an agreement pursuant to subdivision (b), but such a compromise and settlement shall include, in addition to the monetary penalty set forth by regulation, compensation for the injury or fraud, including all costs of investigation and prosecution.

(d) Each compromise settlement agreement and each monetary penalty agreement entered into pursuant to this section shall be signed by the respondent licensee, the director, and the accuser, or by their authorized representatives, and filed with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation upon which the action was initiated if the compromise settlement agreement or monetary payment agreement is entered into before the hearing

(e) Failure of the respondent to honor the terms and conditions of any agreement entered into under this section shall render the agreement null and void, and shall be cause for action pursuant to Section 18058 in the same manner as the department may have otherwise proceeded, notwithstanding the agreement.

(f) The amount of the penalty provided for in subdivision (b) shall

not exceed five hundred dollars ($500) per violation and shall be based upon the nature of the violation and the seriousness of the violation against the purposes and provisions of this part.

18065 The licenses or permits provided for in this part shall be automatically canceled upon any of the following events:

(a) The abandonment of the established place of business of the licensee or the change thereof without notice to the department as provided in this part.

(b) The failure of the licensee to maintain an adequate bond or to procure and file another bond as provided in Section 18046 prior to the effective date of the termination by the surety of an existing bond.

(c) The voluntary or involuntary surrender for any cause by the licensee of the license. However, the surrender or cessation of business by the licensee, or the suspension of the corporate charter of the licensee by the state, shall not prevent the filing of an accusation for revocation or suspension of the surrendered license as provided in Section 18058 or the department's decision that the license should be suspended or revoked. Furthermore, this determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee, copartner, or any officer, director, or stockholder of the prior licensee.

(d) Notification that the person designated as licensee has changed.

(e) Suspension or cancellation of the corporate charter of the licensee by the state.

(f) Failure of a licensee to file an application for renewal for the license or permit before the date of expiration of the current license or permit.

18065.5. The revocation or suspension of a license may be limited to one or more municipalities or counties or any other defined area, or may be revoked or suspended in a defined area only as to certain aspects of its business, or as to a specified licensee or licensees.

18066. The suspension, expiration, or cancellation of a license provided for in this part shall not prevent the filing of an accusation for the revocation or suspension of the suspended, expired, or canceled license as provided in Section 18008, and the department's decision that the license should be suspended or revoked. This determination may be considered in granting or refusing to grant any subsequent license authorized by this part to the licensee.

18066.5. If a purchaser of a mobilehome or commercial coach pays to the dealer an amount for transfer of title of the mobilehome or commercial coach, which amount is in excess of the actual fees due for the transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees, the dealer shall return the excess amount to the purchaser, whether or not the purchaser requests the return of the

excess amount.

CHAPTER 8. REGISTRATION AND TITLING OF MOBILEHOMES AND COMMERCIAL COACHES

Article 1. Application and Scope

18075. (a) On and after July 1, 1981, all mobilehomes and commercial coaches shall be subject to the provisions of this code for the purposes of titling and registration.

(b) The department shall promulgate, adopt, and amend as necessary, regulations to implement, interpret, and make specific the provisions of this chapter Departmental regulations shall provide for an orderly and economical transfer of registrations and titles for mobilehomes and commercial coaches previously issued by the Department of Motor Vehicles to those issued by the department. Any registration, title, or decal issued by the Department of Motor Vehicles shall be valid until renewed, replaced, transferred, suspended, or revoked.

(c) The department may establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter except where the fees are expressly stated herein.

18075.5. Mobilehomes and commercial coaches sold or used within this state shall be subject to annual registration with the department except as follows:

(a) Mobilehomes subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, and not installed on foundation systems pursuant to Section 18551, shall be subject to registration only at the time of sale, resale, or transfer of title.

(b) Mobilehomes installed or to be installed on foundation systems pursuant to Section 18551 shall be exempt from registration so long as they remain affixed to the foundation system. In the event that the mobilehome is removed from a foundation system for any purpose other than dismantling or reinstallation on a foundation system, it shall be immediately subject to registration with the department.

(c) A nonresident owner of a foreign mobilehome otherwise subject to registration under this code may, subject to exceptions and special provisions contained in this chapter, occupy or permit occupancy of the mobilehome within this state without registering the mobilehome in, or paying any fees to, this state, subject to the condition that the mobilehome at all times, when occupied in this state, is duly registered in the place of residence of the owner and displays on the mobilehome a valid registration issued for that mobilehome in the place of residence of the owner.

For the purposes of the exceptions and special provisions of this part, a registration issued by any foreign jurisdiction shall be deemed to be valid for not more than one year from the date of initial use in

this state.

(d) Any nonresident owner of a foreign mobilehome who is a member of the armed forces of the United States on active duty within this state shall be entitled to the exemption granted under subdivision (c) under the conditions set forth therein. Any member of the armed forces, whether a resident or nonresident, shall also be entitled to exemption from registration with respect to a mobilehome owned by the person upon which there is displayed a valid registration issued for the mobilehome in a foreign jurisdiction where the owner was regularly assigned and stationed for duty by competent military orders at the time the registration was issued. Competent military orders shall not include military orders for leave, for temporary duty, nor for any other assignment of any nature requiring the owner's presence outside the foreign jurisdiction where the owner was regularly assigned and stationed for duty.

(e) Any nonresident owner of a mobilehome of a type subject to registration in this state who, while temporarily living within this state, accepts gainful employment within this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the mobilehome which was in effect at the time the nonresident accepted gainful employment within this state.

(f) Any nonresident owner of a mobilehome of a type subject to registration under this part who becomes a legal resident of this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the mobilehome which was in effect at the time the owner became a resident of this state.

(g) Any person who enters California for the purpose of establishing or reestablishing residence or accepting gainful employment following his or her discharge from the armed forces of this country may occupy a mobilehome owned by that person at the time of his or her discharge and registered to him or her in a foreign jurisdiction where his or her military orders required his or her presence without registering the mobilehome in this state until the expiration of the registration period current at the time of his or her discharge and entrance into California.

(h) Any new and previously unregistered, unoccupied mobilehome or commercial coach which is part of an inventory held for sale by a manufacturer or dealer in the course of business.

(i) Any new and previously unregistered mobilehome being used as an office, as provided for by this part.

The department may adopt regulations for exempting additional classes of mobilehomes and commercial coaches from registration under a temporary or one-trip permit system which permits the lawful transportation and use of mobilehomes and commercial coaches not otherwise subject to registration.

18076. Mobilehomes and commercial coaches owned or leased by the United States, by any foreign government, by a consul or other

official representative or any foreign government, by the state, by a political subdivision of the state, or by any city, county, or city and county, or public corporation shall be subject to registration under this code by the person having custody thereof, but shall not be subject to the registration fees specified in this code or the Revenue and Taxation Code, and that person shall display upon the mobilehome or commercial coach a decal bearing distinguishing marks or symbols which shall be furnished by the department free of charge.

18076.5. Commencing July 1, 1981, the department shall administer the annual licensing and taxation of all mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code and not installed on a foundation system pursuant to Section 18551, and all commercial coaches. The department may promulgate rules and regulations for the orderly transfer of the licensing and taxation functions from the Department of Motor Vehicles, and for their administration thereafter.

18077. (a) All mobilehome or commercial coach license fees collected by the department pursuant to Section 18115 shall be reported monthly to the Controller and at the same time deposited in the State Treasury in the Manufactured Home License Fee Account in the General Fund, which is hereby created.

(b) The money in the Manufactured Home License Fee Account is hereby continuously appropriated to the Controller who shall disburse to the auditor of each county the net amount of money shown by the report made pursuant to Section 18077.5 to have been collected in mobilehome or commercial coach taxes on mobilehomes or commercial coaches having situs within that county.

(c) The money disbursed to the auditor of each county shall be distributed by that auditor in the same manner and proportions as described in Section 11003.4 of the Revenue and Taxation Code.

18077.5. On or after the first day of January and the first day of July of each year, the department shall report to the auditor of each county the address at which each mobilehome or commercial coach has situs within the county on which license fees under this article have been paid to the department during the six-month period immediately preceding January 1st and July 1st, respectively, and the amount paid on each mobilehome or commercial coach.

At the time the department reports to the county auditors, it shall also report to the Controller the information described in the preceding paragraph, or a summary thereof, for each of the counties.

18078. The department shall receive and process petitions for the reinstatement to the license fee of mobilehomes which have become subject to local property taxation because the license fee has been delinquent 120 days or more, as provided by law.

Article 2. General Definitions and Requirements

18080. Ownership registration and title to a mobilehome or commercial coach subject to registration may be held by two or more coowners as follows:

(a) A mobilehome or commercial coach may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant the interest of the decedent shall pass to the survivor or survivors The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the mobilehome or commercial coach.

(b) A mobilehome or commercial coach may be registered in the names of two or more persons as tenants in common. Each tenant in common may transfer, but may not encumber, his or her other interest in the title to the mobilehome or commercial coach without the signature of the other tenant or tenants in common.

(c) A mobilehome or commercial coach may be registered as community property in the names of a husband and wife. Except as provided in Section 18091.5, the signature of each spouse shall be required to transfer or encumber the title to the mobilehome or commercial coach.

18080.3. (a) For the purposes of registration of mobilehomes pursuant to this chapter, a mobilehome shall include as a single unit with one registration, two or more sections that are manufactured, fabricated, or altered for use as a single mobilehome.

(b) Each transportable section of a commercial coach shall be registered and titled separately.

18080.5. (a) Every registered owner, upon receipt of a registration card, shall maintain the card or a copy thereof with the mobilehome or commercial coach for which it is issued.

(b) The provisions of this section do not apply when a registration card is necessarily removed from the mobilehome or commercial coach for the purpose of application for renewal, amendment, or transfer of registration

(c) When selling a mobilehome or commercial coach, dealers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions.

(1) A copy of the report of sale shall be delivered to the purchaser.

(2) All fees and penalties due for registration or transfer of registration of the mobilehome or commercial coach shall be paid to the department within 10 calendar days from the date of sale. Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the purchaser for those penalties.

(3) Notice of the sale of a mobilehome or commercial coach shall be reported pursuant to subdivision (e).

(4) An application in proper form to register or transfer registration of the mobilehome or commercial coach shall be

submitted to the department. Applications shall be submitted within 10 calendar days from the date of sale.

(d) A mobilehome or commercial coach displaying a copy of the report of sale, may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(e) In addition to the other requirements of this section every dealer upon transferring by sale, lease, or otherwise any mobilehome or commercial coach, shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the mobilehome or commercial coach is to be installed. The written notice shall be upon forms provided by the department containing any information that the department may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(f) For the purposes of this section, a "sale" shall be deemed completed and consummated when the purchaser or lessee of a mobilehome or commercial coach has paid the purchase price, or, in lieu thereof, has signed a purchase contract, lease agreement, or security agreement and has taken physical possession or delivery of the mobilehome or commercial coach.

18081. (a) Any person may request, and the department shall furnish, information regarding the current registration and title status of a mobilehome or commercial coach. The department shall provide forms for these requests, shall establish a standard format for providing the information, and may charge fees to pay the cost of furnishing this information.

(b) Upon receipt of a properly executed request for information and the payment of prescribed fees, the department shall provide the information within five working days by first-class mail to the address indicated on the request. The department may adopt procedures for providing the information by electronic facsimile in addition to mailing that information.

18081.5. The transferee of a mobilehome subject to local property taxation shall report the change in ownership information to the assessor in the county where the mobilehome is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, unless it is reported pursuant to subdivision (e) of Section 18080.5.

18082. Prior to moving a mobilehome subject to registration pursuant to this part from a mobilehome park or other site of installation to another location, the registered owner shall obtain the written consent of the legal owner on a form prescribed by the department.

18083. (a) On or before the last day of each calendar month, the department shall furnish to the county assessor of the county in which a mobilehome is sited a listing of all mobilehomes in that

county for which the license or registration fee has become delinquent for a period of 120 days or more since the last listing was furnished, as provided in Section 10759.5 of the Revenue and Taxation Code, and a listing of all new registrations and transfers of titles to mobilehomes sited, or to be sited, in that county.

(b) Each listing shall show all of the following

(1) The name and address of the registered owner and legal owner, if any, the license number, the year model, the make, and the vehicle identification number of the mobilehome.

(2) The county where the mobilehome is located.

(3) The expiration date of the last registration and the amount of any delinquent license or registration fees and the amount of any applicable penalties.

(4) Any other information to which the department and the assessors shall agree.

Article 3. Applications for Original Registration and Title

18085. Application for the original registration of a mobilehome or commercial coach required to be registered under this part shall be made to the department, accompanied with payment of the required fees, upon the appropriate form approved by the department. The application shall include, but not be limited to, all of the following:

(a) The true name and business or residence address of the owner, the legal owner, if any, and junior lienholders, if any.

(b) The name of the county in which the registered owner resides

(c) The situs address of the mobilehome or commercial coach, to include the county

(d) A description of the mobilehome or commercial coach, including all of the following:

(1) The manufacturer's name and identification number.

(2) The date of manufacture

(3) The serial number or numbers.

(4) The federal label number or numbers affixed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U S.C , Sec. 5401, et seq.), or, department insignia number or numbers affixed pursuant to Section 18026.

(5) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(6) Any other information as may be reasonably required by the department to enable it to determine whether the mobilehome or commercial coach is lawfully entitled to registration.

18085.5. The department shall not accept an application for the original registration of a mobilehome or commercial coach unless the mobilehome or commercial coach at the time of application is within the state or unless the provisions of this part have been complied with.

18086. The department may accept an application for registration of a mobilehome which is not within the state, but which is to be registered to a resident of this state, at the time all documents and fees, as determined by the department in accordance with the provisions of this chapter, are submitted to the department. Any fees submitted pursuant to this section shall not be subject to refund based upon the fact that the mobilehome or commercial coach is not and has not been within this state.

18086.5. (a) In the absence of the regularly required supporting evidence of ownership and upon application for registration or transfer of a mobilehome or commercial coach, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the mobilehome or commercial coach, any person acquiring a lien or security interest thereon, or the successor in interest of that purchaser or that person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the mobilehome or commerical coach.

(b) Any interested person shall have a right of action to recover on any bond or undertaking for any breach of the conditions for which the bond was deposited, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. In the event the mobilehome or commercial coach is no longer subject to registration in this state and the currently valid certificate of title is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or, prior thereto, at the discretion of the department.

18087. Upon application for registration of a mobilehome or commercial coach previously registered outside this state, the application shall be certified by the applicant and shall state that the mobilehome or commercial coach previously has been registered outside this state, the time and place of the last registration of the mobilehome or commercial coach outside this state, the name and address of the governmental officer, agency, or authority making the registration, and any further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from the last foreign registration.

18087.5. (a) The applicant for registration under this part of a mobilehome or commercial coach previously registered outside this state shall surrender to the department all unexpired license plates, seals, certificates, or other evidence of foreign registration which are in the applicant's possession or under the applicant's control. The department may require a certification from the jurisdiction of last registry when the applicant fails to surrender the last issued unexpired license plates.

(b) Upon application made at the time of their surrender to the department and upon payment of a fee of three dollars ($3), the

department shall return the unexpired license plates to the official in charge of the registration of mobilehomes or commercial coaches in the state of issue of the license plates.

18088. (a) Upon application for registration of a mobilehome or commercial coach previously registered outside this state, the department shall grant full faith and credit to the currently valid certificate of title describing the mobilehome or commercial coach, the ownership thereof, and any liens thereon, issued by the state in which the vehicle was last registered, except there shall be a notation upon the certificate of title of any and all liens and encumbrances other than those dependent upon possession.

(b) In the absence of knowledge by the department that any certificate of title issued by another state is forged, fraudulent, or void, the acceptance thereof by the department shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the department by reason of so accepting a certificate of title

18088.5. If a certificate of title issued by another state shows any lien or encumbrance upon the mobilehome or commercial coach therein described, the department, upon registering the mobilehome or commercial coach in this state and upon issuing a certificate of title, shall include therein the name of the legal owner and lienholders, if any, unless documents submitted with the foreign certificates of title establish that the lien or encumbrance has been fully satisfied.

18089 In the event application is made in this state for registration of a mobilehome or commercial coach and the department is not satisfied as to the ownership of the mobilehome or commercial coach or the existence of foreign liens thereon, then the department may register the mobilehome or commercial coach and issue a registration card with distinctive markings, but shall withhold issuance of a California certificate of title, unless the applicant presents documents sufficient to reasonably satisfy the department of the applicant's ownership of the mobilehome or commercial coach and the absence of any liens thereon or posts a bond pursuant to subdivision (a) of Section 18086.5.

18089.5. In the event the department refuses to grant an application for registration in this state of a mobilehome or commercial coach previously registered in another state, the department shall immediately return to the applicant all documents submitted by the applicant with the application.

18090. The department shall forthwith mail a notice of the filing of any application for registration of a mobilehome or commercial coach previously registered outside this state upon written request of the governmental officer, agency, or authority which made the last registration of the mobilehome or commercial coach outside this state The notice shall contain the same data as required on the application filed with the department. This section shall not apply to

mobilehomes or commercial coaches last registered in a foreign province or country.

18090.5 Except as otherwise provided in Section 18089, the department, upon registering a mobilehome or commercial coach, shall issue a certificate of title to the legal owner and a registration card to the registered owner.

18091. The certificate of title issued by the department shall contain, but not be limited to, all of the following:

(a) Information substantially similar to that required on the registration application as provided in Section 18085.

(b) Provision for transfer of the title or interest of a registered owner, legal owner, or junior lienholder, as applicable.

(c) Provision for application for transfer of registration by the transferee.

(d) A statement to the effect that the certificate of title may not reflect all liens filed with the department against the title and that current title status may be confirmed through the department.

18091.5. The registration card for a mobilehome or commercial coach shall contain all of the following:

(a) The date issued.

(b) The information required by Section 18085 in the application for registration.

(c) The registration number assigned to the mobilehome or commercial coach

(d) The date of expiration, where applicable

(e) Any other information as the department prescribes by regulation.

The department may modify the form, arrangement, and information appearing on the registration card and may provide for standardization and abbreviations whenever the efficiency of the department will be promoted thereby, except that general delivery or post office boxes shall not be permitted as the address of the registered owner unless there is no other address

18092. (a) Every mobilehome or commercial coach subject to registration shall be issued a registration decal. The design of the decal shall be determined by the director and the decal shall be issued by the department The decal shall be at least 2½ inches high and 2½ inches wide.

(b) The decals shall be applied to the outside of the mobilehome or commercial coach in a location within 15 inches of the lower front right-hand side which is clearly visible and these decals shall be maintained in a condition so as to be clearly legible

(c) The director, after consultation with county assessors, shall prescribe a registration decal for mobilehomes subject to registration which clearly indicates, by color or otherwise, whether or not the mobilehome is subject to annual registration with the department or is subject to local property taxation and this decal shall have provisions for indicating the current status of any registration fee.

18092.5. The department may refuse registration or the renewal

or transfer of registration of a mobilehome or commercial coach in the following instances·

(a) If the department is not satisfied that the applicant is entitled thereto under this part.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

(c) If the department determines that the applicant has made or permitted unlawful use of any registration certificate, certificate of title, or registration decal.

(d) If the department determines that a manufacturer or dealer has failed during the current or previous year to comply with the provisions of this part relating to the giving of notice to the department of the transfer of a mobilehome or commercial coach during the current or previous year.

18092.7. The department shall withhold the registration or transfer of registration of any mobilehome, other than a new mobilehome for which application is being made for an original registration, until the applicant presents a tax clearance certificate issued pursuant to Section 5832 of the Revenue and Taxation Code by the tax collector of the county where the mobilehome is located.

18093. At the time of release of a new mobilehome or commercial coach through a bill of lading or delivery to any person, the manufacturer shall have prepared a certificate of origin, in duplicate, on a form approved by the department which shall contain all of the following·

(a) The name and address of the manufacturer or fabricator.

(b) The manufacturer's identification number.

(c) The trade name of the mobilehome or commercial coach.

(d) The model name or number of the mobilehome or commercial coach.

(e) The shipping weight of the unit or separate sections of the unit in the case of multisection mobilehomes or commercial coaches.

(f) The length and width of the unit or separate sections of the unit in the case of multisection mobilehomes or commercial coaches.

(g) The serial number of the unit or separate sections of the unit in the case of multiunit mobilehomes or commercial coaches.

(h) The date of manufacture.

(i) The United States Department of Housing and Urban Development label number or department insignia number affixed to the unit or separate sections of the unit in the case of multisection mobilehomes or commercial coaches, as applicable.

(j) The date that the ownership was transferred from the manufacturer or fabricator and to whom the ownership is transferred

(k) A certification of facts signed by a responsible agent of the manufacturer or fabricator.

(l) Any other information as the department may reasonably require.

The original copy shall accompany the mobilehome or commercial coaches and the duplicate copy shall be forwarded to the department within five calendar days from release or delivery by first-class mail.

18093.5. Application for the initial title to a new mobilehome or commercial coach shall be accompanied by a copy of the certificate of origin from the manufacturer and certification that the mobilehome or commercial coach was new when sold. If the certificate of origin is not in existence, a duplicate thereof shall be obtained from the manufacturer and submitted with the application. Any duplicate copy shall be clearly marked indicating that it is a duplicate copy.

Article 4. Amendments, Transfers, and Transactions

18098. Whenever any person, after making application for the registration of a mobilehome or commercial coach required to be registered under this part, or after obtaining registration or being recorded on the permanent title record of the mobilehome or commercial coach registration as registered owner, legal owner, or junior lienholder, moves, acquires a new permanent address, or where a person other than the registered owner assigns his or her interest to any other person different from that shown on the certificate of title, the registration card, or the application therefor, that person shall, within 10 days thereafter, notify the department of both the old and new address No penalty shall arise from failure to notify the department pursuant to this section, nor shall the department or any other person have liability for any notification required by law or regulation other than first-class mailing to the permanent address of record.

18098 5. Any registered owner of a mobilehome or commercial coach, who moves or acquires a new permanent address different from the address shown upon the registration card issued for the mobilehome or commercial coach, shall, within 10 days, mark out the former address shown on the face of the card and indelibly write or type the new address on the face of the card immediately below the former address and initial this change

18099. Any registered owner of a commercial coach required to be registered under this part who moves, permits to be moved, or causes to be moved, the commercial coach from the situs location indicated on the registration card shall notify the department within 10 days thereafter of both the old and new address of situs The registered owner shall mark out the situs address shown on the card and indelibly write or type the new situs address on the registration card and shall initial this change

18099.5. Any registered owner of a mobilehome required to be registered under this part, who proposes to move, permits to be moved, or causes to be moved, the mobilehome from the situs location indicated on the registration card, shall first obtain written consent of the legal owner, if any, on forms approved by the

department. In the event that there is no separate legal owner of the mobilehome, the registered owner shall complete the written consent form. The original copy of the written consent form shall accompany the mobilehome to its new situs location in lieu of a registration card.

18100. Any registered owner, legal owner, or junior lienholder who moves, permits to be moved, or causes to be moved, a mobilehome subject to registration under this part shall apply to the department within 10 days therefrom for an amended registration card upon forms provided by the department and with fees for an amended registration card as prescribed by the department. The application shall include, but not be limited to, all of the following:

(a) A copy of the written consent form required by Section 18099.5.

(b) Any information which the department may require relating to the new situs location.

(c) The current registration card.

In the event that the new situs location cannot be determined at the time of application, the application shall so indicate and the department shall hold the application in suspense until this information is received. The applicant or the applicant's agent shall, immediately upon determining a new situs address where the mobilehome is to be installed for occupancy, notify the department of the new situs address.

Upon receipt of the completed application the department shall issue an amended registration card for the mobilehome to the registered owner

18100.5. (a) Any person acquiring or releasing an interest in a mobilehome or commercial coach subject to registration under this part shall forward notice of the acquisition or release to the department within 10 calendar days on appropriate forms approved by the department with the fees and additional documentation which may be prescribed by department regulations.

(b) The department, upon receipt of proper notice and fees, shall do all of the following:

(1) Amend the permanent title record of the mobilehome or commercial coach to file or delete the interest of the person, or his or her successor or assignee, as the case may be

(2) Amend the current registration card to show or delete the interest of the person, or his or her successor or assignee as the case may be, and return the amended registration card to the registered owner by first-class mail

(3) Provide a copy of the amended registration card to any secured party shown on the amended registration card

(c) Upon the transfer of the title or interest of the registered owner or legal owner in a mobilehome or commercial coach subject to registration under this part, both the transferor and the transferee of the title or interest shall sign and address the certificate of title for the mobilehome or commercial coach, as appropriate. In the event

of a transfer of the title or interest of a registered owner, which involves the assumption by the transferee of the underlying indebtedness secured by the mobilehome or commercial coach, the legal owner shall state on the certificate of title that he or she is to retain his or her legal title and interest. The certificate of title so properly executed shall be delivered to the department with appropriate fees. The department shall appropriately amend the permanent title record of the mobilehome or commercial coach and deliver a new certificate of title to the legal owner by first-class mail, and an amended registration card to the registered owner with copies to any other secured parties shown on the amended registration card.

(d) Whenever the title or interest of the registered owner or legal owner in or to a mobilehome or commercial coach registered under this part passes to another in a manner other than by voluntary transfer, the new registered or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title and current registration card issued for the mobilehome or commercial coach, if available, and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect a transfer of title or interest in such a case. The department, when satisfied of the genuineness and regularity of the transfer shall give notice by first-class mail to the registered and legal owner of the mobilehome or commercial coach as shown on the records of the department, and, 15 calendar days after the mailing of the notice, if still satisfied of the genuineness and regularity of the transfer, shall transfer the registration of the mobilehome or commercial coach.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

18101. No transfer of the title of a mobilehome or commercial coach registered under this code shall be effective until the transferor has made proper endorsement and delivery of the certificate of title and delivery of the registration card to the transferee as provided in this code.

18101.5. When the transferee of a mobilehome or commercial coach is a dealer who holds it for resale and moves it upon the highways under transportation decals, the dealer is not required to make application for transfer, but upon transferring his or her title or interest to another person he or she shall comply with this chapter.

18102. Upon the death of a registered or legal owner of a mobilehome or commercial coach registered under this part, without the decedent leaving other property necessitating probate, unless the mobilehome or commercial coach is, by will, otherwise bequeathed, and irrespective of the value of the mobilehome or commercial coach, the surviving heir or beneficiary in the order named in Section 630 of the Probate Code may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(a) The appropriate certificate of title and registration card, if available.

(b) A certified statement of the heir or beneficiary setting forth his or her interest in the estate of the decedent.

(c) The names and addresses of any other heirs or beneficiaries.

(d) If required by the department, a certificate of the death of the decedent.

(e) A statement that there are no creditors of the decedent or, if so, that the creditors of the decedent have been paid in full or their claims have been otherwise discharged.

18102.5. If application is made to the department for a transfer of registration of a mobilehome or commercial coach to a new registered or legal owner and if the applicant is unable to present the certificate of title or registration card issued for the mobilehome or commercial coach because it is lost or otherwise not available, the department may receive the application and investigate the circumstances of the case and may require the filing of certifications or other information. When the department is satisfied that the applicant is entitled to a transfer of registration, the department may transfer the registration of the mobilehome or commercial coach, and issue a new certificate of title and registration card to the person or persons found to be entitled thereto.

18103. Whenever application is made to the department for a transfer of registration of a mobilehome or commercial coach to a new registered or legal owner and the applicant is unable to present the registration card issued for the mobilehome or commercial coach because it is in the possession of the department upon an application for renewal of registration, the department may transfer the registration of the mobilehome or commercial coach upon production of the properly endorsed certificate of title to the mobilehome or commercial coach and a temporary receipt, on a form prescribed by the department containing any information that the department deems necessary, including, but not limited to, the registration decal number assigned to the mobilehome or commercial coach and the serial number of the mobilehome or commercial coach and accompanied by the amount of fees for renewal of the registration.

18103.5. A loan of money may be made on the security of a mobilehome or commercial coach subject to registration under this part if either of the following apply:

(a) The proceeds of the loan are applied to all or a part of the purchase price of the mobilehome or commercial coach, including a sales commission.

(b) The loan is not for the purchase of the mobilehome or commercial coach, and it is not conditioned upon the performance of any work done or to be done by the lending party on the mobilehome or commercial coach or the site of installation thereof, nor upon delivery by the lending party of any goods or services thereto.

18104. (a) Each person acquiring a security interest in a mobilehome or commercial coach, subject to registration with the department, shall forward to the department a statement of lien on forms approved by the department. and shall include a fee prescribed by department regulations, the current registration card for the mobilehome or commercial coach, if previously registered, and the information which the department may prescribe on the form.

(b) The department, upon receipt of a statement of lien, shall amend the permanent title record of the mobilehome or commercial coach to record the secured party, or the secured party's successor or assignee, as the case may be.

(c) The department shall amend the current registration card to show the secured party or the secured party's successor or assignee, and return the amended registration card to the registered owner by first-class mail.

(d) The department shall provide a copy of the amended registration card to the secured party filing the statement of lien, or the secured party's successor or assignee, and to any other secured party indicated on the permanent title record.

18104.5. (a) No security interest, other than that of a registered owner or legal owner in any mobilehome or commercial coach titled under this code, shall be perfected until the statement of lien required by Section 18104 has been received by the department at its office in Sacramento or any other office designated by the director.

(b) The department may establish regulations for accepting a statement of lien by electronic facsimile, which shall provide that the lien shall be perfected as of the date of receipt of the electronic facsimile. However, if the department does not receive the statement of lien required by Section 18104 within 10 calendar days from the date of receipt of the electronic facsimile, that lien is not perfected until the time that the statement of lien is actually received by the department as provided in subdivision (a).

18105. (a) Priority of liens for mobilehomes and commercial coaches shall be determined according to priority in the time of receipt by the department of documentation thereof as provided by this chapter.

(b) The holder of the primary security interest in a mobilehome or commercial coach shall be designated as the legal owner of the mobilehome or commercial coach on all department records.

(c) Holders of junior liens in a mobilehome or commercial coach shall be designated as "junior lienholders" on all department records and shall be ranked in numerical order by the date and time of receipt by the department of documentation required by this chapter

18105.5. A legal owner or junior lienholder may assign title or interest to a mobilehome or commercial coach subject to registration under this part without the consent of and without affecting the

interest of the registered owner or other lien holders.

Article 5. Renewals and Replacements

18108 If any registration card or registration decal is stolen, lost, mutilated, or illegible, the registered owner of the mobilehome or commercial coach for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon the applicant furnishing information satisfactory to the department and the required fees, obtain a duplicate, substitute, or new registration under a new registration number, as determined by the department.

18108.5. If any certificate of title is stolen, lost, mutilated, or illegible, the legal owner of the mobilehome or commercial coach for which it was issued as shown by the records of the department shall immediately make application for, and may, upon payment of required fees and the applicant furnishing information satisfactory to the department, obtain a duplicate certificate of title.

18109 Except as otherwise provided in this part, every registration card for a mobilehome or commercial coach subject to annual registration shall expire at midnight on the expiration date indicated on the registration card and shall be renewed prior to that expiration. The department, upon presentation by the registered owner of the registration card or potential registration card last issued and receipt of the proper renewal fees, shall renew the registration of a mobilehome or commercial coach.

18109.5. Certificates of title shall not be required to be renewed annually, but shall remain valid until a new or amended certificate of title is issued upon a transfer of any interest of the registered owner or legal owner shown thereon.

18110. When the required certificate of title is stolen, lost, mutilated, or illegible, application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership. The transferor shall sign and address the application, as appropriate, and file it together with the proper fees for duplicate certificate of ownership and transfer.

Article 6. Fees and Taxes

18114 An annual registration fee in the amount specified in Section 9250 of the Vehicle Code shall be paid the department at the time of registration or renewal for each transportable section of a mobilehome or commercial coach registered pursuant to this part. A registration fee not paid on or before the expiration of the previous registration year is delinquent. A charge of three dollars ($3) for each transportable section shall be added to delinquent registration fees. No additional charge shall be imposed on a registration fee received by mail after the date of delinquency if the fee was, by evidence of postmark, placed in the mail before midnight on the date of

delinquency.

18114.5. When renewal fee penalties have not accrued with respect to a mobilehome or commercial coach subject to this chapter and the mobilehome or commercial coach is transferred, the transferee shall have a period of 20 days from the date of the transfer to pay any registration fees which become due without payment of any penalties that would otherwise be required.

18115. Commencing July 1, 1981, the vehicle license fee levied pursuant to Section 10751 of the Revenue and Taxation Code on mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, or commercial coaches, shall be paid to the department. The annual amount of the fee shall be a sum equal to 2 percent of the market value of the mobilehome or commercial coach. The market value shall be determined by the department upon the basis of the original sales price of the mobilehome or commercial coach when first sold to a consumer as a new mobilehome or commercial coach. In the event any mobilehome or commercial coach subject to this article is modified or added to at a cost of two hundred dollars ($200), or more, a copy of the building permit required for these modifications shall be entered in the permanent record of the mobilehome or commercial coach and the department shall classify or reclassify the mobilehome or commercial coach in its proper class as provided in Section 18115.5. These provisions shall not apply in the event that the modifications are necessary to enable a handicapped person to enter and use the mobilehome or commercial coach

18115.5. (a) For the purposes of this article, a classification plan is established consisting of the following classes. a class from no dollar ($0) to and including forty-nine dollars and ninety-nine cents ($49.99), a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99), and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of a number of classes as will permit classification of all mobilehomes or commercial coaches

(b) The market value of a mobilehome or commercial coach subject to this article for each registration year of its life, shall be a percentage of that sum, determined as follows:

Registration year	Percentage
First	85
Second	70
Third	55
Fourth	45
Fifth	40
Sixth	35
Seventh	30
Eighth	25
Ninth	24

10th	23
11th	22
12th	21
13th	20
14th	19
15th	18
16th	17
17th	16
18th each succeeding year	15

It is the intent of this section that the market value of any mobilehome or commercial coach subject to this article shall be the same in each registration year of its life as it would be if determined pursuant to Sections 10752.1, 10753, 10753.2, 10753.3, and 10753.4 of the Revenue and Taxation Code.

18116. (a) The license fee is due and payable to the department each year on or before the expiration date assigned by the department and noted on the registration card. The fee shall be paid to the department at the time of renewal of registration.

(b) An amount of 20 percent of the license fee shall be added on any application for renewal of registration made later than midnight of the date of expiration. The additional amount shall not be imposed on any application or fee payment received by mail after the date of expiration if the application or payment was, by evidence of postmark, placed in the mail before midnight on the date of expiration. Any mobilehome subject to this article for which registration has been allowed to lapse for 120 days or more shall be subject to local property taxation pursuant to Section 10759.5 of the Revenue and Taxation Code.

(c) It is the intent of the Legislature that license fees levied on mobilehomes or commercial coaches subject to this part shall not be altered or increased from the rates and levels of license fees established prior to January 1, 1981

18116.5. Used mobilehomes subject to local property taxation are exempt from the payment of use tax upon resale or transfer as provided in Section 6379 of the Revenue and Taxation Code.

18117. An application for registration under this part of a mobilehome or commercial coach previously registered outside of this state shall be accompanied by payment of the amount required to be paid under Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code with respect to the use of the mobilehome or commercial coach by the applicant.

18117.5. The transfer fee is delinquent if not paid within 10 days of receipt by the transferee of a properly executed certificate of title for the mobilehome or commercial coach.

18118. Whenever any application for a registration transaction is filed with the department during the 60 days immediately preceding the expiration of registration of a mobilehome or commercial coach, the application shall be accompanied by the full renewal fees for the

ensuing registration year in addition to any other fees then due and payable.

Article 7 Penalties

18122. Except as it may affect a security interest properly perfected pursuant to Section 18104 or 10104.5, the department may suspend, revoke, or cancel any certificate of title valid on its face for any violation of the provisions of this chapter relating to certificates of title. The department shall notify all persons or entities with perfected security interests at the time that such an action is taken.

18122.5. It is unlawful for any person to fail or neglect properly to endorse, date, and deliver the certificate of title and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration Except when the certificate of title is demanded in writing by a purchaser, a mobilehome or commercial coach dealer licensed, as provided by this part, shall satisfy the delivery requirement of this section by submitting appropriate documents and fees to the department for transfer of registration in accordance with this part and rules and regulations promulgated thereunder.

18123 (a) The department shall withhold the registration or the transfer of registration of any mobilehome or commercial coach sold at retail to any applicant by any person, other than a mobilehome or commercial coach manufacturer or dealer holding a license and certificate issued as provided for by this part, until the applicant pays to the department the use tax measured by the sales price of the mobilehome or commercial coach as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the State Board of Equalization finds that no use tax is due If the applicant so desires, he or she may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his or her application for registration or transfer of registration, and thereafter he or she may apply through the department to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section This transmittal shall be made at least monthly, accompanied by a schedule, in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. The reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section, a fraction of a dollar shall be disregarded, unless it exceeds fifty cents ($0.50), in which case it shall be treated

as the next higher full dollar. Computation of any penalty shall be made from the tax after the same has been computed as provided in this section. Any tax or penalty in the amount of one dollar ($1) or less shall be one dollar ($1). Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as the requirements are applicable to the use of mobilehomes or commercial coaches to which this section relates.

18123.5. (a) A dealer who violates paragraph (1), (2), or (3) of subdivision (c) of Section 18080.5 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer who violates paragraph (4) of subdivision (c) of Section 18080.5, when selling a mobilehome or commercial coach, shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 10 calendar days but within 20 calendar days from the date of sale; ten dollars ($10).

(2) If the application is submitted after 20 calendar days but within 30 calendar days from the date of sale; twenty dollars ($20).

(3) If the application is submitted after 30 calendar days from the date of sale; forty dollars ($40)

(c) Each violation of subdivision (c) of Section 18080.5 shall be, in addition to the obligation to pay the administrative service fee, a separate cause for discipline pursuant to Section 18058

(d) Nonpayment of an administrative service fee within 10 days after written demand from the department shall be a separate cause for discipline pursuant to Section 18058

18124. The department, the Department of the California Highway Patrol, or any regularly employed and salaried police officer or deputy sheriff may take possession of any certificate, card, permit, or registration decal issued under this part upon expiration, revocation, cancellation, or suspension thereof or which is fictitious or which has been unlawfully or erroneously issued or affixed.

This section shall not be applicable to any insignia issued pursuant to Section 18026 or to any mobilehome label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U S C., 5401, et seq.).

Any document or decal seized shall be expeditiously delivered to the department with a brief written explanation of the circumstances.

18124.5. Every person who, with intent to defraud, alters, forges, counterfeits, or falsifies any certificate of title, registration card, certificate, registration decal, or permit provided for by this part or any comparable certificate of title, registration card, certificate, decal, insignia, or label, with intent to represent it as issued by the department or who alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of title, or who with fraudulent intent displays or causes or permits to be displayed or has in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false

certificate of title, registration card, certificate, registration decal, or permit or who utters, publishes, passes, or attempts to pass, as true and genuine, any of the above-named false, altered, forged, or counterfeited matters knowing it to be false, altered, forged, or counterfeited with intent to prejudice, damage, or defraud any person, or who, with fraudulent intent, provides false information regarding an allegedly lost, stolen, damaged, or otherwise unavailable certificate of ownership, certificate of title, registration card, or statement of lien, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or in the county jail for not more than one year.

SEC. 4. Section 18007, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18007. "Manufactured home," for the purposes of this part, means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under this part. "Manufactured home" includes a mobilehome subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec 5401, et seq.).

SEC. 5. Section 18010, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18010 "Recreational vehicle" is a motorhome, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, with less than 320 square feet.

SEC. 6 Section 18025, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18025. (a) Except as provided in subdivision (b), it is unlawful for any person to sell, offer for sale, rent, or lease within this state, any manufactured home or any mobilehome manufactured after September 1, 1958, or any recreational vehicle manufactured after November 13, 1968, or any trailer coach designed or used for industrial, professional, or commercial purposes manufactured after May 25, 1967, or any commercial coach manufactured after November 23, 1970, containing plumbing, heat-producing, or electrical equipment unless the equipment meets the requirements of the department for that equipment and the installation of it. The commission may promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles for plumbing, heat-producing, and electrical equipment and

installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe plumbing, heat-producing, and electrical equipment and installations

(b) All mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U S C., Sec. 5401, et seq.).

(c) An insignia of approval shall not be affixed to any new mobilehome unless the mobilehome has been inspected by the department while under construction pursuant to the regulations of the commission under this section.

SEC. 7. Section 18026, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18026. All mobilehomes which are not subject to the National Manufactured Housing Construction and Safety Standards Act of 1974, and all recreational vehicles and commercial coaches which are sold, offered for sale, rented, or leased within this state shall bear a federal label or an insignia of approval issued by the department to indicate compliance with the regulations of the commission adopted pursuant to this part, which were in effect on the date of manufacture of the mobilehome, recreational vehicle, or commercial coach.

The department may issue insignia for mobilehomes, recreational vehicles, or commercial coaches manufactured prior to the effective dates of the appropriate regulations which meet the requirements of reasonable standards of health and safety as set forth in this part or the regulations adopted pursuant thereto in effect at the time of that issue. It is unlawful for any person to remove, or cause to be removed, an insignia of approval without prior authorization by the department

SEC 8. Section 18027, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18027. Any mobilehome or commercial coach which is manufactured in violation of the provisions of Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of this code, or Division 15 (commencing with Section 25004.2) of the Public Resources Code, or regulations adopted pursuant thereto, shall not be issued the department's insignia of approval.

SEC. 9. Section 18028, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18028 (a) The commission may adopt regulations for the construction of commercial coaches and of manufactured homes and mobilehomes which are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401 et seq) which it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. The regulations for commercial coaches shall be reasonably consistent with the American National Standards Institute standards for the construction of mobilehomes, as determined by the commission

(b) All manufactured homes, including mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

SEC. 10. Section 18028.5, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18028.5. (a) The provisions of Section 17920.9, and the rules and regulations adopted pursuant thereto, shall be applicable to the sale, offering for sale, or use in the construction of commercial coaches and of manufactured homes and mobilehomes which are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.), of any foam building system, and to any such mobilehome or commercial coach in which that system is used as a component.

(b) All manufactured homes, including mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U S.C., Sec. 5401, et seq.).

SEC. 11. Section 18029, as added to the Health and Safety Code by Section 3 of this act, is amended to read·

18029. It is unlawful for any person to alter or convert, or cause to be altered or converted, installations or equipment of a manufactured home, mobilehome, recreational vehicle, or commercial coach which bears a department insignia of approval or federal label when the manufactured home, mobilehome, recreational vehicle, or commercial coach is used, occupied, sold, or offered for sale within this state, unless performance is in compliance with regulations adopted by the commission. The commission may adopt regulations providing requirements for alterations and conversions.

SEC. 12 Section 18029.5, as added to the Health and Safety Code by Section 3 of this act, is amended to read·

18029.5. (a) The commission may promulgate rules and regulations, which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in manufactured homes, mobilehomes, recreational vehicles, and commercial coaches. All mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U S C., Sec. 5401, et seq.).

(b) The chief fire official of every city, county, city and county, fire protection district, or other local fire protection agency shall file a report of each manufactured home and mobilehome fire occurring within his or her jurisdiction with the State Fire Marshal. The report shall be made on forms provided by the State Fire Marshal

The State Fire Marshal shall annually compile a statistical report of all manufactured home and mobilehome fires occurring within this state and shall furnish the commission with a copy of the report

The annual report shall include, but need not be limited to, the number of manufactured home and mobilehome fires, the causes of the fires, the monetary loss, and any casualties or fatalities resulting from the fires.

SEC. 13. Section 18030, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18030. If the commission determines that standards for commercial coaches and recreational vehicles, which have been prescribed by the statutes or regulations of another state, are at least equal to the standards prescribed by the commission, the commission may so provide by regulation. Thereafter, any commercial coaches or recreational vehicles which that other state has approved as meeting its standards shall be deemed to meet the standards of the commission, if the commission determines that the standards of the other state are actually being enforced.

SEC. 14. Section 18030.5, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18030.5. A manufactured home, mobilehome, recreational vehicle, or commercial coach which meets the standards prescribed by this chapter, and the regulations adopted pursuant thereto, shall not be required to comply with any local ordinances or regulations prescribing requirements in conflict with the standards prescribed in this chapter.

SEC. 15. Section 18031.5, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18031.5. Nothing in this part or any other provision of law shall be construed to prohibit the installation of fireplaces in manufactured homes and mobilehomes. The commission shall adopt any regulations for the installation of fireplaces in manufactured homes, mobilehomes, or commercial coaches which it may determine are reasonably necessary in order to protect the health and safety of the occupants and to assure that an installation does not impair the efficiency of the primary heating or cooling system of the manufactured home, mobilehome, or commercial coach. All mobilehomes manufactured on or after June 15, 1976, which contain fireplaces, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

SEC. 16. Section 18032, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18032. (a) The manufacturer of any new manufactured home or mobilehome manufactured on or after January 1, 1977, shall affix a label to the manufactured home or mobilehome, if it is to be displayed for retail sale in this state, which contains the following information about the manufactured home or mobilehome:

(1) Make, model, and serial or identification number.
(2) Final assembly point.
(3) Name and location of dealer to whom delivered.
(4) Name of city or unincorporated area at which delivered.

(5) Manufacturer's suggested retail price which shall include the price of the following:

(A) The basic manufactured home or mobilehome unit

(B) Extra construction features and materials.

(C) Total price of the manufactured home or mobilehome.

(D) A statement of whether the price includes or excludes the towbar, wheels, wheel hubs, and axles.

(b) A dealer may not display a manufactured home or mobilehome for sale or deliver a manufactured home or mobilehome manufactured on or after January 1, 1977, in this state which does not contain the label required by subdivision (a).

(c) Except as otherwise provided in subdivision (d), the removal or alteration of any label required by this section from the manufactured home or mobilehome by anyone except the retail purchaser is a misdemeanor.

(d) The label required by this section may be removed by any person after the manufactured home or mobilehome is affixed to a foundation system.

SEC. 17. Section 18035, as added to the Health and Safety Code by Section 3 of this act, is amended to read·

18035 (a) Every new or used mobilehome dealer, upon the buyer's signing of a purchase order, conditional sales contract, security agreement, or other document executed for the sale of a new or used mobilehome subject to registration under this part, and after mutual endorsement of the purchase documents and receipt of deposit required by Section 18035.1, shall establish with an escrow agent an escrow account . The dealer shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to delivery as a deposit, downpayment, or whole or partial payment for the mobilehome or accessory thereto. The downpayment, or whole or partial payment shall include an amount designated as a deposit, which may be less than or equal to the total amount placed in escrow, and shall be subject to the provisions of subdivision (c). The parties shall provide for escrow instructions which identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit required by Section 18035.1 The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt.

(b) The funds in the escrow account shall be disbursed pursuant to the escrow instructions which shall specify one of the following:

(1) Upon the buyer receiving delivery of the mobilehome on the site and the mobilehome passing inspection pursuant to Section 18613 or after the mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the purchaser, all funds in the escrow account shall be disbursed pursuant to the escrow instructions.

(2) Upon the buyer receiving delivery of an installed mobilehome not subject to the provisions of Section 18613 with

delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed in accordance with the escrow instructions.

(c) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds designated as a deposit shall be held in the escrow account until such time as a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer.

(d) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(e) No mobilehome dealer shall establish with an escrow agent any escrow account in an escrow company in which the mobilehome dealer has more than a 5 percent ownership interest.

(f) The escrow instructions may provide for the proration of any local property tax due or to become due on the mobilehome, and if any such tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of those taxes or fees, or both, and any applicable penalties.

(g) No agreement shall contain any provision by which the buyer waives his rights under this section, and any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(h) If a portion of the amount in the escrow account is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(i) This section creates a civil cause of action against a buyer or dealer who violates the provisions of this section, and upon prevailing, the plaintiff in that action shall be awarded actual damages plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in that action.

SEC. 18. Section 18035.1, of the Health and Safety Code, as added by Section 3 of Senate Bill No. 1172, is amended to read:

18035.1. (a) As part of the documents executed for the purchase or sale of a new or used mobilehome subject to registration under this part from a dealer, the dealer and buyer shall sign a receipt for deposit which shall be retained by the dealer for not less than three years. It shall state at least the following:

(1) A statement that the buyer has received a copy of the purchase contract and receipt for deposit.

(2) A statement that all portions of the receipt for deposit have been completed.

(3) Information with respect to the sale of a mobilehome subject to registration under this part by a dealer.

(4) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the amount designated as a deposit may be withheld in the escrow account in case of a dispute between the buyer and the dealer.

(5) A statement that the the amount designated as a deposit and the amount of the downpayment must be agreed upon by the buyer and seller and shall have been entered on the purchase documents and receipt of deposit first at the time of signing.

(6) A copy of Sections 18035 and 18035.1 of the Health and Safety Code.

(7) That any oral promises or commitments that have been made are not binding unless they appear in writing on the sales agreement or other sales document.

(8) That a warranty governed by Section 1797.3 of the Civil Code accompanies the sale of new mobilehomes which provides that the manufacturer and dealer are jointly and individually liable for substantial defects in workmanship and materials and any other relevant warranty information.

(9) The terms and duration of any other warranty, not required by law, offered by the dealer.

(10) That if the buyer has any complaints with respect to sales practices, delivery, warranty, or other matters related to the mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(b) For the sale of mobilehomes not subject to registration by the department, the dealer shall provide a statement of fact containing the provisions specified in paragraphs (7), (8), (9), and (10) of subdivision (a), as part of the purchase documents.

SEC. 19 Section 18059 5, as added to the Health and Safety Code by Section 3 of this act, is amended to read:

18059.5. With respect to escrows, it is unlawful to do any of the following·

(a) Violate any of the terms or provisions of Section 18035 or 18035.5, relating to escrow, or any rule, regulation, or order issued by the department pursuant thereto

(b) Provide any false or incomplete information to an escrow company

SEC. 20. Section 18085, as proposed to be added to the Health and Safety Code by Section 3 of this act, is amended to read·

18085 Application for the original registration of a mobilehome or commercial coach required to be registered under this part shall be made to the department, accompanied with payment of the required fees, upon the appropriate form approved by the department The application shall include, but not be limited to, all of the following.

(a) The true name and mailing address of the registered owner,

the legal owner, if any, and junior lienholders, if any.

(b) The name of the county in which the registered owner resides.

(c) The situs address of the mobilehome or commercial coach, to include the county.

(d) A description of the mobilehome or commercial coach, including all of the following:

(1) The manufacturer's name and identification number.

(2) The date of manufacture.

(3) The serial number or numbers.

(4) The federal label number or numbers affixed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.), or, department insignia number or numbers affixed pursuant to Section 18026.

(5) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(6) Any other information as may be reasonably required by the department to enable it to determine whether the mobilehome or commercial coach is lawfully entitled to registration.

SEC. 21. Section 18123.5, as proposed to be added to the Health and Safety Code by Section 3 of this act, is amended to read:

18123.5. (a) A dealer who violates paragraph (1), (2), or (3) of subdivision (c) of Section 18080.5 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer who violates paragraph (4) of subdivision (c) of Section 18080.5, when selling a mobilehome or commercial coach, shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 10 calendar days but within 20 calendar days from the date of sale; ten dollars ($10).

(2) If the application is submitted after 20 calendar days but within 30 calendar days from the date of sale; twenty dollars ($20).

(3) If the application is submitted after 30 calendar days but within 60 calendar days from the date of sale; forty dollars ($40).

(4) If the application is submitted after 60 calendar days from the date of sale; two hundred dollars ($200).

(c) Each violation of subdivision (c) of Section 18080.5 shall be, in addition to the obligation to pay the administrative service fee, a separate cause for discipline pursuant to Section 18058.

(d) Nonpayment of an administrative service fee within 10 days after written demand from the department shall be a separate cause for discipline pursuant to Section 18058.

SEC. 22. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry

firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, and designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs and the Office of Statewide Health Planning and

Development, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his department, or office

(j) Marshals and police appointed by the Director of Parks and Recreation pursuant to Section 3324 of the Food and Agricultural Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 3324 of the Food and Agricultural Code.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of the provisions of Section 556 of the Insurance Code

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 18023 of the Health and Safety Code.

SEC. 24. Section 6275 of the Revenue and Taxation Code is amended to read:

6275. (a) Every person making any retail sale of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or of a vessel or an aircraft as defined in this article, is a retailer for the purposes of this part of the vehicle, vessel, or aircraft, regardless of whether he or she is a retailer by reason of other provisions of this part, unless another person is the retailer, as provided in subdivision (b).

(b) Every person, licensed or certificated under the Health and Safety Code or the Vehicle Code as a dealer, is the retailer of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code when a retail sale of the vehicle is made through him or her and that person provides to the Department of Housing and Community Development or the Department of Motor Vehicles a notice of transfer with respect to the vehicle pursuant to Section 18076.1 of the Health and Safety Code or Section 5901 or Section 38200 of the Vehicle Code. That person shall hold a seller's permit and remit tax to the board with respect to those sales in the same manner as a dealer licensed or certificated under the Vehicle Code and making sales on his or her own account. For purposes of this subdivision, "sale" does not include a lease

SEC. 25. Section 6276 of the Revenue and Taxation Code is amended to read:

6276. (a) Except when a vehicle is purchased outside this state from the manufacturer or from a vehicle dealer, whenever the

purchaser of a vehicle is required to pay the use tax to the Department of Housing and Community Development or the Department of Motor Vehicles, the sales price shall be presumed to be an amount equal to the market value of the vehicle at the time of the purchase as that value is determined to measure vehicle license fees imposed under Part 5 (commencing with Section 10701) of Division 2, multiplied by a factor of 1.2 for a noncommercial vehicle, including a passenger vehicle as defined in Section 465 of the Vehicle Code or by a factor of 1.8 for a commercial vehicle as defined in Section 260 of the Vehicle Code.

(b) Commercial motor vehicles under 6,001 pounds unladen weight and commercial trailers under 2,000 pounds unladen weight shall be treated as noncommercial vehicles for the purpose of this section. The presumption may be rebutted by evidence which establishes that the sales price was other than that amount.

SEC. 26. Section 6276.1 of the Revenue and Taxation Code is amended to read:

6276.1. (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Sections 18008 and 18221 of the Health and Safety Code or Sections 396 and 665 of the Vehicle Code, shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome as a vehicle, when a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code or the Vehicle Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.

SEC. 27. Section 6281 of the Revenue and Taxation Code is amended to read:

6281. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, or a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vessel or aircraft, when such property is included in any transfer of all or substantially all the property held or used in the course of business activities of the person selling the property and when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of that corporation or other entity.

SEC. 28. Section 6282 of the Revenue and Taxation Code is amended to read:

6282. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of mobilehomes or commercial coaches required to be annually registered under the Health and Safety Code or vehicles required to be registered under the Vehicle Code when the retailer is other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, dealer, dismantler, or lessor-retailer, subject to the provisions of Section 11615.5 of the Vehicle Code.

This exemption does not extend to the rentals payable under a lease of tangible personal property.

SEC. 29. Section 6285 of the Revenue and Taxation Code is amended to read:

6285. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or of a vessel or an aircraft, when the person selling the property is either the parent, grandparent, child, or spouse, or the brother or sister if the sale between that brother or sister is between two minors related by blood or adoption, of the purchaser, and the person selling is not engaged in the business of selling the type of property for which the exemption is claimed.

SEC. 30. Section 6291 of the Revenue and Taxation Code is amended to read:

6291. Notwithstanding Section 6451, the use taxes imposed by this part with respect to the storage, use or other consumption in this state of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or of a vessel or an aircraft as defined in this chapter are due and payable by the purchaser at the time the storage, use, or other consumption of the property first becomes taxable. Delinquency penalties and interest with respect to use tax for mobilehomes or commercial coaches registered annually with the Department of Housing and Community Development or for vehicles registered with the Department of Motor Vehicles shall be as provided in Section 6292. Delinquency penalties and interest with respect to use tax for vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code shall be as provided in Section 6293. Delinquency penalties and interest with respect to use tax for vessels and aircraft shall be imposed as if the due date of the tax were fixed by Section 6451

SEC. 31. Section 6292 of the Revenue and Taxation Code is

amended to read:

6292. (a) Except when the sale is by lease, when a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, dealer, dismantler, or lessor-retailer, subject to the provisions of Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle must pay the use tax to the Department of Housing and Community Development acting for and on behalf of the board pursuant to Section 18076.15 of the Health and Safety Code or to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

(b) If the purchaser makes an application to either department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the appropriate department by the purchaser shall relieve the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

SEC. 32. Section 6422.1 of the Revenue and Taxation Code is amended to read:

6422.1. The board may provide for exemption certificates and other tax clearance certificates to be issued by it or by retailers selling vehicles as defined in Article 1 of Chapter 3.5 of this part or mobilehomes as defined by Section 18008 of the Health and Safety Code. Such certificates shall be used to allow a completion of registration of a vehicle by the Department of Motor Vehicles or a mobilehome by the Department of Housing and Community Development. The certificates may indicate that the board finds that no use tax is due or is likely to become due with respect to the storage, use or other consumption of the vehicle or mobilehome, or that the tax has been paid or is to be paid in a manner not requiring the withholding of a registration or transfer of registration. The certificates shall be in such form as the board may prescribe and shall be executed, issued and accepted for clearance of registration on such conditions as the board may prescribe. The issuance, alteration, forgery or use of any such certificate in a manner contrary to the requirements of the board constitutes a misdemeanor.

SEC. 33. Section 10759.5 of the Revenue and Taxation Code is amended to read:

10759.5. (a) Notwithstanding the provisions of Section 10758, on or after July 1, 1980, any mobilehome, with respect to which the license fee required to be paid by this part has been delinquent for a period of 120 days or more, shall no longer be subject to the provisions of this part. Instead, that mobilehome shall be subject to the provisions of law governing local property taxation.

If a mobilehome consists of two or more transportable sections which have been assembled as a single unit or were manufactured or fabricated for later assembly as a single unit, and each section has been separately registered under the Vehicle Code, and the license fee for any section of the mobilehome has been delinquent for 120 days or more, all sections of the mobilehome shall no longer be subject to the provisions of this part and shall become subject to the provisions of law governing local property taxation.

(b) In determining whether the license fee has been delinquent for 120 days or more, the 120-day period shall not include any days during which the mobilehome is the subject of any probate proceedings in this state. The 120-day period shall commence upon sale or distribution of the mobilehome by the executor or administrator. If the license fee was delinquent for 120 days or more prior to the date of death, the mobilehome shall be subject to property taxation.

(c) With regard to any mobilehome subject to local property taxation pursuant to the provisions of subdivision (a), the delinquent taxes and fees due under this part and under Article 2 (commencing with Section 9250) of Chapter 6 of Division 3 of the Vehicle Code as reported by the Department of Motor Vehicles or the Department of Housing and Community Development shall be added to the applicable property tax bill. The delinquent taxes and fees may be added to the secured roll and may be collected and distributed in the same manner as property taxes, or, in the alternative, may be added to the unsecured roll, collected like and distributed like all other taxes on that roll. If the amount of delinquent taxes and penalties does not appear in the records of the Department of Motor Vehicles or the Department of Housing and Community Development, the Department of Housing and Community Development shall determine from available information, if any, what the delinquent taxes and fees would have been had the mobilehome been registered. If the amount of delinquent fees cannot be determined by the Department of Housing and Community Development, there shall be added a penalty for failure to register in the amount of one hundred dollars ($100) or 1 percent of the current value of the mobilehome for each year or part thereof the mobilehome has been in this state without a current registration, not to exceed four years, whichever is more.

Whenever there is a transfer of registration, the liability for delinquent fees and penalties is that of the seller and not the buyer of the mobilehome.

(d) The State Board of Equalization shall adopt and amend as

necessary rules and regulations to carry out as well as enforce the provisions of this section.

(e) For purposes of this section, "mobilehome" is defined in Section 396 of the Vehicle Code.

(f) If any mobilehome owner disputes the amount of delinquent taxes and fees reported by the Department of Housing and Community Development, the owner shall pay the amount reported to the county tax collector. If the Department of Housing and Community Development determines that a refund is due, it shall notify the auditor who shall refund the overpayment or erroneous payment of fees and taxes to the owner.

SEC. 34. Section 396 of the Vehicle Code is amended to read:

396. "Mobilehome" is a structure as defined in Section 18008 of the Health and Safety Code. For the purposes of enforcement of highway safety laws and regulations, a mobilehome is a trailer coach which is in excess of eight feet in width or in excess of 40 feet in length.

SEC. 35. Section 5350 of the Vehicle Code is amended to read:

5350. The provisions of this division shall apply to trailer coaches except as otherwise provided in this article.

SEC. 36. Section 5350.6 of the Vehicle Code is repealed.

SEC. 37. Section 5350.7 of the Vehicle Code is repealed.

SEC. 38. Section 5352 of the Vehicle Code is amended to read:

5352. Subject to the exemptions stated in Section 5353, registration of any trailer coach in this state is required annually.

SEC. 39. Section 5353 of the Vehicle Code is amended to read:

5353. The registration provisions of this article shall not apply to any of the following:

(a) Any trailer coach which is driven or moved upon a highway in any of the following circumstances:

(1) In conformance with the provisions of this code relating to dealers, manufacturers, transporters, or nonresidents.

(2) Under a temporary permit issued by the department as authorized by Section 4156.

(3) Under a one-trip permit issued by the department as authorized by Section 4003 when such permit is issued to a nonresident.

(b) Any unoccupied trailer coach which is part of an inventory of trailer coaches held for sale by a manufacturer or dealer in the course of his business.

SEC. 40. Section 5356 of the Vehicle Code is repealed.

SEC. 41. Section 5357 of the Vehicle Code is repealed.

SEC. 42. Article 11 (commencing with Section 5400) of Chapter 1 of Division 3 of the Vehicle Code is repealed.

SEC. 43. Section 5901 of the Vehicle Code is amended to read:

5901. (a) Every dealer or lessor-retailer, upon transferring by sale, lease, or otherwise any vehicle, whether new or used, of a type subject to registration under this code, shall, not later than the end of the fifth calendar day thereafter not counting the day of sale, give

written notice of the transfer to the department at its headquarters upon an appropriate form provided by it.

(b) Except as otherwise provided in this subdivision or in subdivision (c), in the case of a vehicle under 6,001 pounds, manufacturer's maximum gross vehicle weight rating, the dealer or lessor-retailer shall indicate on the form the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer. However, if the vehicle dealer or lessor-retailer has knowledge that the mileage displayed on the odometer is incorrect, the licensee shall indicate on the form the true mileage, if known, of the vehicle at the time of the transfer. A vehicle dealer or lessor-retailer need not give the notice when selling or transferring a new unregistered vehicle to a dealer or lessor-retailer.

(c) When the dealer or lessor-retailer is not in possession of the vehicle that is sold or transferred, the person in physical possession of the vehicle shall give the information required by subdivision (b).

(d) A "sale" shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement, and taken physical possession or delivery of that vehicle.

SEC. 44. Section 35790 of the Vehicle Code is amended to read:

35790. (a) The Department of Transportation or local authorities with respect to highways under their respective jurisdictions may, upon application in writing and if good cause appears, issue a special or annual permit in writing authorizing the applicant to move any trailer coach in excess of the maximum width but not exceeding 12 feet in width, except that the department or local jurisdictions may issue such permits for movement of mobilehomes which are, or factory-built housing which is, 14 feet in total width, exclusive of lights and devices provided for in Sections 35109, 35110, and 35112, upon any highway under the jurisdiction of the party granting the permit.

(b) A public agency, in the exercise of its discretion in granting permits for the movement of overwidth manufactured homes, and in considering the individual circumstances of each case, may use merchandising or relocation of residence as a basis for movement for good cause.

(c) (1) The application for a special permit shall specifically describe the manufactured home to be moved and the particular highways over which the permit to operate is requested.

(2) The application for an annual permit shall specifically describe the power unit to be used to tow the overwidth manufactured homes and the particular highways over which the permit to operate is requested. The annual permit shall be subject to all of the conditions of this section and any additional conditions imposed by the public agency.

(d) The Department of Transportation or local authority may establish seasonal or other time limitations within which a manufactured home may be moved on the highways indicated, and

may require an undertaking or other security as it deems necessary to protect the highways and bridges from injury or to provide indemnity for any injury resulting from the operation.

(e) Permits for the movement of manufactured homes under this section shall not be issued except to transporters or licensed manufacturers and dealers and only under the following conditions:

(1) The manufactured home for which the permit is issued shall comply with the provisions of Sections 35550 and 35551.

(2) In the case of a permit issued on an individual or repetitive trip basis, the applicant has first received the approval of a city or county if the trip will include movement on streets or highways under the jurisdiction of the city or county. The application for such a permit shall indicate the complete route of the proposed move and shall specify all cities and counties which have approved the move. This paragraph shall not be construed to require the Department of Transportation to verify the information provided by an applicant with respect to movement on streets or highways under local jurisdiction.

(3) It is a violation of any permit, which is issued by the Department of Transportation and which authorizes a move only on a state highway, for that move to be extended to a street or highway under the jurisdiction of a city or county unless the move has been approved by the city or county.

(f) The Department of Transportation, in cooperation with the Department of the California Highway Patrol, or the local authority may establish additional reasonable permit regulations as they may deem necessary in the interest of public safety, which regulations shall be consistent with this section.

(g) Every permit, the consent form as required by Section 18082 of the Health and Safety Code, and a copy of the tax clearance certificate, certificate of origin, or dealer's notice of transfer, when such certificate or notice is required to be issued, shall be carried in the manufactured home or power unit to which it refers and shall be open to inspection by any peace officer or traffic officer, any authorized agent of the Department of Transportation, or any other officer or employee charged with the care and protection of the highways.

(h) It is unlawful for any person to violate any of the terms or conditions of any permit.

(i) To the extent that the application of this section to highways which are a part of the National System of Interstate and Defense Highways (as referred to in subdivision (a) of Section 108 of the Federal-Aid Highway Act of 1956) would cause this state to be deprived of any federal funds for highway purposes, this section to that extent shall not be applicable to highways which are a part of that system.

SEC. 45. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose

of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 47. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 48. (a) It is the intent of the Legislature, if this bill and Assembly Bill No. 1400 are both chaptered, this bill repeals Section 18075.5 of, and adds Section 18085 to, the Health and Safety Code and Assembly Bill No. 1400 amends Section 18075.5 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 1400 that Section 18085 of the Health and Safety Code, as added by this bill, be further amended in the form set forth in Section 20 of this act to incorporate the changes in Section 18085 proposed by this bill. Therefore, Section 20 of this act shall become operative only if this bill and Assembly Bill No. 1400 are both chaptered and this bill is chaptered after Assembly Bill No. 1400; in which case, Section 20 of this act shall become operative at the time specified in Section 9 of Assembly Bill No. 1400 and Section 18085, as added to the Health and Safety Code by Section 3 of this act, shall be repealed on the same date.

(b) It is the intent of the Legislature, if this bill and Assembly Bill No. 1400 are both chaptered, this bill repeals Section 18076.4 of, and adds Section 18123.5 to, the Health and Safety Code and Assembly Bill No. 1400 amends Section 18076.4 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 1400 that Section 18123.5 of the Health and Safety Code, as added by this bill, be further amended in the form set forth in Section 21 of this act to incorporate the changes in Section 18123.5 proposed by this bill. Therefore, Section 21 of this act shall become operative only if this bill and Assembly Bill No. 1400 are both chaptered and this bill is chaptered after Assembly Bill No. 1400; in which case, Section 21 of this act shall become operative at the time specified in Section 9 of Assembly Bill No. 1400 and Section 18123.5, as added to the Health and Safety Code by Section 3 of this act, shall be repealed on the same date.

SEC. 49. It is the intent of the Legislature, if this bill and Assembly Bill 531 are both chaptered, and become effective January 1, 1982, and this bill is chaptered last, this bill adds Sections 18007, 18010, 18025, 18026, 18027, 18028, 18028.5, 18029, 18029.5, 18030, 18030.5, 18031.5, and 18032 to the Health and Safety Code and Assembly Bill 531 amends those sections as added by this bill, that those sections be further amended in the form set forth in Sections 4 to 16, inclusive, of this act to incorporate the changes in those sections proposed by both bills. Therefore Sections 4 to 16, inclusive, of this act shall become operative only if this bill and Assembly Bill

531 are both chaptered and this bill is chaptered after Assembly Bill 541.

SEC. 50. It is the intent of the Legislature, if this bill and Senate Bill 1172 are both chaptered and become effective January 1, 1982, and this bill is chaptered last, this bill repeals Section 18070 of, and adds Sections 18035 and 18059.5 to, the Health and Safety Code, and Senate Bill 1172 amends Sections 18035 and 18059.5 of the Health and Safety Code as added by this act and adds Section 18035.1 to, and amends Section 18070 of the Health and Safety Code, that the provisions of both bills be incorporated into Sections 18035, 18035.1, and 18059.5 of the Health and Safety Code in the form set forth in Sections 17, 18, and 19 of this act. Therefore, Sections 17, 18, and 19 of this act shall become operative only if this bill and Senate Bill 1172 are both chaptered and this bill is chaptered after Senate Bill 1172.

CHAPTER 976

An act to amend Section 13009 of the Health and Safety Code, and to amend Sections 4464, 4475, 4475.5, 4476, and 4491 of, and to add Section 4479 to, the Public Resources Code, relating to prescribed burning, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 13009 of the Health and Safety Code is amended to read:

13009. (a) Any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him to escape onto any forest, range, or nonresidential grass-covered land is liable for the expense of fighting the fire, and such expense shall be a charge against that person. Such charge shall constitute a debt of such person, and is collectable by the person, or by the federal, state, county, public, or private agency, incurring such expenses in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Any costs incurred by the Department of Forestry in suppressing any wildland fire originating or spreading from a prescribed burning operation conducted by the department pursuant to a contract entered into pursuant to Article 2 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code shall not be collectable from any party to the contract, including any private consultant or contractor who entered into an agreement with that party pursuant to subdivision (d) of Section 4475.5 of that code, as provided in

subdivision (a), to the extent that those costs were not incurred as a result of a violation of any provision of the contract.

SEC. 2. Section 4464 of the Public Resources Code is amended to read:

4464. Unless the context clearly requires otherwise, the following definitions govern the construction of this chapter:

(a) "Wildland" means any land that is classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of this part and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage.

(b) "Wildland fuel" means any timber, brush, grass, or other flammable vegetation, living or dead, standing or down.

(c) "Wildland fire" means any uncontrolled fire burning on wildland.

(d) "Prescribed burning" or "prescribed burning operation" means the planned application and confinement of fire to wildland fuels on wildland selected in advance of such application to achieve any specific objective and any necessary follow-up activities, such as revegetation and erosion control measures.

(e) "Prescribed burn crew" means personnel and firefighting equipment of the department that are prepared to contain fire set in a prescribed burning operation and to suppress any fire that escapes during a prescribed burning operation.

(f) "Person" means any natural person, firm, association, partnership, business trust, corporation, company, or combination thereof, or any public agency other than an agency of the federal government.

SEC. 3. Section 4475 of the Public Resources Code is amended to read:

4475. The director, with the approval of the Director of General Services, may enter into a contract for prescribed burning with the owner or any other person who has legal control of any property which is included within any wildland for any of the following purposes, or any combination thereof:

(a) Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels or removal of unwanted, unused, or deteriorated structures that are fire hazards by burning such fuels or structures.

(b) Watershed management.

(c) Range improvement.

(d) Vegetation management.

(e) Forest improvement.

(f) Wildlife habitat improvement

No contract may be entered into pursuant to this section unless the director determines that the public benefits estimated to be derived from the prescribed burning pursuant to the contract will be equal to or greater than the foreseeable damage that could result from the prescribed burning .

SEC. 4. Section 4475.5 of the Public Resources Code is amended to read:

4475.5. (a) The state may assume a proportionate share of the costs of site preparation and prescribed burning conducted pursuant to this article. The state's share of such costs shall bear the same ratio to the total costs of the operation as the public benefits bear to all public and private benefits to be derived from the prescribed burning operation, as estimated and determined by the director. In no event may the state's share of such costs exceed 90 percent of the total costs of the operation.

(b) The board shall adopt regulations establishing standards to be used by the director in determining the state's share of such costs and in determining whether, pursuant to Section 4475, the public benefits of a prescribed burning operation will equal or exceed the foreseeable damage therefrom.

(c) The determination of public and private benefits pursuant to this section shall reflect any substantial benefit to be derived from accomplishing any of the purposes specified in Section 4475 and the prevention of degradation of air quality.

(d) All or part of such costs to be borne by the person contracting with the department may be met by the value of materials, services, or equipment furnished by that person directly, or furnished by that person pursuant to an agreement with a private consultant or contractor, or furnished by a combination of both means, that are determined by the department to be suitable for the preparation for, and the conduct of, the prescribed burning operation.

SEC. 5. Section 4476 of the Public Resources Code is amended to read:

4476. Any contract which is entered into pursuant to this article shall do all of the following:

(a) Vest in the director the final authority to determine the time during which wildland fuel and structural fire hazards may be burned to minimize the risk of escape of a fire set in a prescribed burning operation and to facilitate maintenance of air quality.

(b) Clearly state the obligation of each party to such contract to provide, maintain, and repair equipment and indicate the number of each type of equipment to be provided and the duration of its availability.

(c) Designate an officer of the department as the fire boss with final authority to approve and amend the plan and formula applicable to the prescribed burning operation, to determine that the site has been prepared and the crew and equipment are ready to commence the operation, and to supervise the work assignments of departmental employees and all personnel furnished by the person contracting with the department until the prescribed burning is completed and all fire is declared to be out.

(d) Specify the duties of, and the precautions taken by, the person contracting with the department and any personnel furnished by that person.

(e) Provide that any personnel furnished by a person contracting with the department to assist in any aspect of site preparation or prescribed burning shall be an agent of that person for all purposes of worker compensation. However, any volunteer recruited or used by the department to suppress a wildland fire originating or spreading from a prescribed burning operation is an employee of the department for all purposes of worker compensation.

(f) Specify the value assigned to the materials, services, or equipment furnished by the person contracting with the department in lieu of payment of all or part of that person's share of the actual costs.

(g) Specify the total costs of the prescribed burning operation and the pro rata share thereof for each party to the contract. Any person contracting with the department shall, prior to the commencement of any work by the department, place on deposit in an interest-bearing escrow or trust account with a California-licensed financial institution an amount equal to that person's pro rata share of the costs, less the value of materials, services, or equipment specified pursuant to subdivision (e). Interest earned on the account shall accrue to the depositor and may be separately disbursed from the principal amount upon request of the depositor. Disbursement of funds on deposit in the trust or escrow account shall be authorized by the depositor within 15 days after completion, to the depositor's satisfaction, of all work specified in the contract to be done by the department.

(h) Provide that the department shall purchase a third party liability policy of insurance which provides coverage against loss resulting from a wildland fire sustained by any person or public agency, including the federal government. The amount of the policy shall be determined by the director. The policy shall name the person contracting with the department and the department as joint policy holders. The premium shall be included as a cost prorated as provided in subdivision (g). A certificate of insurance covering each policy shall be attached to or become a part of the contract.

SEC. 6. Section 4479 is added to the Public Resources Code, to read:

4479. Liability for any costs incurred by the department in suppressing any wildland fire originating or spreading from a prescribed burning operation conducted pursuant to a contract entered into pursuant to this article shall be governed by subdivision (b) of Section 13009 of the Health and Safety Code.

SEC. 7. Section 4491 of the Public Resources Code is amended to read:

4491. Cooperation by the department, as provided in this article, with any person desiring to use prescribed burning as a means of converting brush-covered lands into forage lands, which has as its objective prevention of high intensity wildland fires, watershed management, range improvement, vegetation management, forest improvement, wildlife habitat improvement, and maintenance of air

quality, or any combination thereof, is declared to be for a public purpose.

This article shall be administered by the director or, if responsibility therefor is delegated by the director, by the chief of a county fire department in a county contracting with the department pursuant to the provisions of Section 4142.

In furtherance of the provisions of this article, the department shall provide advisory service to applicants for permits as to precautions to be taken by the applicant to prevent damage to the property of others by reason of the prescribed burning, and shall provide standby fire protection, to such extent as personnel, fire crews, and firefighting equipment are available.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may be applicable to contracts entered into for the 1981 prescribed burning season, it is necessary that this act take effect immediately.

CHAPTER 977

An act to add Section 19901 to the Health and Safety Code, relating to housing.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 19901 is added to the Health and Safety Code, to read:

19901. Notwithstanding any other provision of law, no public agency which owns and operates rental housing accommodations, shall prohibit the keeping of not more than two pets by the elderly in such rental housing accommodations.

For the purposes of this section:

(a) "Elderly" means any person over the age of 60.

(b) "Pet" means domesticated dog, cat, bird, or aquarium.

(c) "Public" means state, county, city, city and county, district, or other political subdivision of the state.

Nothing in this section shall prevent the local housing authority from requiring the removal from any housing of any pet whose conduct or condition is duly determined to constitute a threat or nuisance to the other occupants of the housing. No pet may be kept in violation of humane or health laws.

Nothing in this section shall prevent the public agency from adopting reasonable regulations relating to limitations on use of

common areas by any such pets; prevent the adoption of differing terms for the tenancy which are reasonably related to the presence of such pet; or relieve a tenant from any liability otherwise imposed by law for damages caused by such pet when proof of same exists.

CHAPTER 978

An act to add and repeal Section 40304.5 of the Vehicle Code, relating to traffic infraction warrants.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 40304.5 is added to the Vehicle Code, to read:

40304.5. Notwithstanding any other provision of law, whenever any person is taken into custody for bail to be collected on four or fewer outstanding warrants for failure to appear on a citation for a parking offense or a traffic infraction, he shall be provided the opportunity immediately to post bail, and he shall not be booked, photographed, or fingerprinted, nor shall an arrest record be made, when the amount of bail required to be paid on the warrant may be ascertained by reference to the face thereof or to a fixed schedule of bail, unless and until all of the following requirements have been exhausted:

(a) If the person has sufficient cash in his possession, he shall be given the opportunity immediately to post bail with the person in charge of the jail or his designee.

(b) If the person does not have sufficient cash in his possession, he shall be informed of his right and given the opportunity to all of the following:

(1) Make not less than three completed telephone calls to obtain bail.

(2) Have not more than fifty cents ($0.50) of change advanced against bail, or have his own funds changed, in order to operate a pay telephone.

(3) Have not less than two hours in which to arrange for the deposit of bail.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not

result in additional net costs.

CHAPTER 979

An act to amend Section 1100.1 of the Insurance Code, relating to loans by insurers.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 1100.1 of the Insurance Code is amended to read:

1100.1. Every admitted incorporated insurer may under a certificate of authority issued pursuant to the provisions of Article 3 (commencing with Section 699), engage in this state in the type of loan transactions otherwise permitted by law without obtaining any other license or certificate.

Pursuant to the authority contained in Section 1 of Article XV of the State Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligation of, loans made by, or forbearances of, any incorporated admitted insurer.

This section creates and authorizes incorporated admitted insurers as an exempt class of persons pursuant to Section 1 of Article XV of the Constitution.

SEC. 2. This act shall become operative only if Assembly Bill 1146 is chaptered and becomes operative on or before January 1, 1982.

CHAPTER 980

An act to add Section 1021.7 to the Code of Civil Procedure, relating to peace officers, and making an appropriation therefor.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 1021.7 is added to the Code of Civil Procedure, to read:

1021.7. In any action for damages arising out of the performance of a peace officer's duties, brought against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or against a public entity employing a peace officer or in an action for libel or slander brought pursuant to Section 45 or

46 of the Civil Code, the court may, in its discretion, award reasonable attorney's fees to the defendant or defendants as part of the costs, upon a finding by the court that the action was not filed or maintained in good faith and with reasonable cause.

CHAPTER 981

An act to add Title 3.5 (commencing with Section 1882) to Part 4 of the Civil Code, relating to utility services.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Title 3.5 (commencing with Section 1882) is added to Part 4 of the Civil Code, to read:

TITLE 3.5 UTILITY SERVICES

1882. Unless the context requires otherwise, the following definitions govern the construction of this title:

(a) "Customer" means the person in whose name a utility service is provided

(b) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(c) "Person" means any individual, any partnership, firm, association, or corporation.

(d) "Reconnection" means the commencement of utility service to a customer or other person after service has been lawfully discontinued by the utility.

(e) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise to prevent from performing normal or customary function

(f) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code and includes any electrical, gas, or water system operated by any public agency.

(g) "Utility service" means the provision of electricity, gas, water, or any other service or commodity furnished by the utility for compensation

1882 1. A utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts:

(a) Diverts, or causes to be diverted, utility services by any means whatsoever.

(b) Makes, or causes to be made, any connection or reconnection with property owned or used by the utility to provide utility service

without the authorization or consent of the utility.

(c) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(d) Tampers with any property owned or used by the utility to provide utility services.

(e) Uses or receives the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use, or that the use or receipt, was without the authorization or consent of the utility.

1882.2. In any civil action brought pursuant to Section 1882.1, the utility may recover as damages three times the amount of actual damages, if any, plus the cost of the suit and reasonable attorney's fees.

1882.3. There is a rebuttable presumption that there is a violation of Section 1882.1 if, on premises controlled by the customer or by the person using or receiving the direct benefit of utility service, there is either, or both, of the following:

(a) Any instrument, apparatus, or device primarily designed to be used to obtain utility service without paying the full lawful charge therefor.

(b) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.

1882.4. A utility may, in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin and restrain any of the acts specified in Section 1882.1.

The utility may, in the same action, seek damages for any of the acts specified in Section 1882.1.

1882.5. It is not a necessary prerequisite to an action pursuant to Section 1882.4 that the utility have suffered, or be threatened with, monetary damages.

1882.6. Any damages recovered pursuant to this title in excess of the actual damages sustained by the utility may be taken into account by the Public Utilities Commission or other applicable ratemaking agency in establishing utility rates.

CHAPTER 982

An act to amend Sections 39510, 39511, 39515, 39806, and 39808 of, and to add Sections 39510.5, 39512.5, 39517, and 39806.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 39510 of the Health and Safety Code is amended to read:

39510. (a) The State Air Resources Board is continued in existence in the Resources Agency. The state board shall consist of seven members.

(b) The members shall be appointed by the Governor with the consent of the Senate on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems, and four members shall have the following qualifications·

(1) One member shall have training and experience in automotive engineering or closely related fields.

(2) One member shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture, or law.

(3) One member shall be a physician and surgeon or an authority on health effects of air pollution.

(4) One member shall be a public member.

(c) Three members shall be locally elected officials from the districts. The members shall reflect the qualitative requirements of subdivision (b) to the extent practicable.

(1) Of these three members, two shall be board members from the South Coast Air Quality Management District, the Bay Area Air Quality Management District, or the San Diego Air Pollution Control District. Membership on the board shall be rotated among the three districts on an annual basis. For 1982, the South Coast Air Quality Management District and Bay Area Air Quality Management District board members shall be appointed to the state board. In 1983, a San Diego Air Pollution Control District board member shall replace the Bay Area Air Quality Management District board member. In 1984, a Bay Area Air Quality Management District board member shall replace the South Coast Air Quality Management District board member. In subsequent years, the same pattern of rotation shall be followed.

(2) Of these three members, one shall be a board member of one of the other districts.

(d) Any vacancy shall be filled by the Governor within 30 days of the date on which it occurs. If the Governor fails to make an appointment for any vacancy within the 30-day period, the Senate Rules Committee may make the appointment to fill the vacancy in accordance with the provisions of this section.

(e) While serving on the state board, all members shall exercise their independent judgment as officers of the state on behalf of the interests of the entire state in furthering the purposes of this division

No member of the state board shall be precluded from voting or otherwise acting upon any matter solely because that member has voted or acted upon the matter in his or her capacity as a member of a district board, except that no member of the state board who is also a member of a district board shall participate in any action regarding his or her district taken by the state board pursuant to Sections 41503 to 41505, inclusive.

SEC. 1.5. Section 39510.5 is added to the Health and Safety Code, to read:

39510.5. It is the intent of the Legislature to provide, to the maximum extent possible, for a smooth transition and continuity of the state board.

(a) With respect to four members appointed pursuant to subdivision (b) of Section 39510, the Governor shall appoint the persons qualified for membership from those persons who on October 1, 1981, were serving as a member of the state board, unless the person is not available for the appointment.

(b) With respect to appointments made pursuant to subdivision (c) of Section 39510, the position to be filled by an elected public official who is not from a designated district may be a person who on October 1, 1981, was serving as a member of the state board and was not appointed pursuant to subdivision (a).

SEC. 2. Section 39511 of the Health and Safety Code is amended to read:

39511. (a) The Governor shall appoint the chairperson, who shall serve at the pleasure of the Governor, from among the members of the state board, and shall serve as the principal advisor to the Governor on, and shall assist the Governor in establishing, major policy and program matters on environmental protection The chairperson shall also serve as the principal communications link for the effective transmission of policy problems and decisions to the Governor relating to the activities of the State Water Resources Control Board and the State Solid Waste Management Board, in addition to serving as the Governor's chief air quality policy spokesperson.

(b) The chairperson shall serve full time.

SEC. 2.5. Section 39512 5 is added to the Health and Safety Code, to read:

39512.5. (a) With respect to the members appointed pursuant to subdivision (c) of Section 39510, those members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for expenses is not otherwise provided or payable by another public agency or agencies. Each elected public official member of the state board shall receive one hundred dollars ($100) for each day, or portion thereof, but not to exceed one thousand dollars ($1,000) in any month, attending meetings of the state board or committees thereof, or upon authorization of the state board while on official business of the state board

(b) Reimbursements made pursuant to subdivision (a) shall be made by the district from which the person qualified for membership. The district may use subvention funds available to it from the air pollution control subvention program pursuant to Chapter 5 (commencing with Section 39800) for the purposes of this section.

SEC. 3. Section 39515 of the Health and Safety Code is amended to read:

39515. (a) The state board shall appoint an executive officer who shall serve at the pleasure of the state board and, except as provided in subdivision (d), may delegate any duty to the executive officer which the state board deems appropriate.

(b) The intention of the Legislature is hereby declared to be that the executive officer shall perform and discharge, under the direction and control of the state board, the powers, duties, purposes, functions, and jurisdiction vested in the state board and delegated to the executive officer by the state board.

(c) The state board shall, upon the receipt of a petition from any affected member of the public, affected district, or designated air quality planning agency, hold a public hearing to review any action taken by the executive officer relating to any of the following:

(1) Making any order pursuant to Section 41507, 41602, or 41603.

(2) Taking action pursuant to Section 41650, 41651, or 41652.

(d) Any action taken by the executive officer pursuant to Section 40469 or Sections 41503 to 41505, inclusive, shall be subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 39517 is added to the Health and Safety Code, to read:

39517. The district shall be given notice and the opportunity to act before any rule or regulation is adopted by the state board for the district pursuant to Section 41502.

SEC. 5. Section 39806 of the Health and Safety Code is amended to read:

39806. (a) Money shall be subvened pursuant to this chapter to districts engaged in the reduction of air contaminants pursuant to the basinwide air pollution control plan and related implementation programs.

When the state board finds, pursuant to a resolution from the district board, or upon completion of proceedings conducted by the state board pursuant to Sections 39806.5 and 41500, that the district is not so engaged in the reduction of air contaminants, the subvention, or a portion thereof, which would have been allocated to such district pursuant to Section 39802, 39803, or 39804, plus such additional sum as may be necessary, if moneys are available from appropriations for the purposes of this chapter, shall be allocated to the state board itself to carry out the approved plan or program.

(b) The findings of the state board shall be based on criteria established by the state board jointly with the districts for the

evaluation of such plans and programs. The criteria shall be less stringent for rural districts, shall be based upon the differences in urban and rural air quality problems, population, and available resources, and shall recognize the transport of air pollutants from metropolitan areas to rural areas.

(c) If the state board acts under this section pursuant to a resolution of the district board, it may do so without proceeding under Sections 39806.5 and 41500.

SEC. 6. Section 39806.5 is added to the Health and Safety Code, to read:

39806.5. (a) Before taking any action pursuant to Sections 39806 and 39808, the state board shall hold a public hearing within the air basin affected, upon a 45-day written notice given to the basinwide air pollution control council, if any, the affected districts, the affected air quality planning agencies, and the public.

(b) In addition to any other statutory requirements, interested persons shall have the right, at the public hearing to present oral and written evidence and to question and solicit testimony of qualified representatives of the state board on the matter being considered. The state board may, at the public hearing, place reasonable limits on the right to question and solicit testimony.

(c) If, after conducting the public hearing required by subdivision (a), the state board determines to take action pursuant to any section enumerated in subdivision (a), the state board shall, based on the record of the public hearing, adopt written findings which explain the action to be taken by the state board, why the state board decided to take the action, and why the action is authorized by, and meets the requirements of, the statutory provisions pursuant to which it was taken. In addition, the findings shall address the significant issues raised or written evidence presented by interested persons or the staff of the state board. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the state board.

(d) Subdivisions (a), (b), and (c) shall be applicable to the executive officer of the state board acting pursuant to Section 39515, or to his delegates acting pursuant to Section 39516, with respect to any action taken pursuant to any section enumerated in subdivision (a).

SEC. 7. Section 39808 of the Health and Safety Code is amended to read:

39808. The state board may review, as it deems necessary, the programs and expenditures by each district receiving a subvention under this chapter to ascertain that the funds budgeted from nonstate sources are in fact being expended substantially in accordance with the budget on which the subvention was based. Where the state board finds that the funds are not being so expended, the state board may, after a public hearing held pursuant to Section 39806.5 do any of the following:

(a) Cease any further payments under the subvention.

(b) Withhold future subventions.

(c) Bring an action against the district, or the counties or cities supporting the district, to recover the subvention paid that fiscal year.

(d) Assume the powers of the district after it has held a public hearing upon a 45-day written notice given to the basinwide air pollution control council, if there is such a council, and to the affected districts.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 983

An act to amend Section 11349 of, and to add Sections 11346.11, 11346.51, and 11346.81 to, the Government Code, relating to state administrative regulations.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 11346.11 is added to the Government Code immediately following Section 11346.1, to read:

11346.11. In addition to the requirements of subdivision (b) of Section 11346.1:

(a) The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

(b) The statement and the regulation or order of repeal shall also be filed immediately with the Office of Administrative Law.

Any statutory reference to subdivision (b) of Section 11346.1 shall be construed to also be a reference to this section.

SEC. 2. Section 11346 51 is added to the Government Code immediately following Section 11346.5, to read:

11346.51. In addition to the requirements of paragraph (3) of subdivision (a) of Section 11346.5, if the proposed action differs substantially from an existing comparable federal regulation or statute, the informative digest shall also include a brief description of the significant differences and the full citation of the federal regulations or statutes.

Any statutory reference to paragraph (3) of subdivision (a) of Section 11346.5 shall be construed to also be a reference to this section.

SEC. 3. Section 11346.81 is added to the Government Code

immediately following Section 11346.8, to read:

11346.81. In addition the provisions of Section 11346.8, no state agency shall, after the close of the public hearing, add any material to the record of the rulemaking proceeding, unless adequate provision is made for public comment on that material.

Any statutory reference to Section 11346.8 shall be construed to also be a reference to this section.

SEC. 4. Section 11349 of the Government Code is amended to read:

11349. The following definitions shall govern the interpretation of this chapter:

(a) "Necessity" means the need for a regulation as demonstrated in the record of the rulemaking proceeding and that a regulation does not serve the same purpose as another regulation. This standard requires that an agency proposing to adopt any new regulation must identify any other state regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing laws.

(e) "Reference" means the statute, court decision or other provision of law which the agency implements, interprets or makes specific by adopting, amending or repealing a regulation.

SEC. 5. Section 11349 of the Government Code is amended to read:

11349. The following definitions shall govern the interpretation of this chapter:

(a) "Necessity" means: the need for a regulation as demonstrated in the record of the rulemaking proceeding; a demonstration by the agency that there is no alternative approach among the alternatives considered during the rulemaking proceeding which would be as effective and less burdensome to affected private persons and entities; and that a regulation does not serve the same purpose as another regulation. This standard requires that an agency proposing to adopt any new regulation must identify any other state regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing laws.

(e) "Reference" means the statute, court decision or other

provision of law which the agency implements, interprets or makes specific by adopting, amending or repealing a regulation.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 1745 are both chaptered and become effective January 1, 1982, both bills amend Section 11349 of the Government Code, and this bill is chaptered after Assembly Bill 1745, that the amendments to Section 11349 proposed by both bills be given effect and incorporated in Section 11349 in the form set forth in Section 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill 1745 are both chaptered and become effective January 1, 1982, both amend Section 11349, and this bill is chaptered after Assembly Bill 1745, in which case Section 4 of this act shall not become operative.

SEC. 7. Assembly Bill 1014 of the 1981–82 Regular Session of the Legislature would, through amendments to Sections 11346.1, 11346.5, and 11346.8 of the Government Code, make the same changes in the law as Sections 1, 2, and 3 of this bill would make by adding to the Government Code, Sections 11346.11, 11346.51, and 11346.81. It is the intent of the Legislature that if both this bill and AB 1014 are chaptered and become effective on January 1, 1982, and this bill is chaptered after AB 1014, that the redundant provisions which would be added by this bill not become operative. Therefore, if both this bill and AB 1014 are chaptered and become effective on January 1, 1982, and this bill is chaptered after AB 1014, Sections 11346.11, 11346.51, and 11346.81, as proposed to be added by Sections 1, 2, and 3, respectively, of this act to the Government Code, shall not become operative.

CHAPTER 984

An act to amend Sections 4460, 40652, 40675, 40676, 40690, 40691, 40701, 40714, 40715, 40718, and 40719 of, and to add Sections 40706 and 40715.5 to, the Vehicle Code, relating to traffic adjudication, and making an appropriation therefor.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 4460 of the Vehicle Code is amended to read:

4460. The Department of Motor Vehicles, the Traffic Adjudication Board, and the Department of the California Highway Patrol or any regularly employed and salaried police officer or deputy sheriff may take possession of any certificate, card, permit, license, or license plate issued under this code upon expiration, revocation, cancellation, or suspension thereof or which is fictitious

or which has been unlawfully or erroneously issued. Any license plate which is not attached to the vehicle for which issued, when and in the manner required under this code may be seized, and attachment to the proper vehicle may be made or required.

Any such document or license plate seized shall be delivered to the Department of Motor Vehicles.

SEC. 2. Section 40652 of the Vehicle Code is amended to read:

40652. For the purpose of this chapter, the following terms shall have the following meanings, unless the context clearly requires otherwise:

(a) "Admission" means that the party charged with a traffic safety violation admits to having committed the traffic safety violation.

(b) "Admission with explanation" means that the party charged with a traffic safety violation admits to having committed the traffic safety violation, but demands an informal hearing in order to explain the surrounding circumstances so as to mitigate the sanctions that may be imposed pursuant to this chapter.

(c) "Board" means the Traffic Adjudication Board.

(d) "Denial" means that the person charged with a traffic safety violation denies all or part of the traffic safety violation alleged in the notice to appear and demands a full hearing.

(e) "Denial with waiver of full hearing" means that the person charged with a traffic safety violation denies all or part of the traffic safety violation alleged in the notice to appear and demands an informal hearing.

(f) "Full hearing" is a hearing at which the person charged with a traffic safety violation, the citing officer, and any witnesses are present.

(g) "Hearing officer" means a person authorized by the board to conduct hearings pursuant to this chapter.

(h) "Informal hearing" means that the person charged with a traffic safety violation waives the right to confront the citing officer and any witnesses. The waiver shall include a stipulation by the person charged that the information appearing on the notice to appear, or on the complaint in the event of an arrest by a private person, may be received as evidence with the same effect as if the officer or such private person were present to testify.

(i) "Monetary sanction" is a sanction imposed for the purpose of modifying and improving driver behavior and traffic safety. "Monetary sanction" does not include moneys collected as a penalty assessment.

(j) "No contest" means the person charged with a traffic safety violation neither admits nor denies the traffic safety violation alleged in the notice to appear. For procedural purposes, a no contest answer shall have the same effect as an admission. The no contest answer may not be used as an admission in any subsequent civil action

(k) "Penalty assessments" are moneys collected as provided in Section 42050.

(l) "Traffic adjudication office" is a location designated by the

board for the conduct of administrative hearings pursuant to this chapter.

(m) "Traffic safety violation" includes any act or omission which constitutes an infraction, as specified in this code or under any local ordinance or resolution, or any rule or regulation of a state agency, adopted pursuant to this code. A finding that a traffic safety violation has occurred is an administrative violation and shall not be deemed an adjudication of a crime. Nothing in this chapter shall be construed to mean that an act which constitutes a traffic safety violation is not also a crime.

SEC. 3. Section 40675 of the Vehicle Code is amended to read:

40675. (a) Except as provided in Section 40752, whenever any person is arrested for any violation which is both an infraction and a traffic safety violation pursuant to this chapter, the citing officer shall issue a notice to appear before a hearing officer for the adjudication of the traffic safety violation if the violation was committed within a municipal court district. The notice to appear shall contain, when available, the name, address, and driver's license number of the person to whom the notice to appear is issued, the license number of any vehicle involved, and the name and address of the registered owner or lessee of the vehicle. The notice shall specify the traffic safety violation alleged to have been violated and the circumstances surrounding such violation. The notice may specify the time and place the cited person is required to appear before a hearing officer, if the person desires a full hearing. The consequences for failing to appear or answer, and the various answer options available, shall be set forth either on the notice or on a form accompanying the notice. The applicable monetary sanctions, and penalty assessments, may be set forth on a form sent to the cited person by first-class mail. The notice or the mailed form shall also state that, when additional nonmonetary sanctions may be imposed, a personal appearance will be required. The notice or the form accompanying the notice shall also state that a person cited may request that the matter be adjudicated as an infraction by a court.

(b) Every notice to appear alleging a speeding violation that is a traffic safety violation shall specify the approximate speed at which the driver is alleged to have driven, the maximum or prima facie speed limit applicable to the highway at the time and place of the alleged violation, and any other speed limit alleged to have been exceeded that is applicable to the particular type of vehicle or combination of vehicles operated by the cited person.

(c) If the cited person refuses to sign the notice to appear before a hearing officer pursuant to this chapter, the citing officer shall proceed in the manner provided pursuant to Chapter 2 (commencing with Section 40300) relating to the arrest of a person for a traffic infraction.

SEC. 4. Section 40676 of the Vehicle Code is amended to read:

40676. The time for a hearing shall be at least 21 calendar days after the notice to appear is issued.

SEC. 5. Section 40690 of the Vehicle Code is amended to read:

40690. Notwithstanding any other provision of law, any person under the age of 18, alleged to have committed a traffic safety violation, shall be subject to adjudication pursuant to the provisions of this chapter and the rules and regulations of the board. The board may, by rule or regulation, request the person having custody or control of any person under 18 years of age to accompany such person. The board shall notify the person having custody or control of the cited minor of the nature of the offense and of the minor's right to request that the matter be adjudicated as an infraction by a court.

SEC. 6. Section 40691 of the Vehicle Code is amended to read:

40691. (a) Any person who receives a notice to appear for a traffic safety violation shall answer such notice by mail postmarked within 21 days of the date of the alleged violation or by personal appearance at a traffic adjudication office within 21 days of the date of the alleged violation, in the manner provided in this chapter.

(b) A person alleged to have committed a traffic safety violation shall have the following answer options:

(1) Admission.

(2) Admission with explanation.

(3) Denial.

(4) Denial with waiver of full hearing.

(5) No contest.

The terms and conditions under which a person may amend an answer shall be prescribed by rules and regulations of the board.

(c) Notwithstanding the provisions of subdivision (b), the board may prescribe terms and conditions under which the answer option of denial with waiver of full hearing may be exercised. The terms and conditions shall be prescribed by rules and regulations of the board. Any terms and conditions shall be reported to the Legislature as part of the board's annual report.

(d) If the person admits to the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, as prescribed by the board, and forward the form to the local traffic adjudication area processing center specified on the answer form. A check or money order in the amount of the monetary sanction and penalty assessment for the traffic safety violation alleged, if specified on the answer form, shall be submitted with each such answer. Such answer may not be accepted by mail if the admission will result in the assignment of a point or points pursuant to Section 12810, with the result that the person's driving record will show three or more points within a 12-month period, four or more points within a 24-month period, or five or more points within a 36-month period unless the board determines otherwise based on traffic safety implications or geographical considerations. In addition, the board may require a cited person to appear before a hearing officer to answer to a notice to appear when the board determines that to do so is in the interest of traffic safety.

(e) If the person denies part or all of the traffic safety violation

alleged in the notice to appear, the person shall complete an appropriate answer form, as prescribed by the board, and forward the form to the local traffic adjudication area processing center specified on the answer form. A check or money order in the amount of the monetary sanction and penalty assessment for the traffic safety violation alleged may be submitted with such answer. Upon receipt, such answer shall be recorded. The board may change the date, time, and place of appearance in the interests of justice. The local traffic adjudication area processing center shall notify such person by mail of the new date, time, and place of such hearing.

(f) If the person desires to answer with either an admission with explanation or a denial with waiver of full hearing, such answer shall be made within 21 days. The informal hearing may be heard on the day of the answer.

(g) If the person desires to neither admit nor deny the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, indicating no contest, as prescribed by the board, and forward such form to the local traffic adjudication area processing center specified on the answer form. A check or money order in the amount of the monetary sanction, and penalty assessments, for the traffic safety violation alleged if specified on the answer form, shall be submitted with such answer. This answer shall be treated the same as an admission and shall be recorded in the same manner in the person's driving record. Such answer may be accepted by mail but is subject to the exception set forth in subdivision (d). Such answer shall constitute a waiver of the right to a full hearing.

SEC. 7. Section 40701 of the Vehicle Code is amended to read:

40701. (a) In addition to any other authority vested in the board, the board or hearing officer may suspend or revoke the driving privilege and order surrender of the driver's license of any person who fails to answer, appear, or otherwise comply with the requirements of the notice to appear or any order of the board or hearing officer. Such suspension or revocation shall continue until the person has complied with all of the orders of the board or hearing officer. A suspension for failure to comply with the requirements of the notice to appear shall not be effective any sooner than 45 days from the date of receipt, by first-class mail, of the notice of suspension. At the termination of the suspension or revocation, a fee to be established by the board, not to exceed twenty dollars ($20), shall be paid to the board in addition to any other fees required by this code, in order to reimburse the board's costs and to encourage timely compliance with board requirements, thereby contributing to the program's traffic safety objectives.

(b) When a citation has been issued pursuant to Section 40001, the board shall notify the department if the cited person has failed to answer, appear, or otherwise comply with the requirements of the notice to appear or any order of the board or hearing officer. The department may then refuse registration renewal of the cited

vehicle until the cited person has complied with the board's requirements

SEC. 8. Section 40706 is added to the Vehicle Code, to read:

40706. (a) Notwithstanding any other provisions of this code, when a notice of violation is issued pursuant to Section 40600 and delivered pursuant to Section 40602, the board shall notify the department if the cited person has failed to answer, appear, or otherwise comply with the requirements of the notice of violation. The department shall refuse issuance or renewal of the driving privilege unless the cited person has complied with the board's requirements. Otherwise, the provisions of this chapter shall apply to the notice of violation.

(b) Notwithstanding any other provisions of this code, when a notice to appear is issued pursuant to Section 40001, and the written notice to appear has been mailed to an owner of a vehicle or other person referred to in Section 40001, the provisions of this chapter shall apply to the notice to appear.

SEC. 9. Section 40714 of the Vehicle Code is amended to read:

40714. The fee for filing an appeal shall be ten dollars ($10) to reimburse the board's costs. The board may waive the filing fee for indigent appellants The standards for determining indigency shall be prescribed by rules and regulations of the board.

SEC. 10. Section 40715 of the Vehicle Code is amended to read:

40715. (a) A written transcript of the record of any hearing may be obtained at cost by the appellant. A deposit fee of twenty dollars ($20) shall be paid before preparation of a written transcript will be initiated. Any additional costs incurred shall be collected from the appellant prior to delivery of such transcript and any excess amount deposited shall be returned. These fees are to reimburse the board's costs.

(b) Notwithstanding subdivision (a) of this section, the board may waive all appropriate transcript fees for indigent appellants. The standards for determining indigency shall be prescribed by rules and regulations of the board.

SEC. 11. Section 40715.5 is added to the Vehicle Code, to read:

40715.5. (a) On appeals the board may designate certain of its appellate decisions as precedents. The board may, on its own motion, reconsider a previously issued decision solely to determine whether or not the decision shall be designated as a precedent decision. The designation of precedent decisions by the board shall be by a majority vote of its appointed members. The hearing officer shall be controlled by the precedent decisions, except as modified by judicial review.

(b) All decisions designated as precedent decisions shall be reduced to writing and published in a manner as to make them available for public use. The board may charge a reasonable price for copies of the precedent decisions, as the board may determine is necessary to defray the cost of their publication and distribution.

(c) Any interested person or organization may bring an action for

declaratory relief in the superior court in accordance with the Code of Civil Procedure to obtain judicial declaration as to the validity of any precedent decision of the board.

(d) If the final judgment of a court of competent jurisdiction reverses or declares invalid a precedent decision of the board issued under this section, the board shall promptly modify the precedent decision to conform in all respects to the judgment of the court. The modified precedent decision shall supersede the prior precedent decision for all purposes. The board shall promptly notify the hearing officers and all other subscribers to the precedent decisions of the modified precedent decision.

SEC. 12. Section 40718 of the Vehicle Code is amended to read:

40718. An order amending, modifying, or reversing the decision of the hearing officer shall be in writing and copies thereof shall be sent by first-class mail or delivered personally to the appellant. The board shall direct the department to take such further action as is required in the circumstances, and all fees and costs and any monetary sanction paid by the appellant shall be ordered to be returned when appropriate. The effective date of the order shall be as stated therein, but shall not be later than 15 days after the mailing of the order.

SEC. 13. Section 40719 of the Vehicle Code is amended to read:

40719. An order affirming the decision of the hearing officer shall be in writing and copies thereof shall be sent by first-class mail or delivered personally to the appellant. The effective date of the order shall be as stated therein, but shall not be later than 15 days after the mailing of the order, and no reconsideration or rehearing may be permitted thereafter.

CHAPTER 985

An act to add Section 11927 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 11927 is added to the Revenue and Taxation Code, to read:

11927. (a) Any tax imposed pursuant to this part shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation,

by a judgment of nullity, or by any other judgment or order rendered pursuant to Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

(b) In order to qualify for the exemption provided in subdivision (a), the deed, instrument, or other writing shall include a written recital, signed by either spouse, stating that the deed, instrument, or other writing is entitled to the exemption.

CHAPTER 986

An act to amend Sections 256 and 351 of, and to add Sections 399, 438, and 477 to, the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to the Monterey Peninsula Water Management District.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 256 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 256. The board may by ordinance adopt reasonable rules and regulations to carry out its powers and duties not inconsistent with this or any other law, and may amend, suspend, or repeal such rules and regulations at pleasure. A violation of a district ordinance is a misdemeanor, which offense is subject to the provisions of subdivision (d) of Section 17 of the Penal Code.

SEC. 2. Section 351 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 351. On the second Tuesday in February of each year the annual report shall be delivered to the clerk of the district. The clerk shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of such report and of the public hearing to be held on the second Monday in March in a newspaper of general circulation published or circulated within the district, at least 10 days prior to the date at which the public hearing regarding such report shall be held. Such notice, among other information which the district may provide therein, shall contain an invitation to all operators of water-producing facilities within the district and to any person interested in the district's activities in the protection and augmentation of the water supplies of the district to call at the offices of the district to examine such report. There shall be held on the

second Monday of March of each year, in the chambers of the board, a public hearing at which time any operator of a water-producing facility within the district, or any person interested in the district's activities in the protection and augmentation of the water supplies of the district, may in person, or by representative, appear and submit evidence concerning the subject of such written report.

SEC. 3. Section 399 is added to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), to read.

Sec. 399. Notwithstanding any other provision of law, the board of directors is hereby authorized and empowered to let to any person, firm, or corporation, for a term not to exceed 40 years, any real property which belongs to the district; provided, that the use to which such property will be put, after construction thereon, is consistent with the use or purposes contemplated upon the original acquisition of such property or to which such property has been dedicated. Property leased pursuant to this section may be used for purposes inconsistent with the use or purposes contemplated upon the original acquisition of such property by the district or to which such property has been dedicated if the property has belonged to the district for 10 years and such use or purposes have been abandoned.

Any instrument by which such property is let as aforesaid shall require the lessee therein to construct on the demised premises a building or buildings for the use of the district during the term thereof, shall provide that title to such building shall vest in the district at the expiration of the term, and shall contain such other terms and conditions as the board of directors may deem to be in the best interests of the district.

SEC. 4. Section 438 is added to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), to read:

Sec. 438. (a) The board of directors of the district may, by ordinance, provide a procedure for the levy of a benefit assessment on each parcel of real property within any zone in an amount sufficient to pay the cost of carrying out, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or projects established or to be established within or on behalf of such zone, except that the board shall not impose an assessment upon a federal or state governmental agency or another local agency.

(b) The revenue derived from the benefit assessment may be in lieu of, or supplemental to, revenue obtained by the levy of ad valorem taxes.

(c) The amount of the benefit assessment imposed on any parcel of property shall be determined on the basis of estimated benefit to the property.

(d) For any year in which the board proposes to impose a benefit assessment, the board shall cause to be prepared a written report which shall contain a description of each parcel of real property proposed to be subject to the benefit assessment and the amount of

the proposed assessment for each parcel. The report shall be filed with the clerk of the district.

(e) Upon the filing of such report, the clerk shall fix a time, date, and place for hearing thereon and for filing objections or protests thereto. The clerk shall publish notice of such hearing as provided in Section 6066 of the Government Code, prior to the date set for hearing, in a newspaper of general circulation printed and published in the district.

(f) At the time, date, and place stated in the notice, the board of directors shall hear and consider all objections or protests, if any, to the report and may continue the hearing from time to time. Upon conclusion of the hearing, the board of directors may adopt, revise, change, reduce, or modify any proposed assessment and shall make its determination upon each assessment as described in the report and thereafter, by resolution, shall confirm the report.

(g) No assessment authorized by this section may be imposed to pay the costs of any work or project approved after the effective date of this section at an election conducted pursuant to Article 2 (commencing with Section 471) of Chapter 8 of this part, unless at such election the question of imposing such a benefit assessment is also submitted to the voters and approved by a majority of those voters voting on the question.

(h) Whenever the board proposes to impose a benefit assessment to pay the costs of any work or project approved prior to the effective date of this section pursuant to Article 2 (commencing with Section 471) of Chapter 8 of this part, the board shall, for the first year in which the assessment is proposed to be levied, adopt the proposed assessment by ordinance. Such ordinance shall be subject to referendum.

(i) The board may provide for the collection of the benefit assessment at the same time, in the same manner, and subject to the same penalties and procedure for sale in the case of delinquencies, as the general taxes levied by the county. All laws applicable to the levy, collection, and enforcement of county ad valorem property taxes shall be applicable to such benefit assessment; except that, if for the first year such assessment is levied the real property to which such assessment relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, the assessment confirmed pursuant to this section shall not result in a lien against such real property but instead shall be transferred to the unsecured roll for collection.

(j) Whenever a railroad, gas, water, or electric utility right-of-way or electric line right-of-way is included within such zone, the railroad, gas, water, or electric utility right-of-way or electric line right-of-way shall be subject to the assessments authorized only if, and to the extent that, it is found that it will be benefited, and the railroad, gas, water, or electric utility right-of-way or electric line

right-of-way shall be subject to the same penalties, and the same procedure and sale, in case of delinquency as other properties in such zone. In determining whether or not the railroad, gas, water, or electric utility right-of-way or electric line right-of-way benefits, its use as a right-of-way for a railroad, gas, water, or electric utility shall be presumed to be permanent.

SEC. 5. Section 477 is added to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), to read:

Sec. 477. Notwithstanding any other provisions of law and regardless of the number of eligible voters, the district may, by resolution of the board of directors, conduct any election pursuant to this chapter by all-mailed ballots pursuant to Chapter 5 (commencing with Section 1340) of Division 2 of the Elections Code.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 987

An act to amend Sections 831 and 831.5 of, and to repeal and add Section 831 to, the Penal Code, relating to custodial officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 831 of the Penal Code is amended to read:

831. (a) A custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties, except that where the Chief of Police and the County Board of Supervisors declare an emergency to exist with regard to the transportation of prisoners caused by closing existing detention facilities before completion of detention facilities under current construction,

custodial officers may, under the direction of the sheriff or chief of police, carry or possess firearms while engaged in transporting prisoners prior to July 1, 1983.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to such position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within 180 days following the date of the initial assignment as a custodial officer, satisfactorily complete the jail operations course prescribed by the Board of Corrections pursuant to Section 6030 Persons designated as custodial officers, before the expiration of the 90- and 180-day periods described in this subdivision, who have not yet completed the required training, may perform the duties of a custodial officer only while under the direct supervision of a peace officer as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

This section shall remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date.

SEC. 2. Section 831 is added to the Penal Code, to read:

831. (a) A custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to such position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within 180 days following the date of the initial assignment as

a custodial officer, satisfactorily complete the jail operations course prescribed by the Board of Corrections pursuant to Section 6030. Persons designated as custodial officers, before the expiration of the 90- and 180-day periods described in this subdivision, who have not yet completed the required training, may perform the duties of a custodial officer only while under the direct supervision of a peace officer as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 3. Section 831.5 of the Penal Code is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a county having a population of 250,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of custodial officer may include the serving of warrants, court orders, writs and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to such position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within 180 days following the date of the initial assignment as

a custodial officer, satisfactorily complete the jail operations course prescribed by the Board of Corrections pursuant to Section 6030. Persons designated as custodial officers, before the expiration of the 90- and 180-day periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 4. Notwithstanding any other provision of law, the Board of Corrections is authorized to disregard the control language of Item Number 543-101-001 of the Budget Act of 1981 as it may apply to Monterey County. Further, the Board of Corrections may grant Monterey County a variance from the County Jail Capital Expenditure Fund regulations and criteria so that Monterey County may compete in the County Jail Capital Expenditure Fund's 1981–82 funding period in order to help remedy design problems in the Monterey County jail.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The current requirement that persons complete training prior to actual assignment as a correctional officer is unnecessary and has resulted in recruiting problems and unfairness to persons taking the training without assurance of employment or means to pay for the training.

SEC. 6. Section 2 of this act shall become operative July 1, 1983.

CHAPTER 988

An act to amend Section 886 of, to add Section 871.5 to, and to add and repeal Section 886.5 of, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 871.5 is added to the Welfare and Institutions Code, to read:

871.5. (a) Except as authorized by law, or when authorized by the person in charge of any county juvenile hall, home, ranch, camp, or forestry camp, or by an officer of any such juvenile hall, home, or camp empowered by the person in charge thereof to give such an authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, home, ranch, camp, or forestry camp, any controlled substance, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, or any firearm, weapon, or explosive of any kind shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(b) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, home, ranch, camp, or forestry camp, any alcoholic beverage shall be guilty of a misdemeanor.

(c) A sign shall be posted at the entrance of each county juvenile hall, home, ranch, camp, or forestry camp specifying the conduct prohibited by this section and the penalties therefor.

SEC. 2. Section 886 of the Welfare and Institutions Code is amended to read:

886. No juvenile home, ranch, camp, or forestry camp established pursuant to the provisions of this article shall receive or contain more than 100 children at any one time.

SEC. 3. Section 886.5 is added to the Welfare and Institutions Code, to read:

886.5. Notwithstanding the provisions of Section 886, a juvenile home, ranch, camp, or forestry camp may receive or contain a maximum of 130 children at any one time if the county has submitted a request for approval for expanded capacity to the Department of the Youth Authority demonstrating a need for juvenile home, ranch, camp, or forestry camp placements which exceeds the beds available in the county, and the department has approved that request.

The provisions of this section shall be operative until January 1, 1984, and on that date are repealed unless a statute effective on or

before that date extends or limits that date.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 989

An act to amend Section 4046 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 4046 of the Business and Professions Code is amended to read:

4046. (a) In recognition of and consistent with the decisions of the appellate courts of this state, the Legislature hereby declares the practice of pharmacy to be a profession.

(b) Pharmacy practice is a dynamic patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and drug-related therapy.

(c) Neither this chapter nor any other provision of law shall be construed to prohibit a registered pharmacist from:

(1) Furnishing to a prescriber a reasonable quantity of compounded medication for prescriber office use.

(2) Transmitting to another registered pharmacist a valid prescription.

(3) Administering, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Performing the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians and surgeons, pharmacists, and registered nurses, with the concurrence of the facility administrator: ordering or performing routine drug therapy related patient assessment procedures including temperature, pulse, and respiration; ordering drug therapy related laboratory tests; administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility); and adjusting

the dosage of a patient's drug regimen pursuant to a prescriber's order or authorization. "Licensed health care facility" means a facility licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code.

(d) Prior to performing any procedure authorized by paragraph (4) of subdivision (c), a registered pharmacist shall have received appropriate training as determined by the board.

CHAPTER 990

An act to amend, repeal, and add Section 4801 to, to amend Section 4803 of, to add Section 4805 to, and to repeal Section 7305 of, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 4801 of the Welfare and Institutions Code is amended to read:

4801. Judicial review shall be in the superior court for the county in which the state hospital, community care facility, or health facility is located. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center are deposited in the United States mail pursuant to this section. If the court finds that an adult who has been admitted pursuant to Section 4803 is requesting release or for whom release is requested (a) is not developmentally disabled, or (b) that he or she is developmentally

disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be immediately released. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to such responsible person or regional center or other public or private agency, as the case may be, subject to any conditions which the court deems proper for the welfare of the developmentally disabled adult and which are consistent with the purposes of this division.

The court may order the release of an adult who is committed pursuant to Section 6500 based on a finding of mental retardation and danger to self or others if the court finds that there is no longer a basis for finding the adult a danger to self or others or the court may order the placement of the adult into a less restrictive more appropriate alternative placement but shall continue the order of commitment.

If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 2. Section 4801 is added to the Welfare and Institutions Code, to read:

4801. Judicial review shall be in the superior court for the county in which the state hospital, community care facility, or health facility is located. The adult requesting to be released shall be informed of his or her right to counsel by a member of the staff of the state hospital, community care facility, or health facility and by the court; and if he or she does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him or her in preparation of a petition for the writ of habeas corpus and to represent him or her in the proceedings. The person shall pay the costs of such legal service if he or she is able.

At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the adult or order an evidentiary

hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center are deposited in the United States mail pursuant to this section. If the court finds (a) that the adult requesting release or for whom release is requested is not developmentally disabled, or (b) that he or she is developmentally disabled and that he or she is able to provide safely for his or her basic personal needs for food, shelter, and clothing, he or she shall be immediately released. If the court finds that he or she is developmentally disabled and that he or she is unable to provide safely for his or her basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to such responsible person or regional center or other public or private agency, as the case may be, subject to any conditions which the court deems proper for the welfare of the developmentally disabled adult and which are consistent with the purposes of this division.

If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

This section shall become operative January 1, 1988.

SEC. 3. Section 4803 of the Welfare and Institutions Code is amended to read:

4803. If a regional center recommends that an adult be admitted to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to a community care facility or health facility nor the parent of a minor or conservator of an adult, if appropriate, has made objection to such admission to the person making such recommendation. The regional center shall transmit such certificate, or a copy thereof, to the community care facility or health facility.

A community care facility or health facility shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of such certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to a community care facility or health facility admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

Objections to proposed placements shall be resolved by a fair hearing procedure pursuant to Section 4700.

SEC. 4. Section 4805 is added to the Welfare and Institutions Code, to read:

4805. Objections to proposed transfers between state hospitals shall be resolved pursuant to Chapter 7 (commencing with Section 4700).

SEC. 5. Section 7305 of the Welfare and Institutions Code is repealed.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 991

An act to amend Sections 1205.5 and 1214 of, and to repeal Section 1204.5 of, the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 1204.5 of the Health and Safety Code is repealed.

SEC. 2. Section 1205.5 of the Health and Safety Code is amended to read:

1205.5. A clinic which has been verified by the Licensing and Certification Division of the State Department of Health Services and the Office of Statewide Health Planning and Development as having (1) provided chronic dialysis and (2) been licensed as an outpatient clinic, before September 26, 1978, shall not be required to have a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1 in order to obtain licensure as a chronic dialysis clinic. A clinic which has been verified by the Licensing and Certification Division of the State Department of Health Services and the Office of Statewide Health Planning and Development as having (1) provided surgical services, (2) been licensed as an outpatient clinic and (3) been eligible to receive Medi-Cal reimbursement as an outpatient clinic in connection with such surgical services, before September 26, 1978, shall not be required to have a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1 in order to obtain licensure as a surgical clinic.

Nothing in this section shall, however, be construed to exempt a clinic subject to this section from the requirement for a certificate of need with respect to projects specified in subdivision (c), (d), or (e)

of Section 437.10, or with respect to changes of licensure category occurring subsequent to initial licensure as a specialty clinic pursuant to this section.

A clinic which has been verified by the Licensing and Certification Division of the State Department of Health Services and the Office of Statewide Health Planning and Development as having (1) provided surgical services, (2) been licensed as an outpatient clinic and (3) been eligible to receive Medi-Cal reimbursement as an outpatient clinic in connection with such surgical services, before September 26, 1978, and which meets the requirements for licensure as a surgical clinic, need not operate on an open-staff basis in order to be licensed as a surgical clinic.

A clinic which has been verified by the Licensing and Certification Division of the State Department of Health Services and the Office of Statewide Health Planning and Development as having (1) provided rehabilitation service and (2) been licensed as an outpatient clinic, a community clinic, or free clinic, before September 26, 1978, shall not be required to have a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1 in order to obtain licensure as a rehabilitation clinic.

SEC. 3. Section 1214 of the Health and Safety Code is amended to read:

1214. Each application under this chapter for an initial license, renewal license, license upon change of ownership, or special permit shall be accompanied by a fee, as follows:

(a) For all primary care clinics licensed pursuant to this chapter, the annual fee shall be thirty dollars ($30).

(b) For all specialty clinics licensed pursuant to this chapter, except as provided in subdivision (c) or Section 1214.1, the annual fee shall be two thousand dollars ($2,000).

(c) For all rehabilitation clinics that are operated by a licensee which is a nonprofit corporation exempt from taxation pursuant to paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or statutory successor thereof, the annual fee shall be thirty dollars ($30).

CHAPTER 992

An act to amend Section 5719 of, and to add Section 5719.2 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 5719 of the Welfare and Institutions Code is amended to read:

5719. Except as provided in Section 5719.2, to continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall be non-state-reimbursable charges:

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation;

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary;

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment;

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the State Department of Mental Health;

(e) The court costs in postcertification proceedings;

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

SEC. 2. Section 5719.2 is added to the Welfare and Institutions Code, to read:

5719.2. The Director of Mental Health shall adopt regulations which shall, upon the request of a county containing more than 20,000 square miles, authorize the use by that county of not exceeding one hundred fourteen thousand dollars ($114,000) out of its existing Short-Doyle funds that have already been allocated to it under the Short-Doyle Act for the costs involved in bringing a person in for 72-hour treatment and evaluation if the distance to be traveled exceeds 50 miles and the unavailability of transportation by law enforcement authorities resulted in the use of an alternative transportation method which was reasonable and appropriate in the circumstances.

SEC. 3. The Legislature finds and declares that the peculiar problems presented by the needs of citizens for mental health services and the necessity of providing adequate law enforcement services in a county containing over 20,000 square miles of land area require special treatment which cannot be handled by general legislation and that this special legislation is, therefore, necessary to further those public purposes.

CHAPTER 993

An act to amend Sections 5462 and 5466 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 5462 of the Welfare and Institutions Code is amended to read:

5462. The Director of Mental Health shall establish an advisory committee of at least nine members, 51 percent of whom shall be consumers. Of the provider members, at least two shall be representatives of the California Association of Social Rehabilitation Agencies. The membership of the advisory committee shall reflect a balance of geographic, ethnic, and racial factors. The members shall be appointed by the Director of Mental Health.

The advisory committee shall screen all new system proposals and any changes proposed for any county community residential treatment system and make recommendations as to approval. In addition, at least one member of the advisory committee shall participate in each of the program review evaluations conducted pursuant to Section 5460.

SEC. 2. Section 5466 of the Welfare and Institutions Code is amended to read:

5466. An interdepartmental coordinating group to be chaired by the Secretary of the Health ~~and~~ Welfare Agency shall be established to include at minimum the Directors of the State Departments of Mental Health, Rehabilitation, Transportation, Housing and Community Development, and Social Services the Superintendent of Public Instruction, a member representing the California Association of Social Rehabilitation Agencies, a member representing the Board of Governors of the California Community Colleges, and a member representing the Conference of Local Mental Health Directors, or a designee of each of these officers, boards, or agencies, for coordinating the existing and ongoing efforts of each state department to enhance the effectiveness of the programs developed under this chapter and for advising the Legislature on future program development. The member representing the Conference of Local Mental Health Directors shall be from a county which operates a community residential treatment system.

CHAPTER 994

An act to amend Section 1276.5 of, and to add and repeal Section 1276.2 of, the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 1276.2 is added to the Health and Safety Code, to read:

1276.2. Standards and regulations adopted by the State Department of Health Services pursuant to Section 1276 shall not require the use of a registered nurse for the performance of any service or staffing of any position in skilled nursing or intermediate care facilities which may lawfully be performed or staffed by a licensed vocational nurse pursuant to the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code) and applicable federal regulations, when a facility is unable to obtain a registered nurse, except that a licensed vocational nurse employed in accordance with this section shall be a permanent employee of the facility. Nothing in this section shall permit a licensed vocational nurse to act as director of nurses or expand the scope of practice of licensed vocational nurses pursuant to the Vocational Nursing Practice Act. The above provisions apply to staffing for the night and p.m. shifts only, except that if the level of care is determined by the department to be inadequate, the department may require the facility to provide additional staffing.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed unless a later enacted statute, which is chaptered on or before January 1, 1986, deletes or extends such date.

SEC. 2. Section 1276.5 of the Health and Safety Code is amended to read:

1276.5. The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required in skilled nursing and intermediate care facilities.

For the purposes of this section "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for the developmentally disabled or mentally disordered, licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

Notwithstanding Section 1276, the department shall require the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

SEC. 3. Section 1276.5 of the Health and Safety Code is amended to read:

1276.5. The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required

in skilled nursing and intermediate care facilities.

For the purposes of this section "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for the developmentally disabled or mentally disordered, licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

Notwithstanding Section 1276, the department shall require the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

Except as otherwise provided by law, the administrator of an intermediate care facility/developmentally disabled habilitative shall be either a licensed nursing home administrator or a qualified mental retardation professional.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1551 are both chaptered and become effective January 1, 1982, both bills amend Section 1276.5 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 1551, that the amendments to Section 1276.5 proposed by both bills be given effect and incorporated in Section 1276.5 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill 1551 are both chaptered and become effective January 1, 1982, both amend Section 1276.5, and this bill is chaptered after Assembly Bill 1551, in which case Section 2 of this act shall not become operative.

CHAPTER 995

An act to add Section 14079.5 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 14079.5 is added to the Welfare and Institutions Code, to read:

14079.5. Rates of reimbursement established pursuant to this chapter shall make no distinction based on whether a particular service is provided by a physician or a dentist. The director shall not reduce any rate of reimbursement for physician services in order to

comply with this section.

CHAPTER 996

An act to amend the heading of Part 2 (commencing with Section 50400) of Division 31 of, to add Sections 17003.5 and 50061.5 to, to repeal and add Section 51226.5 of, and to repeal Sections 50550, 50551, 50552, 50553, 50554, 50555, 50556, and 50557 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 17003.5 is added to the Health and Safety Code, to read:

17003.5. Any reference in this division to the Commission of Housing and Community Development shall be deemed to be to the Department of Housing and Community Development and the department may exercise all the powers and shall perform all the duties of the commission.

SEC. 2. Section 50061.5 is added to the Health and Safety Code, to read:

50061.5. Any reference in this division to the Commission of Housing and Community Development shall be deemed to be to the Department of Housing and Community Development and the department may exercise all the powers and shall perform all the duties of the commission.

SEC. 3. The heading of Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code is amended to read:

PART 2. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

SEC. 4. Section 50550 of the Health and Safety Code is repealed.

SEC. 5. Section 50551 of the Health and Safety Code is repealed.

SEC. 6. Section 50552 of the Health and Safety Code is repealed.

SEC. 7. Section 50553 of the Health and Safety Code is repealed.

SEC. 8. Section 50554 of the Health and Safety Code is repealed.

SEC. 9. Section 50555 of the Health and Safety Code is repealed.

SEC. 10. Section 50556 of the Health and Safety Code is repealed.

SEC. 11. Section 50557 of the Health and Safety Code is repealed.

SEC. 12. Section 51226.5 of the Health and Safety Code is repealed.

SEC. 13. Section 51226.5 is added to the Health and Safety Code, to read:

51226.5. (a) Notwithstanding the provisions of Section 51226, in

each housing development financed by the agency and insured under a federal multifamily insurance program, the agency shall enter into a loan commitment only in conformance with the following requirements:

(1) With respect to housing developments financed on or after January 1, 1985, not less than 25 percent of the units shall be made available on a priority basis for very low income households.

(2) With respect to housing developments financed on or after January 1, 1985, an additional 10 percent or more of the units shall be made available on a priority basis for other lower income households if a subsidy for the housing development is provided through the agency or directly by the federal government.

(b) Not less than 75 percent of the units in a housing development financed by the agency and insured under a federal multifamily insurance housing program shall be made available on a priority basis for persons and families of low or moderate income.

(c) The agency may provide financing for housing developments for the elderly that are insured under a federal insurance program when the requirements of subdivisions (a) and (b) are met and (1) a minimum of 35 percent of the units in the development are made available for lower income households, or (2) a majority of the units in the housing development which are to be made available for low income households are reserved for nonelderly households.

This section shall become operative January 1, 1985.

CHAPTER 997

An act to amend, repeal, and add Section 51368 of, and to add Section 51000.4 to, the Health and Safety Code, to amend Section 17 of Chapter 1 of the Statutes of 1975 First Extraordinary Session, relating to housing, and making an appropriation therefor.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 51000.4 is added to the Health and Safety Code, to read:

51000.4. Upon cessation of all agency operations and settlement of all obligations and debts, all assets of the California Housing Finance Agency, including those in all accounts and funds of the agency, whether established by statute or otherwise, shall revert to the General Fund.

SEC. 2. Section 51368 of the Health and Safety Code is amended to read:

51368. The Supplementary Bond Security Account is hereby created in the California Housing Finance Fund. Moneys in such

account may be transferred into separate, individual accounts in the fund which shall be known as supplementary reserve accounts, but the amounts appropriated to the Supplementary Bond Security Account shall be utilized to secure issuances of bonds under this chapter as deemed necessary by the agency and shall be used for no other purpose. Upon issuance of any bonds pursuant to this chapter, the agency may create a supplementary reserve account to secure payment of the principal of, interest, redemption-premium, and sinking fund payments on such bonds.

When all obligations secured by all supplementary reserve accounts are retired the Supplementary Bond Security Account shall be dissolved and all moneys therein shall be used first for repayment to the General Fund in the State Treasury of amounts advanced to the Supplementary Bond Security Account from the General Fund, less any amount previously repaid on account of such advances. Remaining funds shall be paid into the general accounts of the housing finance agency unless otherwise obligated.

When the amount in a bond reserve fund falls below the minimum bond reserve fund requirement for such fund and available revenues of the agency pledged to the prescribed minimum bond reserve fund requirement are insufficient to restore such fund, the agency shall transfer to the bond reserve fund, from the supplementary bond reserve account securing such bonds, the amount necessary to restore such fund to the minimum bond reserve fund requirement. Moneys in supplementary reserve accounts may be used to directly pay the interest, principal and sinking fund payments on the bonds as provided by bond resolution. To secure issuances of bonds, the supplementary reserve accounts may also be used to insure mortgages to protect the value of the housing developments or other residential structures serving as real property security, except owner-occupied housing developments, in any manner permitted by bond resolution.

Notwithstanding other provisions of this part, commencing July 1, 1982, interest on the twenty million dollars ($20,000,000) appropriated for the Supplementary Bond Security Account shall be retained in, and become a part of such account, except that the interest earned by ten million dollars ($10,000,000) of such moneys during the 1979 calendar year shall be deemed surplus pursuant to Section 51007 and shall be segregated in a special account in the fund for use for the purposes specified in Section 51007.

For the purposes of this section, the following schedule shall apply:

(a) For fiscal year 1982–83, 40 percent of the interest shall be retained in the Supplementary Bond Security Account.

(b) For fiscal year 1983–84, 80 percent of the interest shall be retained in the Supplementary Bond Security Account.

(c) For fiscal year 1984–85, 100 percent of the interest shall be retained in the Supplementary Bond Security Account.

(d) For fiscal year 1985–86, 100 percent of the interest shall be retained in the Supplementary Bond Security Account.

(e) For fiscal year 1986–87, 100 percent of the interest shall be retained in the Supplementary Bond Security Account.

This section shall remain in effect only until July 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1987, deletes or extends such date.

SEC. 2.5. Section 51368 is added to the Health and Safety Code, to read:

51368. The Supplementary Bond Security Account is hereby created in the California Housing Finance Fund. Moneys in such account may be transferred into separate, individual accounts in the fund which shall be known as supplementary reserve accounts, but the amounts appropriated to the Supplementary Bond Security Account shall be utilized to secure issuances of bonds under this chapter as deemed necessary by the agency and shall be used for no other purpose. Upon issuance of any bonds pursuant to this chapter, the agency may create a supplementary reserve account to secure payment of the principal of, interest, redemption-premium, and sinking fund payments on such bonds.

When all obligations secured by all supplementary reserve accounts are retired the Supplementary Bond Security Account shall be dissolved and all moneys therein shall be used first for repayment to the General Fund in the State Treasury of amounts advanced to the Supplementary Bond Security Account from the General Fund, less any amount previously repaid on account of such advances. Remaining funds shall be paid into the general accounts of the housing finance agency unless otherwise obligated.

When the amount in a bond reserve fund falls below the minimum bond reserve fund requirement for such fund and available revenues of the agency pledged to the prescribed minimum bond reserve fund requirement are insufficient to restore such fund, the agency shall transfer to the bond reserve fund, from the supplementary bond reserve account securing such bonds, the amount necessary to restore such fund to the minimum bond reserve fund requirement. Moneys in supplementary reserve accounts may be used to directly pay the interest, principal and sinking fund payments on the bonds as provided by bond resolution. To secure issuances of bonds, the supplementary reserve accounts may also be used to insure mortgages to protect the value of the housing developments or other residential structures serving as real property security, except owner-occupied housing developments, in any manner permitted by bond resolution.

Notwithstanding other provisions of this part, interest on the twenty million dollars ($20,000,000) appropriated for the Supplementary Bond Security Account shall be paid to the General Fund at the end of each fiscal year, except that the interest earned by ten million dollars ($10,000,000) of such moneys during the 1979 calendar year shall be deemed surplus pursuant to Section 51007 and shall be segregated in a special account in the fund for use for the purposes specified in Section 51007.

This section shall become operative July 1, 1987.

SEC. 3. Section 17 of Chapter 1 of the Statutes of 1975 First Extraordinary Session, is amended to read:

Sec. 17. The sum of eleven million three hundred forty-nine thousand eight hundred seventeen dollars ($11,349,817) is hereby appropriated from the General Fund according to the following schedule:

(a) To the California Housing Finance Agency for its initial expenses	$750,000
(b) For transfer to the Supplementary Bond Security Account in the California Housing Finance Fund	$10,000,000
(c) To the Department of Housing and Community Development for its expenses under this act	$599,817

Moneys advanced pursuant to subdivision (a) of this section shall be deposited in the California Housing Finance Fund and shall be repaid from revenues of the agency not later than March 1, 1982.

Such moneys advanced pursuant to subdivision (a) shall constitute, and be accounted for, as advances to the agency and a like amount shall be repaid to the General Fund in the State Treasury, without interest, from all available operating revenues of the California Housing Finance Agency in excess of amounts required for the payment or securing of bonds or other reserves or obligations of the agency or for its current operating expenses.

CHAPTER 998

An act to amend Sections 16140, 16141, 16142, 16142.5, 16145, 16146, and 16153 of the Government Code, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 16140 of the Government Code is amended to read:

16140. There is hereby continuously appropriated to the Controller from the General Fund a sum sufficient to make the payments required by this chapter.

The payments provided by this chapter shall be made only when the value of each parcel of open-space land assessed under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code is less than

the value that would have resulted if the valuation of the property was made pursuant to Section 110.1 of the Revenue and Taxation Code, as though the property were not subject to an enforceable restriction in the base year.

SEC. 2. Section 16141 of the Government Code is amended to read:

16141. It is the purpose of this chapter to provide replacement revenues to local government by reason of the reduction of the property tax on open-space lands assessed under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code. Notwithstanding any other provisions of this chapter, no subvention payments to a county, city, city and county, or school district shall be made pursuant to this chapter for land enforceably restricted pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5).

SEC. 3. Section 16142 of the Government Code is amended to read:

16142. The Secretary of the Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amounts for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code:

(a) Eight dollars ($8) for prime agricultural land, as defined in Section 51201, which is within, or within three miles of the boundaries of, each incorporated city with a population of 25,000 or more as annually determined by the Department of Finance.

(b) Five dollars ($5) for prime agricultural land, as defined in Section 51201, which is either of the following:

(1) Within each incorporated city with a population of 15,000 or more and less than 25,000 as annually determined by the Department of Finance,

(2) Within three miles of the boundaries of an incorporated city with a population of 15,000 or more, as annually determined by the Department of Finance, in any county not qualifying for a payment as provided for in subdivision (a). If more than one city with a population of 15,000 or more and less than 25,000 lies within a county, the county shall determine the city which is to be used in calculating the payment.

(c) One dollar ($1) for all other prime agricultural land.

(d) Forty cents ($0.40) for all land, other than prime agricultural land, which is devoted to open-space uses of statewide significance, as defined in Section 16143.

The amount per acre in subdivision (a) may be increased by the Secretary of the Resources Agency to a figure which would offset any savings due to a more restrictive determination by the secretary as to what land is devoted to open-space use of statewide significance.

SEC. 4. Section 16142.5 of the Government Code is amended to read:

16142.5. (a) For the fiscal year 1977–78, no payment to a city or county shall increase or reduce the amount which would have been

paid to the city or county under the provisions of Section 16142 as it existed on March 1, 1976, as applied to land assessed pursuant to Section 423 or 423.5 of the Revenue and Taxation Code for the fiscal year 1977–78, in excess of an amount which is equal to the property tax derived from a levy at the rate of three cents ($0.03) per hundred dollars of assessed value.

(b) For fiscal years subsequent to the 1977–78 fiscal year, no payment to a city or county shall increase or reduce the amount which was paid in the prior fiscal year in excess of an amount which is equal to the property tax derived from a levy at the rate of three cents ($0.03) per hundred dollars of assessed value for the fiscal year, except as affected by an increase or a reduction in the acreage assessed under Section 423, 423.3, or 423.5 of the Revenue and Taxation Code.

SEC. 5. Section 16145 of the Government Code is amended to read:

16145. Funds received by local governments pursuant to the provisions of this chapter may be used for county, city, or city and county purposes, as the case may be, or may, but need not necessarily, be used for purposes of general interest and benefit to the state. The use of the funds shall include administration, supervision, and enforcement of any open-space program under which a local government receives the funds. The funds may also include an allocation of all or part of them to any special district or school district existing within boundaries of a local government in which land is assessed pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code, and which has thereby suffered a reduction in its assessed valuation, when the local governing body determines:

(a) That the loss of assessed value is substantial and will have an adverse effect upon programs of public importance carried on by the district.

(b) The benefits flowing from the restrictions on the use of land within the district do not accrue solely or primarily to landowners or residents within the district.

(c) That the taxes collected by the district are not devoted to expenditures primarily of benefit to land or landowners within the district.

Any special district or school district may make application for an allocation of the funds from the local government in the form and with such supporting evidence as the governing board of the local government may require. The governing board may also adopt such uniform standards as it believes necessary to determine the amount and method of payment of such assistance, and may provide for such payments to be reduced annually, according to a schedule, so as to cease financial assistance over a specified period of years. However, nothing herein shall be construed as requiring the governing board of the local government to make any allocation to any special district or school district, and the governing board of the local government shall be the sole judge of the entitlement of any special district or school district to any allocation and to the amount of the allocation if granted.

SEC. 6. Section 16146 of the Government Code is amended to read:

16146. The Secretary of the Resources Agency may determine, after notice and hearing, that a local government is ineligible to receive state payments pursuant to this article by reason of its failure to comply with the provision of Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7, or with the provisions of any program which establishes an enforceable restriction upon which the assessment of land within its jurisdiction pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code is based. The fact that a local government has not complied with the requirements of Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7 by the dates set forth in that article shall not be reason to determine that the local government is ineligible to receive state payments, if the local government has complied by July 1 of the year in which application is made. This section shall not be construed to require the disqualification of any land from assessment pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code as a consequence of any determination of ineligibility by the secretary.

SEC. 7. Section 16153 of the Government Code is amended to read:

16153. (a) Notwithstanding any other provision of this chapter, state disbursements under this chapter, by reason of property assessed pursuant to Sections 423 and 423.5 of the Revenue and Taxation Code, shall not exceed thirteen million dollars ($13,000,000) in the 1972–73 fiscal year, twenty-two million dollars ($22,000,000) in the 1973–74 fiscal year, and twenty-four million dollars ($24,000,000) in the 1974–75 fiscal year. In the 1975–76 fiscal year, state disbursements shall not exceed 115 percent of the state disbursements in the 1974–75 fiscal year. The amounts provided for in this section may be exceeded by any amounts deposited in the General Fund under Sections 51061 and 51283.

(b) If claims by local governmental agencies exceed the limitation of this section, reductions in state disbursements shall be made on a pro rata per-acre basis, first on funds to local governments for nonprime lands described in subdivision (d) of Section 16142 and prime lands described in subdivision (c) of Section 16142, second on funds to local governments for prime lands described in subdivisions (a) and (b) of Section 16142, and third to school district disbursements.

(c) The provisions of this section shall also be applicable to state disbursements under this chapter by reason of property assessed pursuant to Section 423.3 of the Revenue and Taxation Code, if those provisions are made applicable to any fiscal year following the 1979–80 fiscal year.

SEC. 8. To the extent that the moneys in those funds may be lawfully expended for these purposes, the unencumbered balance in the State Parks and Recreation Fund and the Off-Highway Vehicle Fund is hereby appropriated to the Department of Parks and Recreation to the extent necessary to make project grants and perform project review for the Parklands Acquisition and

Development Program pursuant to Item 379-101-721 of the Budget Act of 1981. Any amount expended pursuant to this section shall be reimbursed by the Department of Parks and Recreation to the appropriate fund upon the receipt of the first proceeds from the bonds sold pursuant to the California Parklands Act of 1980.

SEC. 9. On the effective date of this act, that portion of the unencumbered balance of the appropriations provided in the following citations determined by the Director of Finance to be available for transfer shall be transferred to the Special Account for Capital Outlay in the General Fund:

Item 425 (45), (63), Budget Act of 1977
Section 3, Chapter 910, Statutes of 1980
Item 536(c), Budget Act of 1980
Item 427.3, Budget Act of 1977
Item 402, Budget Act of 1976
Item 425, Budget Act of 1977
Item 490, Budget Act of 1978
Item 395, Budget Act of 1974
Item 378.2, Budget Act of 1975, as reappropriated by Section 10.09, Budget Act of 1978
Item 399, Budget Act of 1976
Item 419, Budget Act of 1977
Item 484, Budget Act of 1978
Item 487, Budget Act of 1978
Item 485, Budget Act of 1978
Item 419, Budget Act of 1977
Item 478, Budget Act of 1978
Item 488, Budget Act of 1978
Item 401, Budget Act of 1976
Item 489, Budget Act of 1978
Item 358, Budget Act of 1976
Item 479(7), Budget Act of 1979
Item 482(9), Budget Act of 1979
Item 485(19), Budget Act of 1979
Item 485(27), Budget Act of 1979
Item 479(19), Budget Act of 1978
Item 485.1(7), Budget Act of 1979
Item 559(13), Budget Act of 1980
Item 415(6), Budget Act of 1977
Item 415(24), Budget Act of 1977
Item 485(17), Budget Act of 1979
Item 561(5), Budget Act of 1980
Item 566(j), Budget Act of 1980
Item 563(9), Budget Act of 1980
Item 568(e), Budget Act of 1980
Item 559(7), Budget Act of 1980
Item 569(a), Budget Act of 1980
Item 552(1), Budget Act of 1980
Item 561(a), Budget Act of 1980
Item 559(11), Budget Act of 1980
Item 485(7.1), Budget Act of 1979

Item 558(6), Budget Act of 1980
Item 541(a)(1), Budget Act of 1980
Item 561(6), Budget Act of 1980
Item 569(a), Budget Act of 1980
Item 552(11), Budget Act of 1980
Item 661-301-146(11), Budget Act of 1981
Item 661-301-146(13), Budget Act of 1981
Item 661-301-146(16), Budget Act of 1981
Item 661-301-146(21.1), Budget Act of 1981
Item 359, Budget Act of 1979
Item 661-301-146(27), Budget Act of 1981
Item 661-301-146(10), Budget Act of 1981
Item 558.1(5), Budget Act of 1980
Item 558(17), Budget Act of 1980
Item 485(31), Budget Act of 1979
Item 558(14), Budget Act of 1980
Item 661-301-146(24.1), Budget Act of 1981
Item 661-301-146(24.2), Budget Act of 1981
Item 566(b), Budget Act of 1980
Item 567(d), Budget Act of 1980
Item 524-301-036(a), Budget Act of 1981
Item 507(c), Budget Act of 1980
Item 567(e), Budget Act of 1980
Item 563(7), Budget Act of 1980
Item 539(a), Budget Act of 1980

SEC. 10. Notwithstanding any other provision of law, on the effective date of this act, the sum of eight million dollars ($8,000,000) shall be transferred from the unencumbered balance of the Local Agency Indebtedness Fund to the Special Account for Capital Outlay in the General Fund.

SEC. 11. In the event that federal law relating to fire and life safety requirements for public buildings which will not be occupied on or after January 1, 1986, is not changed during the 1981–82 fiscal year, thereby requiring the expenditure of an amount not to exceed fifteen million two hundred thousand dollars ($15,200,000), previously appropriated for the purpose of complying with these requirements, the Department of Finance shall make corresponding pro rata reductions in expenditures for projects funded from the Capital Outlay Fund for Public Higher Education, the Special Account for Capital Outlay, and the State Parks and Recreation Fund. These reductions shall be made in the following proportions:

(a) Four million eight hundred thousand dollars ($4,800,000), or so much thereof as necessary, from the Capital Outlay Fund for Public Higher Education.

(b) Eight million nine hundred thousand dollars ($8,900,000), or so much as necessary, from the Special Account for Capital Outlay.

(c) One million five hundred thousand dollars ($1,500,000), or so much thereof as necessary, from the State Parks and Recreation Fund.

SEC. 12. (a) On the effective date of this act, the sum of forty-seven million two hundred thousand dollars ($47,200,000) shall

be transferred from the State School Building Lease-Purchase Fund according to the following schedule:

(1) To the Special Account for Capital Outlay in the General Fund	$43,830,000
(2) To the Resources Account of the Energy and Resources Fund	$3,370,000

(b) On June 30, 1982, the unencumbered balance of the amounts transferred pursuant to schedule (1) of subdivision (a) shall revert from the Special Account for Capital Outlay to the State School Building Lease-Purchase Fund.

(c) On July 1, 1982, the difference between the amounts transferred pursuant to subdivision (a) and the amount reverted pursuant to subdivision (b) shall be transferred from the revenues deposited in the State Treasury pursuant to Section 6217 of the Public Resources Code to the State School Building Lease-Purchase Fund. The transfer made pursuant to this subdivision shall be made after the allocation of revenues pursuant to subdivision (a) of Section 6217 and before the allocation made pursuant to subdivision (b) of Section 6217.

(d) It is the intent of the Legislature in the provisions of this section to make loans from the State School Building Lease-Purchase Fund to the Special Account for Capital Outlay and the Resources Account of the Energy and Resources Fund for the 1981–82 fiscal year.

(e) The Auditor General shall assess the operation of the State School Building Lease Purchase Program, including, but not limited to, evaluation of criteria for establishing needs and priorities for allocations, and the timing of allocations.

SEC. 13. Notwithstanding any other provision of law, no portion of the appropriation provided pursuant to category (b) (Heber binary geothermal demonstration plant) of Item 386-301-189 of the Budget Act of 1981 shall be encumbered during the 1981–82 fiscal year.

SEC. 14. (a) On the effective date of this act, the sum of one million dollars ($1,000,000) shall be transferred from the Off-Highway Vehicle Fund to the Energy and Resources Fund.

(b) On June 30, 1982, the unencumbered balance of the amount transferred pursuant to subdivision (a) shall revert from the Energy and Resources Fund to the Off-Highway Vehicle Fund.

(c) On July 1, 1982, the difference between the amount transferred pursuant to subdivision (a) and the amount reverted pursuant to subdivision (b) shall be transferred from the revenues deposited in the State Treasury pursuant to Section 6217 of the Public Resources Code to the Off-Highway Vehicle Fund. The transfer made pursuant to this subdivision shall be made after the allocation of revenues pursuant to subdivision (e) of Section 6217 and before the allocation made pursuant to subdivision (f) of Section 6217.

(d) It is the intent of the Legislature in the provisions of this

section to make a loan from the Off-Highway Vehicle Fund to the Energy and Resources Fund for the 1981–82 fiscal year.

SEC. 15. On the effective date of this act, three million three hundred seventy-eight thousand dollars ($3,378,000) is transferred from the State Parks and Recreation Fund to the Energy and Resources Fund.

SEC. 16. On the effective date of this act, the Director of Finance shall be authorized to make reductions of up to two million dollars ($2,000,000) in expenditures from the Energy and Resources Fund. The Director of Finance shall give first priority to reductions of those projects which require nonstate funds which are not forthcoming.

SEC. 17.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

(1) In order that the adjustments made by this act be accomplished in a timely manner, it is necessary that this act become effective immediately.

(2) Counties and cities which assess open-space lands pursuant to Sections 423 and 423.5 of the Revenue and Taxation Code are presently qualified to receive state subventions to provide replacement revenues occasioned by the reduction of property tax on open-space lands. Counties and cities which have elected to assess open-space lands pursuant to Section 423.3 of the Revenue and Taxation Code, which became effective January 1, 1981, are not presently qualified to receive these state subventions. In order that those counties and cities which have elected to assess open-space lands pursuant to Section 423.3 of the Revenue and Taxation Code may qualify for state subventions in the 1981–82 fiscal year and thereby may be accorded equality of treatment with those counties and cities which assess open-space lands pursuant to Section 423 of the Revenue and Taxation Code, it is necessary that this act take effect immediately.

CHAPTER 999

An act to amend Sections 33200, 33210, and 33216 of, and to add Sections 33203.5, 33207.5, and 33207.6 to, the Public Resources Code, and to amend and supplement the Budget Act of 1981 (Chapter 99, Statutes of 1981, as amended by Chapter 169, Statutes of 1981) by amending Items 379-301-036 to 379-301-742, inclusive, and the provisions applicable thereto, and by adding Item 379-497-742 thereto, relating to the Santa Monica Mountains, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 33200 of the Public Resources Code is amended to read:

33200. (a) The Santa Monica Mountains Conservancy is hereby established. The conservancy shall be composed of seven voting members and one nonvoting member. The voting members shall be as follows: (1) the Secretary of the Resources Agency or the secretary's designee, (2) a member appointed by the State Coastal Conservancy who is a member of the State Coastal Conservancy or an employee of the State Coastal Conservancy who may be designated as an alternate for that member, (3) three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Rules Committee, and one of whom shall be appointed by the Speaker of the Assembly, (4) a member appointed by the Board of Supervisors of the County of Los Angeles, and (5) an elected official who is either a member of the City Council of the City of Los Angeles or the City of Thousand Oaks or a member of the Board of Supervisors of the County of Ventura and who shall be appointed by the Executive Committee of the Southern California Association of Governments, or the elected official's designee. The seat of a public member shall be deemed vacant if the member changes his or her residence to a county other than Los Angeles or Ventura County. The nonvoting member shall be appointed by the California Coastal Commission and shall be either a member of the commission or an employee of the commission.

On the 10th working day after certification pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of any local coastal program, or any portion thereof, for any portion of the zone, the voting member appointed by the State Coastal Conservancy shall become a nonvoting member and the nonvoting member appointed by the California Coastal Commission shall become a voting member.

(b) The Secretary of the Resources Agency shall serve as chairman of the conservancy. The vice chairman of the conservancy shall be selected by the voting members of the conservancy. A majority of the total authorized membership of the conservancy shall constitute a quorum for the transaction of any business under this division.

(c) The public members of the conservancy, and the members appointed by the State Coastal Conservancy and the California Coastal Commission if such members are also public members of their agency, shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars

($100) per day, and shall be reimbursed for the actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

SEC. 2. Section 33203.5 is added to the Public Resources Code, to read:

33203.5. Notwithstanding any other provision of this division, the conservancy may acquire and improve real property, or any interests therein, anywhere within the zone upon a finding that the action is consistent with the plan. If the proposed acquisition or improvement is within the coastal zone, the executive director of the conservancy shall submit the proposal to the State Coastal Conservancy for review. If the State Coastal Conservancy has not acted to disapprove the proposed acquisition or improvement within 60 days from the date of submission, the acquisition or improvement may proceed pursuant to this section.

SEC. 3. Section 33207.5 is added to the Public Resources Code, to read:

33207.5. (a) The Los Angeles Unified School District shall be exempt from subdivision (b) of Section 33207.

(b) The Division of Real Estate Services of the Department of General Services shall, within three months of the effective date of this section, appraise the value of each of the excess school sites owned by the Los Angeles Unified School District within the zone. The chief of the division shall notify the school district and the executive director of the conservancy upon completion of the appraisal.

(c) The exemption in subdivision (a) shall only become operative if and when the Los Angeles Unified School District, within six months after completion of the appraisal pursuant to subdivision (b), records in the office of the Los Angeles County Recorder an offer which is irrevocable for a period of six months from the date of its recordation to sell to the conservancy, at the original purchase price, the Temescal Junior High School site and that portion of the Old Ranch Road site described as follows:

All that portion of blocks 39 and 43 lying within the Santa Monica Land and Water Company Tract M.R. 78-44/49 owned by the Los Angeles Unified School District, together with appurtenant access easements along Old Ranch Road.

The original purchase price of that part of the Old Ranch Road site described in this section shall not be greater than one-half of the original purchase price of the entire Old Ranch Road site.

Notwithstanding any other provision of law, the Los Angeles Unified School District may sell to the conservancy the real property described in this subdivision at its original purchase price in accordance with the procedure specified in this subdivision.

(d) The State Public Works Board shall not approve an acquisition by the conservancy pursuant to this section where the board determines that the total value of the real property to be acquired by the conservancy as appraised pursuant to subdivision (b), minus

the purchase price thereof as determined pursuant to subdivision (c), is greater than one-half the appraised value of all of the excess school sites owned by the school district within the zone as determined pursuant to subdivision (c).

The executive director of the conservancy shall submit to the State Public Works Board acquistion plans for less than the total area of the property offered by the school district pursuant to subdivision (c) if necessary to ensure that the total value of the real property to be acquired by the conservancy is consistent with the limitations of this subdivision. Any real property described in subdivision (c) which is not acquired by the conservancy pursuant to this section shall be exempt pursuant to subdivision (a).

(e) Any real property acquired by the conservancy pursuant to this section shall be used for park, recreation, or open-space purposes only.

SEC. 3.5. Section 33207.6 is added to the Public Resources Code, to read:

33207.6. Notwithstanding any other provision of law, upon receipt of a resolution of the Board of Education of the Las Virgenes Unified School District, the conservancy shall exchange for the district, under terms mutually agreed upon by the district and the conservancy, an acceptable substitute property for excess school lands within the zone now held by the district.

SEC. 4. Section 33210 of the Public Resources Code is amended to read:

33210. Upon the request of a city, county, or recreation and park district within the zone, upon the request of the National Park Service, or on its own initiative, the conservancy may, after public hearings and findings, and consistent with this division, amend the plan and submit it to the Secretary of the Interior for approval. However, if the conservancy acts on its own initiative to substantially amend the plan, the action shall be subject to the same procedure for obtaining a resolution of intent to comply with the plan from the affected jurisdiction as applied to the original approval of the plan pursuant to Section 507(n)(3)(B) of the National Parks and Recreation Act of 1978 (16 U.S.C. 460kk(n)(3)(B)). The findings shall provide that the amendments to the plan will not adversely affect the health, safety, or welfare of persons residing in the zone or of persons using the facilities located within the zone.

SEC. 5. Section 33216 of the Public Resources Code is amended to read:

33216. This division shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends that date.

SEC. 6. Items 379-301-036 to 379-301-742, inclusive, of the Budget Act of 1981 (Chapter 99, Statutes of 1981, as amended by Chapter 169, Statutes of 1981), and the provisions applicable thereto, are amended to read:

379-301-036—For capital outlay, Department of Parks and Recreation, payable from the Special Account for Capital Outlay 214,452

(a) Climate control study (Hearst Castle) 60,000
(b) Artifact restoration (Hearst Castle) 83,000
(c) Artifact appraisal (Hearst Castle) 10,000
(d) Hearst Visitor Center—working drawings 61,452

379-301-189—For capital outlay, Department of Parks and Recreation, payable from the Energy Account, Energy and Resources Fund 584,686

Schedule:
(a) Project planning and design 160,044
(b) Minor projects 424,642

379-301-190—For capital outlay, Department of Parks and Recreation, payable from the Resources Account, Energy and Resources Fund 2,532,950

(a) Anderson Marsh—acquisition 2,000,000
(b) Durham Ferry SRA—working drawings and construction 300,000
(c) Seacliff SB—construction 232,950

379-301-263—For capital outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund 9,426,650

Schedule:
(a) Hollister Hills SVRA—working drawings for facilities improvements 308,350
(d) Ocotillo Wells SVRA—acquisition 8,500,000
(f) Minor projects 618,300

379-301-392—For capital outlay, Department of Parks and Recreation, payable from the State Parks and Recreation Fund 14,226,900

Schedule:
(a) Big Basin SP—working drawings and construction for sewer 713,400
(b) Torrey Pines SR—construction for erosion control 301,450
(c) Silverstrand SB—working drawings and construction for storm damage repair 1,122,150
(g) Hearst San Simeon SHM—working drawings for water system 59,600
(h) Hearst San Simeon SHM—rehabilitation and repair 572,550
(i) Hearst San Simeon SHM—road repair 650,900

(j) Columbia SHP—construction of theater and saloon	499,050
(k) Old Town San Diego SHP—working drawings for reconstruction	99,000
(*l*) Old Sacramento SHP—working drawings for '49er scene	80,000
(m) Bale Grist Mill—construction of access road and parking lot	471,000
(n) Minor project	2,300,000
(o) Chino Hills—acquisition	500,000
(p) Inholding purchases	500,000
(q) Opportunity purchases	350,000
(r) Acquisition costs	150,000
(s) Prebudget appraisal costs	180,000
(t) Angel Island SP—working drawings and partial construction of pier	685,700
(u) Preliminary planning	150,000
(v) Julia Pfeiffer Burns SP—acquisition	60,000
(w) Wilder Ranch SP—acquisition	770,000
(x) Millerton Lake SRA—working drawings and construction of water treatment plant	537,100
(y) Candlestick SRA—construction	1,000,000
(z) Railtown—acquisition, working drawings, and construction	1,500,000
(aa) Relocation expenses	475,000
(bb) Old Town San Diego—acquisition of Bazaar del Mundo concession contract	500,000

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

379-301-721—For capital outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980			37,133,438
(a) Irvine Coast Project—acquisition		500,000	
(b) Humboldt Lagoons—acquisition		5,152,790	
(c) Sinkyone Wilderness SP—preliminary planning and construction		170,100	
(d) Project feasibility studies		90,000	
(e) Design and construction planning		749,949	
(f) Minor projects:		1,020,000	
(1) Environmental campsites	300,000		
(2) Handicapped retrofit	200,000		

(3) Volunteer projects	500,000	
(4) Point Arena hostel	20,000	
(g) Reimbursements		-2,576,395
(h) Multi-Cultural Park-feasibility study and working drawings		400,000
(i) Salt Point SP—construction		2,327,400
(j) Chino Hills Project—acquisition		10,800,000
(k) Wilder Ranch SP—acquisition		2,000,000
(*l*) Mount Diablo—acquisition		2,000,000
(m) Verdugo Hills—acquisition		1,285,000
(n) Sinkyone Wilderness SP—acquisition		3,200,000
(o) Crystal Cove SB—preliminary plans, working drawings, construction		2,000,000
(p) Folsom Lake SRA—construction of day facilities at Beales Point		2,949,775
(q) Malibu Creek SP—construction of day use facilities		1,850,830
(r) Angel Island SP—construction of day use facilities		1,213,989
(s) Seccombe Lake State Urban Recreation Area—working drawings and construction		2,000,000

RECREATION AND FISH AND WILDLIFE ENHANCEMENT FUND

379-301-728—For capital outlay, Department of Parks and Recreation, payable from the Recreation and Fish and Wildlife Enhancement Fund		405,571
Schedule:		
(a) Project planning and design	8,071	
(b) Lake Perris SRA—working drawings for day use facility	397,500	

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

379-301-732—For capital outlay, project planning and design, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964	13,669

STATE BEACH, PARK, RECREATIONAL, HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

379-301-733—For capital outlay, project planning and design, Department of Parks and Recreation, payable from the State Beach, Park, Recreational and Historical Facilities Fund of 1974 1,096,392

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

379-301-742—For capital outlay, Department of Parks and Recreation, payable from the State Urban and Coastal Park Fund..... 11,007,586

Schedule:

(a) Project planning and design.....	541,686
(b) Pyramid Reservoir—construction of camping and day use facilities	4,465,900
(c) Santa Monica Mountains Backbone Trail, Saddle Creek Ranch and White Properties—acquisition	5,975,000
(d) Santa Monica Mountains Malibu Canyon and Creek—study the feasibility of acquiring a connecting trail link from Backbone Trail to Malibu Lagoon through Malibu Creek Canyon	25,000

Provisions applicable to Items 379-301-036 through 379-301-742—for capital outlay, Department of Parks and Recreation:

1. Provided the minor capital outlay projects funded by the Energy and Resources Fund Item 379-301-188 are for solar retrofitting and energy conservation.
2. Provided further, that none of the funds appropriated for acquisition of parklands in Items 379-301-189 to 379-301-952, inclusive, shall be expended on the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with

in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

3. Provided, that no funds appropriated in Item 379-301-392 shall be encumbered for acquisition of land for Julia Pfeiffer Burns State Park, Wilder Ranch State Park, or the Humboldt Lagoons Project in Item 379-301-721 for acquisition of land unless and until the Save-the-Redwoods League has in each instance made a cash donation to the state equal to one-half the appraised value for such acquisition or otherwise enables the state to purchase such properties for an expenditure not to exceed one-half of the appraised value.

4. Provided, that funds appropriated for category (z) of Item 379-301-392 shall not be encumbered for the acquisition of "Railtown 1897" in Tuolumne County, which consists of 24 acres of land, several historic buildings and yard trackage, unless (1) the state has first received a donation of railroad rolling stock, locomotives, and equipment, as identified in a report to the Legislature from the Sierra Railroad Company entitled "Inventory of Railroad Company", dated July 15, 1980, and (2) the owner of the connecting railline between Oakdale and Sonora grants the state the perpetual use of the right-of-way free of charge for scheduled excursion trains, charter trains, and special trains.

Provided further, that the department shall make every effort

to contract with a concessionaire to operate excursion trains from "Railtown 1897" to Sonora and Oakdale in the event the excursion business is continued.

Provided further, that in respect to the donation of railroad rolling stock, locomotives, and equipment to the state, it is the understanding of the Legislature that the gift deed shall permit the transfer of railroad rolling stock, locomotives, and equipment between "Railtown 1897" and the California State Railroad History Museum in Sacramento.

5. Provided, that no funds appropriated in Item 379-301-721 (h) may be expended for working drawings until a final study is complete and a lease agreement is executed with the Sixth District Agricultural Association.

6. Provided, that no funds appropriated in Item 379-301-721 (*l*) may be expended until an appraisal has been completed.

Provided further, that the funds appropriated in Item 379-301-721 (*l*) shall be expended for acquisition of parcels on the northeast perimeter of Mount Diablo as determined by the Department of Parks and Recreation, and that highest priority for acquisition shall be given to the Schwartz Holdings of approximately 337 acres.

7. Provided, that the funds available for expenditure pursuant to the appropriation in Item 379-301-721 (m) for Verdugo Hills acquisition shall not exceed the total amount of funds available for this project from nonstate sources in conformance with policy adopted by the State Parks and Recreation Commission.

8. Funds available to complete any

land exchange relating to the Sinkyone Wilderness approved by the State Parks and Recreation Commission pursuant to subdivision (a) of Section 6 of Chapter 1234, Statutes of 1980, shall be used to acquire critical areas described in paragraph 2 of subdivision (c) of that section.

SEC. 7. Item 379-497-742 is added to the Budget Act of 1981 (Chapter 99, Statutes of 1981), to read:

379-497-742—Reversion, Department of Parks and Recreation. As of the effective date of this section, $6,000,000 of the unencumbered balance of the $14,750,000 appropriated by Item 512F of the Budget Act of 1978 (as added by Chapter 1257, Statutes of 1978 and amended by Chapter 1085, Statutes of 1979) shall revert to the unappropriated surplus of the State, Urban, and Coastal Park Fund.

SEC. 8. The Legislature finds and declares that the preservation of Runyon Canyon (Huntington-Hartford Estate), as part of a revolving fund project of the Santa Monica Mountains Conservancy, is in the public interest in that the area provides an excellent opportunity for outdoor recreation close to the center of the Los Angeles metropolitan region. The Santa Monica Mountains Conservancy shall submit to the Legislature, for enactment as part of the Budget Act of 1982, a proposal for funding the acquisition of Runyon Canyon from the Resources Account in the Energy and Resources Fund.

SEC. 9. The Assembly Energy and Natural Resources Committee and the Senate Natural Resources and Wildlife Committee may hold joint hearings during the 1983 portion of the 1983–84 Regular Session of the Legislature, with notice and full opportunity for participation by concerned landowners and state, local and federal agencies, and may make findings and recommendations for any necessary amendments to the Santa Monica Mountains Comprehensive Plan or the Santa Monica Mountains Conservancy Act (Division 23 (commencing with Section 33000) of the Public Resources Code), or for changes in land acquisition procedures of the Santa Monica Mountains Conservancy. If the hearings are held, the committees shall report their findings and recommendations to the Joint Legislative Budget Committee by January 1, 1984, for inclusion in the budget process.

SEC. 10. To the extent that the moneys in those funds may be lawfully expended for these purposes, the unencumbered balance in the State Parks and Recreation Fund and the Off-Highway Vehicle Fund is hereby appropriated to the Department of Parks and Recreation to the extent necessary to make project grants and perform

project review for the Parklands Acquisition and Development Program pursuant to Item 379-101-721 of the Budget Act of 1981. Any amount expended pursuant to this section shall be reimbursed by the Department of Parks and Recreation to the appropriate fund upon the receipt of the first proceeds from the bonds sold pursuant to the California Parklands Act of 1980.

SEC. 11. This act is an urgency statute necessary for the immediate preservati on of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may be operative for the 1981–82 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1000

An act to amend Sections 79028 and 87601 of, and to add Sections 78002 and 79000.5 o, and to repeal Sections 72252, 78008, 84504, and 84895.5 of, and to repeal and add Section 84520 of, and to repeal and add Article 8 (commencing with Section 84890) of, Chapter 5 of Part 50 of, the Education Code, relating to community colleges.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 72252 of the Education Code is repealed.

SEC. 2. Section 78002 is added to the Education Code, to read:

78002. At the request of a community college district, the chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar in accordance with rules and regulations prescribed by the Board of Governors of the California Community Colleges.

SEC. 2.5. Section 78008 of the Education Code is repealed.

SEC. 3. Section 79000.5 is added to the Education Code, to read:

79000.5. The term "academic year" means that portion of the college year during which the community college is maintained, which period must include not less than the number of days required by Section 84370 and regulations adopted pursuant thereto by the Board of Governors.

SEC. 4. Section 79028 of the Education Code is amended to read:

79028. The governing board of any community college district may provide for the maintenance of community college classes on either Saturday or Sunday, or both Saturday and Sunday.

SEC. 5. Section 84504 of the Education Code is repealed.

SEC. 6. Section 84520 of the Education Code is repealed.

SEC. 7. Section 84520 is added to the Education Code, to read:

84520. (a) Pursuant to the provisions of Section 84500 and rules

and regulations adopted by the Board of Governors, the units of average daily attendance for apportionment purposes shall be computed for courses based on the type of course and the way the course is scheduled.

(b) For credit courses five or more days in length that are scheduled regularly with respect to the days of the week and the hours the course meets on each scheduled day, the actual units of average daily attendance shall be computed by multiplying the average weekly student contact hours of the enrollment as recorded for the census days nearest to one-fifth and three-fifths of the length of the course by the number of scheduled weeks the course is offered, multiplied by the statewide factor established by the Board of Governors subject to the approval of the Department of Finance, and divided by 525.

(c) For credit courses five or more days in length that are scheduled regularly with respect to the numbers of hours during each scheduled day but scheduled irregularly with respect to the days of the week when the course is offered, the actual units of average daily attendance shall be computed by multiplying the average daily student contact hours of the enrollment as recorded for the census days nearest to one-fifth and three-fifths of the length of the course by the number of scheduled days the course is offered, multiplied by the statewide factor established by the Board of Governors subject to the approval of the Department of Finance, and divided by 525.

(d) For credit courses scheduled for less than five days, or credit classes five or more days in length which are scheduled irregularly with respect to the days of the week and the hours the class meets on the scheduled days, the actual units of average daily attendance shall be computed by dividing total student contact hours of attendance by 525.

(e) For all open entry-open exit credit courses and all noncredit courses, the actual units of average daily attendance shall be computed by dividing student hours of attendance by 525.

(f) For credit courses in independent study or work experience courses, one weekly student contact hour shall be computed for each unit of credit for which the student is enrolled. Units of average daily attendance shall be computed by multiplying the weekly student contact hours by 35 and dividing the result by 525.

SEC. 8. Article 8 (commencing with Section 84890) of Chapter 5 of Part 50 of the Education Code is repealed.

SEC. 9. Article 8 (commencing with Section 84890) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 8. Flexible Calendar

84890. A community college district board may offer, subject to the approval of the Chancellor's office of the California Community Colleges, and in accordance with rules and regulations to be adopted

by the Board of Governors, courses under a flexible calendar. The sum of the days in the academic year of the flexible calendar terms, exclusive of the summer session, shall be 175 days. A district operating under an approved flexible calendar may designate not more than 15 days in the academic year for staff, student, and instructional improvement in lieu of part of the regular classroom instruction during the designated days.

84891. All employees under contract for the academic year with a community college district operating under an approved flexible calendar, pursuant to Sections 84890 and 84892, shall be accountable pursuant to Section 84893, and as determined by the district, for the 175 workday academic year. The activities of all college personnel during the designated staff, student, and instructional improvement days are to include, but need not be limited to, the following:

(a) Course instruction and evaluation.

(b) Staff development, in-service training and instructional improvement.

(c) Program and course curriculum or learning resource development and evaluation.

(d) Student personnel services.

(e) Learning resource services.

(f) Related activities, such as student advising, guidance and orientation, departmental or division meetings, conferences and workshops, and institutional research.

(g) Other duties as assigned by the district.

(h) The necessary supporting activities for the above.

84892. A flexible calendar is a community college calendar and course scheduling plan pursuant to Section 84890 which may include, but is not limited to, the following scheduling configurations:

(a) 4-1-4 calendar comprised of two 16-week semesters with an intersession.

(b) Traditional semester or quarters with some or all courses scheduled irregularly with respect to the number of times the course meets per week or the number of hours the courses meet during the scheduled days.

(c) Modular scheduling for all or part of the courses within the traditional semester, quarter, or academic year.

(d) Courses scheduled for student enrollment on an open entry-open exit basis.

(e) Courses scheduled independently of any term configuration.

(f) A combination of any one or more of the configurations in subdivisions (a) through (e).

84893. The chancellor's office shall review districts' plans for a flexible calendar schedule submitted pursuant to Section 84890. District plans to conduct staff, student, and instructional improvement activities in lieu of part of regular scheduled instruction during any of the designated flexible days shall be approved pursuant to Section 84894. In the approval process, the chancellor shall give high priority to the availability of intensive

courses for students offered during the flexible day. The average daily attendance for districts with plans approved pursuant to this section shall be adjusted by the chancellor pursuant to Section 84895.

84894. Any district requesting approval for a flexible calendar schedule pursuant to Section 84893 shall implement the following activities or procedures to assure the effective use of resources during designated flexible days:

(a) Conduct and update annually a survey of the most critical staff, student, and instructional improvement needs in the district.

(b) Develop a plan of activities to address the critical needs.

(c) Maintain records on the type and number of activities scheduled and the number of district employees and students participating in these activities.

(d) Evaluate annually the effectiveness of conducted activities and update the plan to reflect needed changes.

(e) Appoint an advisory committee to make recommendations on staff, student, and instructional improvement activities.

84895. The chancellor's office shall adjust the actual units of average daily attendance of a district operating under a plan approved in accordance with Sections 84893 and 84894 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible days. The adjusted units of average daily attendance shall be computed by multiplying the actual units of average daily attendance computed pursuant to Section 84500 by a factor equal to one plus the actual faculty contact hours of instruction for which approved staff, student, and instructional improvement are substituted, divided by the total of all faculty contact hours of scheduled instruction plus the faculty contact hours of instruction for which approved staff, student, and instructional improvement activities are substituted. Districts shall report information needed to compute the adjustments on forms developed by the chancellor's office.

84895.5. The chancellor's office shall further adjust the actual units of average daily attendance of a district operating under a plan approved in accordance with Sections 84893 and 84894 and which operated under the provisions of Section 84890 as it read prior to January 1, 1982, in order that those districts do not experience an arbitrary gain or loss in average daily attendance as a result of shifting from the pilot program to the provisions of this article. Districts shall report information needed to compute these adjustments on forms developed by the chancellor's office.

This section shall remain in effect only until June 30, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1985, deletes or extends that date.

84896. The chancellor shall report annually to the Legislature concerning the effectiveness of the flexible calendar year program. The chancellor shall study and evaluate the results of this article and recommend any needed modifications or policy changes to the Legislature no later than February 1, 1985.

SEC. 10. Section 87601 of the Education Code is amended to read:

87601. For the purposes of this article:

(a) "Contract employee" means an employee of a district who is employed on the basis of a contract in accordance with the provisions of Section 87605 or subdivision (b) of Section 87608.

(b) "District" means a community college district.

(c) "Positions requiring certification qualifications" are those positions which provide the services for which certifications have been established in this code.

(d) "Regular employee" means an employee of a district who is employed in accordance with the provisions of subdivision (c) of Section 87608 or Section 87609.

(e) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter.

SEC. 11. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 12. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 13. Sections 1 to 12, inclusive, of this act shall become operative July 1, 1982.

CHAPTER 1001

An act to amend, repeal, and add Section 33352 of, and to add and repeal Sections 33353, 33353.5, 33354, and 35179 of, the Education Code, relating to athletics.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981]

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

SECTION 1. Section 33352 of the Education Code is amended to read:

33352. The State Department of Education shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.

This section shall remain in effect only until June 30, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends such date.

SEC. 2. Section 33352 is added to the Education Code, to read:

33352. The Department of Education shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; exercise general control over all athletic activities of the public schools; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.

This section shall become operative June 30, 1987.

SEC. 3. Section 33353 is added to the Education Code, to read:

33353. The California Interscholastic Federation is a voluntary organization consisting of school and school related personnel with responsibility, generally, for administering interscholastic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the State Department of Education, implement the following policies:

(a) Give local school boards specific authority to select their athletic league representatives.

(b) Require that all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(c) Establish a neutral final appeals body to hear complaints related to interscholastic athletic policies.

This section shall remain in effect only until June 30, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends such date.

SEC. 3.5. Section 33353.5 is added to the Education Code, to read:

33353.5. (a) The California Interscholastic Federation shall not participate directly in any student athletic insurance program.

(b) The California Interscholastic Federation shall not accept funds from any entity operating the student athletic insurance program, except as provided in the contract between the Great Republic Life Insurance Company and the California Interscholastic Federation executed on August 1, 1981.

(c) This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends that date.

SEC. 4. Section 33354 is added to the Education Code, to read:

33354. (a) The State Department of Education shall have the following authority over interscholastic athletics:

(1) The State Department of Education may state that the policies of school districts, of associations or consortia of school districts, and of the California Interscholastic Federation, concerning interscholastic athletics, are in compliance with both state and federal law.

(2) If the State Department of Education states that a school district, an association or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the State Department of Education may require the school district, association or consortium, or the federation to adjust its policy so that it is in compliance. However, the State Department of Education shall not have authority to determine the specific policy which a school district, association or consortium, or the federation must adopt in order to comply with state and federal laws.

(3) If the State Department of Education states that a school district, association or consortium, or the federation is not in compliance with state or federal law in matters relating to interscholastic activities, and the school district, association or consortium, or the federation does not change its policy in order to comply with these laws, the State Department of Education may commence with appropriate legal proceedings against the California Interscholastic Federation, the school district or against school districts which are members of the California Interscholastic Federation or the association or consortium which the department states is in noncompliance. In such a legal proceeding the court shall determine the matter de novo. The State Department of Education may make recommendations for appropriate remedies in these proceedings.

(b) This section shall not be construed or interpreted to limit the discretion of local governing boards, or voluntary associations formed or maintained pursuant to subdivision (b) of Section 35179, in any policy, program, or activity which is in compliance with state and federal law.

(c) This section shall remain in effect only until June 30, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends such date.

SEC. 5. Section 35179 is added to the Education Code, to read:

35179. (a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall assure that all interscholastic policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on the basis of race, sex, or ethnic origin.

(e) Interscholastic athletics is defined as those policies, programs, and activities which are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

This section shall remain in effect only until June 30, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1987, deletes or extends such date.

CHAPTER 1002

An act to amend, repeal, and add Section 51260 of the Education Code, and to add and repeal a heading immediately preceding Section 11960 of, and to add Article 2 (commencing with Section 11965) to Chapter 2 of Part 3 of Division 10.5 of, the Health and Safety Code, relating to drugs.

[Approved by Governor September 29, 1981 Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 51260 of the Education Code is amended to read:

51260. (a) Instruction shall be given in the elementary and secondary schools on drug education and the effects of the use of tobacco, alcohol, narcotics, dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

In grades 1 through 6, instruction on drug education should be conducted in conjunction with courses given on health pursuant to subdivision (f) of Section 51210.

In grades 7 to 12, instruction on drug education shall be conducted in conjunction with courses given on health or in any appropriate area of study pursuant to Section 51220.

Such instruction shall be sequential in nature and suited to meet the needs of students at their respective grade level.

(b) Services provided under this section shall be in addition to, but shall not be duplicative of, services provided pursuant to Article 2 (commencing with Section 11960) of Part 3 of Division 10.5 of the Health and Safety Code.

This section shall remain in effect only until July 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends such date.

SEC. 2. Section 51260 is added to the Education Code, to read:

51260. Instruction shall be given in the elementary and secondary schools on drug education and the effects of the use of tobacco, alcohol, narcotics, dangerous drugs, as defined in Section 11032 of the Health and Safety Code, and other dangerous substances.

In grades 1 through 6, instruction on drug education should be conducted in conjunction with courses given on health pursuant to subdivision (f) of Section 51210.

In grades 7 to 12, instruction on drug education shall be conducted in conjunction with courses given on health or in any appropriate area of study pursuant to Section 51220.

Such instruction shall be sequential in nature and suited to meet the needs of students at their respective grade level.

This section shall become operative July 1, 1985.

SEC. 3. An article heading is added immediately preceding Section 11960 of the Health and Safety Code, to read:

Article 1. Coordination of Services

SEC. 4. The heading of Article 1 (commencing with Section 11960) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 5. Article 2 (commencing with Section 11965) is added to Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code, to read:

Article 2. The School-Community Primary Prevention Program

11965. The Legislature makes the following findings and declarations of intent:

(a) A statewide drug abuse primary prevention program is essential in order to address the continuing problem of drug abuse throughout the state, which often exists in combination with other problems such as crime and juvenile delinquency. The program is labeled as "primary" prevention because it is intended to prevent drug abuse before it begins or before it has reached later stages requiring treatment.

(b) The program necessarily emphasizes a continuing partnership between education agencies, drug abuse agencies, and community service agencies. In order to facilitate this partnership, the Legislature finds and declares that it is of vital importance that fiscal and management responsibilities for the program be shared equitably by education and drug agencies at both the state and county levels, and that this cooperation is a major tool in efforts to achieve the successful prevention of drug abuse.

(c) The program established pursuant to this article is intended by the Legislature to delegate primary responsibility for program planning to local school and local drug abuse authorities. These agencies are best suited for dealing with lifetime drug using patterns,

which are formed during youth and in the family setting.

(d) This article places primary emphasis on youth, families, and communitywide drug abuse prevention planning. Therefore, information or training to acquaint professionals serving youth and family, community representatives, parents, and youth with the skills and strategies needed for program implementation is an important aspect of the total program.

11965.3. In view of the purposes and intent of this article as expressed in Section 11965, highest priority for program funding under this article shall be designated to programs which emphasize joint school-community program drug abuse prevention planning and implementation, and which focus on children and their families.

It is the intent of the Legislature that, to the maximum extent possible, funds made available for the purposes of this article be used for support programs which will meet the needs of children and families.

11965.5. This article shall affect only those counties in which the board of supervisors and the county board of education have each adopted a resolution electing to apply for available funds pursuant to Section 11966. Programs may be funded, planned, and implemented under this article for any of the following:

(a) School and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of drugs and their effects, enhanced self-esteem, social and practical skills that will assist students toward maturity, enhanced or improved school climate and relationships among teachers, counselors, and students, and furtherance of cooperative efforts of school- and community-based personnel.

(b) School- or community-based nonclassroom alternative programs, or both, including, but not limited to, positive peer group programs, programs involving youth and adults in constructive activities designed as alternatives to drug use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.

(c) Family-oriented programs, including, but not limited to, programs aimed at improving family relationships and involving parents constructively in the education and nurturing of their children, as well as in specific activities aimed at preventing drug abuse.

11965.7. In those counties electing to apply for funds under this article, both the county drug program coordinator and the county office of education shall designate units with primary responsibility for administering the School-Community Primary Prevention Program. These units shall work together on a cooperative basis to review local school and community program applications for funds, and to submit their respective plans to the Department of Education and the State Department of Alcohol and Drug Programs. The plans of the county drug program coordinator and the county office of

education shall be combined into a single master plan, which shall be submitted to the primary prevention advisory committee, as established pursuant to subdivision (b) of Section 11966, for review and comment. After this review, the plan shall be submitted to the respective state agencies charged with administering each aspect of the program. The State Department of Alcohol and Drug Programs shall have review authority over the county drug office section of the plan, and the Department of Education shall have review authority over the county office of education section. The State Department of Alcohol and Drug Programs and the Department of Education shall enter into an interagency agreement in order to carry out the provisions of this chapter.

11966. The planning process at the county level shall include all of the following, which shall be incorporated into each local school-community primary drug abuse prevention plan submitted to the Department of Education and the State Department of Alcohol and Drug Programs:

(a) A copy of the resolutions of the board of supervisors and the county board of education electing to apply for funding under this article, and documentation of public notice as required by Section 11967.

(b) Incorporation of comments on program plans provided by the primary prevention advisory committee. This committee may be the existing drug abuse advisory committee unless the county board of supervisors and the county board of education have each adopted a resolution requiring the formation of an independent committee. Independent committees so established shall consist of 10 members, five members being appointed by the board of supervisors and five by the county board of education.

(c) Certification of each other's plans by the county drug coordinator and the county office of education, emphasizing public notice and nonduplication of programing, especially with respect to nonduplication of the drug abuse portion of the county Short-Doyle plan, and of any services provided pursuant to Section 51260 of the Education Code.

(d) Submission of the coordinated master plan as required under Section 11965.7.

(e) Evidence that there has been coordination with existing successful programs in the development of the county plans, and assurance of maintenance of current efforts in order to preclude the use of funds to support existing programs.

(f) Provision for no more than 5 percent of the county level program funds being used for program administration, and specification of measurable goals and objectives for each program to be funded pursuant to the plan.

(g) Evidence that any program funded for two years or more under this article has substantially achieved its measurable goals and objectives as specified in its approved plan. The county agencies allocating funds to individual applicants or programs pursuant to the

county plan shall have responsibility to institute monitoring systems to insure compliance with this requirement.

(h) In counties in which the board of education is appointed by the board of supervisors, the board of supervisors shall have final authority for application, planning, and implementation of programs funded under this article.

11966.5. The plan from each county shall be submitted, with appropriate documentation as provided in Section 11966, on or before the existing deadline for the county Short-Doyle plan upon certification that the plan meets requirements specified in Sections 11965 and 11966, and joint approval by the Department of Education and the State Department of Alcohol and Drug Programs shall be given on or before the existing deadlines for state approval of the county Short-Doyle plan.

11967. Upon receiving letters from the Department of Education and the State Department of Alcohol and Drug Programs, respectively, specifying the eligible county allocation, as required under subdivision (c) of Section 11967.5, both the county drug program coordinator and the county office of education shall announce the availability of funds locally under the School-Community Primary Prevention Program pursuant to Section 6061.3 of the Government Code, and shall also disseminate such information to the public media, to school districts within the county, and to community nonprofit organizations providing preventive services services to youth. This public notice shall specify the nature and intent of the program as provided in this article, and shall inform agencies and organizations concerning the details of applying for funds.

11967.5. Funds provided for purposes of this article shall be administered and allocated as follows:

(a) One-half of the total funds available shall be allocated to the Department of Education, and the other half shall be allocated to the State Department of Alcohol and Drug Programs. No more than 5 percent of the total amount for each state department and no more than 5 percent of the total amount for each county office shall be used for administrative costs. The maximum amount shall be inclusive of administrative costs at the state and county levels. An appropriate portion of such maximum amount shall be used by the state departments to work together on a cooperative basis to develop program guidelines. Both departments shall develop program guidelines that are consistent with the legislative intent prescribed in Section 11965.5. Both departments shall adopt rules and regulations to provide procedures for counties which desire to apply for participation in the program established by this article, and each such department shall submit copies of the rules and regulations to the Legislature on or before March 1, 1982.

(b) Not more than 3 percent, of the total annual program funds under this article shall be expended by the Department of Education and the State Department of Alcohol and Drug Programs to evaluate

local implementation of this article on a representative sampling basis. The evaluation of programs conducted by county offices of education shall be conducted by the Department of Education, and evaluations of programs conducted by county drug program coordinators shall be conducted by the State Department of Alcohol and Drug Programs. In either case the evaluation shall include, but not be limited to, an assessment of program effectiveness and the identification of successful model programs for statewide replication.

(c) The balance of program funds provided under this article shall be allocated to counties on the basis of each of the following conditions:

(1) The total number of counties eligible for funding shall be the total number of counties which have submitted their School-Community Primary Prevention Program plans to the Department of Education with respect to portions involving the county office of education, and to the State Department of Alcohol and Drug Programs for those portions involving the county drug program coordinator.

(2) Prior to such submission of county plans, the specific amount available to each county shall be determined on the basis of county population, except that a minimum of five thousand dollars ($5,000) shall be made available to each county drug program coordinator and each county office of education in any county with an approved plan, regardless of the county's population. On or before January 15th of each year the Department of Education and the State Department of Alcohol and Drug Programs, respectively, shall send written notification to each county of the anticipated allocation it would be eligible to receive from state approval of its local School-Community Primary Prevention Program plan, for the ensuing fiscal year.

Funds allocated to counties that do not apply for funding on or before the deadline for such application under this article, shall be subsequently divided among the remaining counties according to population.

(d) In addition to any state funds provided for purposes of this article, all state, local, and private entities shall endeavor to obtain any available federal funds or other grants for such purposes.

11968. Once state approval of a county allocation of funds has been obtained, and upon review and acceptance of applications for funds under this article, the county drug program coordinator or the county office of education may allocate funds on a grant or contract basis to public or private nonprofit agencies to carry out primary prevention programs. These may include, but need not be limited to, agencies or organizations at the county, school district, or community level, including county drug offices and offices of education which meet the requirements of Section 11968.5.

11968.5. Neither the county drug coordinator nor the county office of education may retain more than 30 percent of its respective allocation of funds, exclusive of administrative funds, unless either no applications for available funds are received after notification of the

availability of funds has been given pursuant to this article, or the county agencies have consulted the full membership of the Primary Prevention Advisory Committee in allocating more than 30 percent of the total funds to themselves, and have received approval of the committee.

11969. The county drug program coordinator and the county office of education may enter into interagency agreements between themselves which will allow any of the management or fiscal tasks, or both, created pursuant to this article and assigned to both the county office and the coordinator, to be performed by one of them only. In this event, the funds involved shall be transferred by the Controller as appropriate upon proper documentation of the arrangement. Any such arrangement may be renewed on an annual basis.

11969.5. The Department of Education and the State Department of Alcohol and Drug Programs shall establish mutually cooperative arrangements for sharing reports on the implementation of this article. These departments shall jointly submit an annual program report to the Legislature. The report shall inform the Legislature regarding the status of the program throughout the state, outstanding or exemplary programs, practices and concepts developed within the context of the program, and the extent to which individual local programs and the School-Community Primary Prevention Program as a whole have met their respective goals and objectives within the preceding year. In addition, evaluations conducted pursuant to subdivision (b) of Section 11967.5 shall be included as an appendix to the annual program report.

There shall be a close correlation between the annual report and the program evaluation specified in subdivision (b) of Section 11967.5.

11969.7. This article shall remain in effect only until July 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends such date.

SEC. 6. Section 4 of this act shall become operative July 1, 1985.

CHAPTER 1003

An act to amend Sections 18911, 18938, 18940, and 18946 of, and to add Sections 18931.5 and 18942.1 to, the Health and Safety Code, relating to building standards.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. Section 18911 of the Health and Safety Code is amended to read:

18911. "Codification" or "codify" means the publication of a building standard, including an emergency standard in the State Building Standards Code.

SEC. 2. Section 18931.5 is added to the Health and Safety Code, to read:

18931.5. Each state agency which adopts or has adopted building standards shall pay annually to the Building Standards Commission a proportionate share of the cost of the review and publication of building standards which are published or proposed to be published in the State Building Standards Code.

The commission shall determine the proportional cost to be paid for review of existing building standards and the amount to be paid for review of building standards adopted by the state agency which are submitted for publication in the State Building Standards Code.

SEC. 3. Section 18938 of the Health and Safety Code is amended to read:

18938. (a) Building standards shall be filed with the Secretary of State and codified only after they have been approved by the commission and shall not be published in any other title of the California Administrative Code. Emergency standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the commission as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.

(b) If a regulation is determined to be a building standard, it shall only become effective upon its codification in the triennial edition of the State Building Standards Code or one of its supplements.

SEC. 4. Section 18940 of the Health and Safety Code is amended to read:

18940. (a) Building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Administrative Code.

(b) The Office of Administrative Law shall review all building standards and regulations submitted to them for codification to identify and eliminate building standards from titles other than the State Building Standards Code. The commission and its staff shall assist the Office of Administrative Law to achieve this objective.

(c) Within 10 days from the receipt of printed copies of the code or any of its supplements in the California Administrative Register containing building standards from the State Printing Office, the commission shall file one copy of the code or the register supplement in the office of the county clerk of each county in this state, or, if the

authority to accept filings on the clerk's behalf has been delegated pursuant to Section 26803.5 of the Government Code, in the office of the librarian.

SEC. 5. Section 18942.1 is added to the Health and Safety Code, to read:

18942.1. If a regulation or order of repeal is filed with the Office of Administrative Law, and if it appears to be a building standard, as defined by Section 18909, which has not been approved by the commission, the Office of Administrative Law shall consult with the commission or the commission's staff to determine the character and status of the filed regulation or order. Any building standard improperly transmitted to the Office of Administrative Law, as determined according to this section, shall not be then filed with the Secretary of State, but, instead, the Office of Administrative Law shall transmit the building standard to the commission and notify the adopting agency of this action.

SEC. 6. Section 18946 of the Health and Safety Code is amended to read:

18946. Except as provided in Section 18947, the commission may hear the appeal itself, or by designating a member of the commission to be a hearing officer, or may refer the appealing parties to an advisory panel, a committee, or to a hearing officer appointed by the Office of Administrative Hearings, wherein the hearing officer designated by the commission or appointed by the Office of Administrative Hearings, should, where possible, possess some expertise in the technical aspects of the appeal. If a referral is made, the panel, committee, or hearing officer may make an investigation and conduct hearings as they deem appropriate, provided that all interested agencies or parties shall have a full and fair opportunity to be heard. A proposed written decision shall be submitted to the commission which the commission may adopt, adopt as modified, or reject. The commission shall render its decision or interpretation in writing.

CHAPTER 1004

An act to amend Sections 16700, 16702, 16707, and 16716 of the Welfare and Institutions Code, relating to health services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981]

I am deleting the $25 million appropriated in Section 13 of Assembly Bill No. 1540. Since the State is facing a significant shortage of funds in 1982–83, it is not prudent to commit capital outlay funds in advance.

Moreover, the one-time funding in this bill may well be unavailable next year. The budget cuts of President Reagan and the stagnant economy resulting from high interest rates seriously jeopardize the financial ability of state and local government

to meet their traditional responsibilities. Next year will be even more painful unless policies change dramatically at the national level.

With this reduction, I approve Assembly Bill No. 1540.

EDMUND G. BROWN JR., Governor

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

SECTION 1. The Legislature finds and declares that shortages of funds at the state and county level combined with cutbacks in the Medi-Cal program are causing disruption and curtailment of essential county health services. The state and counties have previously made a joint commitment to share the fiscal responsibility for county health services through the mechanism of the County Health Services Fund.

It is the intent of the Legislature in enacting this act to provide state incentives for counties willing to commit sufficient financial resources to the maintenance of county health services. The Legislature does not intend to impose any additional mandates on counties.

SEC. 2. Section 16700 of the Welfare and Institutions Code is amended to read:

16700. (a) On or before August 30 of each year, beginning with 1980, the governing body of each county, the City of Berkeley, and each existing local health district formed pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939, shall adopt a county health services plan and budget, and shall submit the plan and budget to the State Director of Health Services in the form and in accordance with the procedures specified by the director.

(b) For purposes of this part, local jurisdiction shall mean a county, an existing local health district formed pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code as enacted by Chapter 60 of the Statutes of 1939, or a city which has not transferred to the county enforcement authority of applicable health statutes and regulations, or a city which provides public health services pursuant to a contract with a county through an organized health department recognized by the State Department of Health Services.

SEC. 3. Section 16702 of the Welfare and Institutions Code, as amended by Chapter 133 of the Statutes of 1981, is amended to read:

16702. The net county costs of health services specified in each county health services plan and budget shall be financed in each county, the City of Berkeley, and each existing local health district with assistance from the County Health Services Fund in accordance with the following:

(a) For each county, an annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph

(2) from paragraph (1) below:

(1) The actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(2) The amount calculated for the county in subdivision (a).

(c) (1) The amount of assistance from the County Health Services Fund for the County of Alameda, as determined in subdivision (b), shall include an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(2) The amount of assistance from the County Health Services Fund for the City of Berkeley shall be an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year;

(3) The amount of assistance from the County Health Services Fund for the San Joaquin Local Health District shall be that amount set forth in the Budget Act of 1981 for that purpose for the 1981–82 fiscal year.

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) On July 1, 1980, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. On July 1, 1981, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and shall be adjusted to reflect the funds transferred pursuant to Section 12 of Assembly Bill 1540 of the 1981–82 Regular Session. On July 1, 1982, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c), and (d), as adjusted pursuant to this subdivision for the 1981–82 fiscal year, shall be adjusted to reflect any increases or decreases in the cost of living occurring during the 1981 calendar year and each year thereafter. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisions (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

SEC. 4. Section 16707 of the Welfare and Institutions Code is amended to read:

16707. Savings that occur in the County Health Services Fund due to a lack of applications for funds or for failure of counties to expend funds as required to qualify for funding under this part may be allocated by the State Director of Health Services upon application by the governing body of any county in accord with special needs and priorities established by the director. Such funds shall only be expended if a county agrees to net expenditures of county funds in the same amounts.

The director shall establish a systematic process for the annual defining of needs and priorities under this section. The process shall include at least the following:

(a) Consulting with the California Conference of Local Health Officers and, the County Supervisors Association of California.

(b) Holding a hearing for input from other interest groups and the general public.

(c) Allocating funds available pursuant to this section not sooner than 30 days after notification of the priority funding areas and justification therefor in writing to the chairman of the committee in each house which considers appropriations and the chairperson of the Joint Legislative Budget Committee.

Special consideration shall be given in defining needs and priorities to crises in the public health sector and to innovative approaches to the delivery of health care that assure quality services at reasonable cost.

The director shall report annually to the Legislature on the prior year's distribution of funds under this section.

The Department of Health Services is authorized to utilize funds that accumulate in the County Health Services Fund for special needs and priorities pursuant to this section for administration of this program so long as these costs are authorized through the regular budget process.

SEC. 5. Section 16716 of the Welfare and Institutions Code is amended to read:

16716. Each county receiving financial assistance from the state pursuant to Section 16700 shall prepare and submit to the State Department of Health Services by November 1, 1981, a report describing health services provided by the county pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code during fiscal year 1980–81. The report shall be in the form and in accordance with procedures established by the State Department of Health Services and shall include but not be limited to information covering the following: eligibility, services, resources, collections, target population size, and costs.

Subsequent reports shall be prepared and submitted by each county in the form and in accordance with procedures and a time table established by the State Department of Health Services after consultation with the County Supervisors Association of California and the California Conference of Local Health Officers.

The State Department of Health Services shall summarize and

analyze the information provided by the counties pursuant to this section in the department's annual submissions to the Legislature.

SEC. 6. In view of the extraordinary commitment of state dollars to the County Health Services Fund for fiscal year 1981–82 it is the intent of the Legislature that the Department of Health Services thoroughly evaluate and audit the plans and budgets submitted by the counties pursuant to Section 16700 of the Welfare and Institutions Code prior to allocating the funds. The department is hereby authorized to request additional audit personnel from other state departments should it require such assistance.

SEC. 7. The Department of Health Services shall provide to counties technical assistance to improve the efficiency and effectiveness of the management of their health care systems, particularly as regards collection of revenue for services provided from other third party payers. The department is hereby directed to respond quickly to requests for technical assistance from counties who are attempting through greater efficiency to take advantage of the more favorabale state-county sharing ratio provided for in Section 16705 of the Welfare and Institutions Code.

The Auditor General is hereby authorized to conduct audits of the fiscal management systems of selected counties. The results of the audits along with specific recommendations on how the fiscal management system can be improved shall be submitted to the State Department of Health Services. The Auditor General shall consult with the Controller prior to making the recommendations.

SEC. 8. In view of Section 2173(a)(1) of the Omnibus Budget Reconciliation Act of 1981 requiring states in their Medicaid plans to take into account the situation of hospitals which serve a disproportionate number of low-income patients, the Department of Health Services shall report to the Legislature by February 1, 1982, on all of the following:

(a) Alternative definitions and sets of criteria for defining hospitals and other health providers, besides county hospitals and county health systems, which serve a disproportionate number of low-income patients. Consideration shall be given to at least the following potential criteria: (1) a high level of Medi-Cal utilization, (2) a contract with the county to provide care to county indigents, and (3) where appropriate a record of substantial free care pursuant to Hill-Burton requirements.

(b) Alternative options for providing fiscal relief from Medi-Cal cuts for health providers which serve a disproportionate number of low-income patients to include at least the following:

(1) Exemption or special consideration from cutbacks pursuant to Section 14120 of the Welfare and Institutions Code in provider rates whenever this section becomes operative.

(2) Relief from administrative day reimbursement limits particularly for documented cases of difficult to place patients.

(3) Exemption from the 55 percent occupancy standard or an alteration in the method of determining the standard or in the

consequences of the standard on the reimbursement rate.

(4) Allowing the cost of serving county indigents pursuant to Section 17000 and following of the Welfare and Institutions Code to be included in the Medi-Cal cost report for the purposes of Medi-Cal reimbursement.

SEC. 9. It is the intent of the Legislature that in granting relief to counties from Medi-Cal cutbacks in fiscal year 1982–83 that special consideration and priority be given to those counties that in fiscal year 1981–82 made maximum use of all available state dollars in the County Health Services Fund.

SEC. 10. The Department of Health Services shall report to the Legislature on December 1, 1981, and quarterly thereafter until the end of fiscal year 1981–82 on the status of county use of the state funds in the County Health Services Fund.

SEC. 11. Any funds exceeding three million dollars ($3,000,000) in the County Health Services Fund on June 30, 1982, which result from a failure of counties to fully utilize allocations of fiscal year 1981–82 funds shall be transferred to the Local Health Capital Expenditure Account in the County Health Services Fund.

SEC. 12. There is hereby transferred from the Local Health Capital Expenditure Account in the County Health Services Fund to the County Health Services Fund the sum of twenty-five million dollars ($25,000,000)

SEC. 13. There is hereby transferred from the Special Account for Capital Outlay to the Local Health Capital Expenditure Account in the County Health Services Fund during the 1982–83 fiscal year the sum of twenty-five million dollars ($25,000,000).

SEC. 14. (a) Beginning on January 1, 1982, and annually thereafter, the department shall submit a report containing information on the distribution of county health services funds. The report shall include estimated actual and budgeted county expenditures, revenues, and net county costs and information on committed and expended special needs and priorities funds.

(b) Beginning on April 15, 1982, and annually thereafter, the department shall provide data and analysis on county health service fiscal trends from fiscal year 1977–78, and also information on the types and units of service provided by California counties. The service information shall describe specific services provided and shall be tabulated by county.

SEC. 15. Notwithstanding proviso 4 of Items 426-101-001 through 426-106-890 of Chapter 99, Statutes of 1981, any federal and county funds received under the provisions of Section 14157 of the Welfare and Institutions Code during the 1981–82 fiscal year, for expenditures for health care services pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, made from funds transferred to the Health Care Deposit Fund from the General Fund in prior years are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code. The department

shall notify the Joint Legislative Budget Committee, the Assembly Ways and Means Committee, and the Senate Finance Committee 30 days in advance of transferring such funds to the Health Care Deposit Fund. This section shall remain in effect only until June 30, 1982 and is as of that date repealed.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent hospitals providing Medi-Cal services from incurring severe financial hardship and Medi-Cal beneficiaries from receiving reduced levels of service it is necessary that this act go into effect immediately.

CHAPTER 1005

An act to amend Sections 322.5 and 11815 of, and to repeal Section 11815.7 of, the Health and Safety Code, and to amend Sections 5650, 5651, 10131, 10175, and 16700, of the Welfare and Institutions Code, relating to county plans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1981. Filed with Secretary of State September 29, 1981.]

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

SECTION 1. It is the intent of the Legislature that plans submitted in accordance with Sections 322.5 and 11815 of the Health and Safety Code and Sections 5650, 10131, and Section 16700 of the Welfare and Institutions Code be submitted to the state in time to be taken into consideration as the administration is preparing the Governor's Budget recommendations. The Legislature firmly believes that plans can only be effective documents if they have an opportunity to impact on policy decisions made in budget deliberations. At the present time, these plans are submitted at various times throughout the year and bear no resemblance to documents which have an opportunity to impact on budget discussions. It is the intent of the Legislature to ensure public participation as currently set forth in statute.

SEC. 2. Section 322.5 of the Health and Safety Code is amended to read:

322.5. (a) On or before September 15 of each year, each county program director shall submit a budget update for the subsequent fiscal year which provides the following information:

(1) A summary of the previous year's activity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening

services.

(2) A summary description of the results of cases in which a treatable disability was identified and referral made.

(3) A projection and cost estimates of the number of children to be screened for the fiscal year for which the budget is being submitted.

(b) The multi-year base community child health and disability prevention plan shall include the following:

(1) An assessment of the adequacy and availability of the facilities and providers to provide health screening diagnostic and treatment services.

(2) A description of the child health and disability prevention program to be offered, including expected participating providers and outreach mechanisms to be utilized.

(3) A summary description of the current year's activity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(4) A description of how existing school health resources, including school health personnel, are to be utilized for outreach and other services.

(5) Budget estimates, including all sources of revenue, for the budget.

(c) On or before September 15 of each year each governing board shall submit an update to the multi-year base community child health and disability prevention plan.

The director shall determine the amount of state funds available for each county for specified services under an approved multi-year base community child health and disability prevention plan, as updated, from state funds appropriated for child health and disability prevention services.

If the amount appropriated in the Budget Act for such fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for such fiscal year, each governing board shall submit an additional revised update in the form and at the time specified by the department.

Notwithstanding any other provision of this article, no new community child health and disability prevention plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83 and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a multi-year base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to regulations promulgated by the department.

The department shall develop and implement the format and

procedures for the preparation and submission of a multi-year base plan update in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year base plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

SEC. 3. Section 11815 of the Health and Safety Code is amended to read:

11815. Prior to June 1 of each year, the county alcohol program administrator shall present the proposed update of the county alcohol plan for the next fiscal year together with any comments from the advisory board to the county board of supervisors. Subject to review and any modification, the board of supervisors shall approve and authorize submission of the plan to the department on or before September 15.

Notwithstanding any other provision of this article, no new county alcohol plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83 and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a multi-year base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to regulations promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multi-year base plan and budget in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year base plans by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the base multi-year plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

SEC. 4. Section 11815.7 of the Health and Safety Code is repealed.

SEC. 5. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. On or before September 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in

the form and according to the procedures specified by the director, an annual update to the county Short-Doyle multi-year base plan for the next fiscal year for mental health services in the county or counties. The update of the drug program portion of the county Short-Doyle multi-year base plan, shall, however, be submitted to the Director of Alcohol and Drug Programs. The purpose of a county multi-year base plan and annual updates shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle multi-year base plan and update shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle multi-year base plan and update shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

Notwithstanding any other provision of this part, no new county Short-Doyle plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83 and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a county Short-Doyle multi-year base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to regulations promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multi-year base plan in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the base multi-year plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in

relation to each of the elements in the base plan during the coming year.

SEC. 6. Section 5650 of the Welfare and Institutions Code, as amended by Assembly Bill No. 173, is amended to read:

5650. On or before September 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, an annual update to the county Short-Doyle multi-year base plan for the next fiscal year for mental health services in the county or counties. The update of the drug program portion of the county Short-Doyle multi-year base plan, shall, however, be submitted to the Director of Alcohol and Drug Programs. The purpose of a county multi-year base plan and annual updates shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle multi-year base plan and update shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle multi-year base plan and update shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, marriage, family and child counselors, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

Notwithstanding any other provision of this part, no new county Short-Doyle plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83 and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare

and submit to the department a county Short-Doyle multi-year base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to regulations promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multi-year base plan in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

SEC. 7. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county multi-year Short-Doyle base plan shall include the following:

(a) A description of the persons to be served.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include, but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Mental Health shall provide the counties,

to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A description of the quality assurance system of the county mental health program as required by Section 5624 and a description of any other evaluation activities of the county mental health program such as client outcome evaluation, measurement of the availability and accessibility of services, and client satisfaction surveys.

(i) A description of the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county Short-Doyle plan. Such procedures shall be reviewed and approved by the local mental health advisory board.

(j) The development of adequate and effective treatment and community support services for persons who are institutionalized or who have a high risk of becoming institutionalized, as described in subdivision (a) of Section 5600, shall be the first priority for program development through fiscal year 1983–84. A special plan shall be prepared for the development of services to implement this priority. Within the plan, services shall be emphasized for first episode psychotics to prevent institutionalization whenever possible. The plan shall be designed to:

(1) Develop treatment services in the least restrictive environment as a fundamental patient right and as a means of minimizing institutionalization.

(2) Develop prevocational, vocational, and community skill training and sheltered employment opportunities.

(3) The department shall specify requirements for the special plan which shall include as a minimum:

(A) Performance measures.

(B) Case management services and coordination of residential placement.

(C) A continuum of residential living and treatment alternatives, including independent or nearly independent apartment or home living.

(D) Functional integration of mental health services with other human services such as rehabilitation, recreation, education, housing, transportation, and employment.

SEC. 8. Section 10131 of the Welfare and Institutions Code is amended to read:

10131. Each county shall prepare annually for submission by September 15 to the director a county social services plan which meets the objectives specified in Section 10120. The county plan, in

support of the services it proposes to provide, shall contain all the information and data required for, and in the format and organization specified by this part. County plans shall be prepared and submitted in accordance with the guidelines issued by the director.

The county plan submitted for state approval shall include at least the following:

(a) A description of the planning process.

(b) Qualitative and quantitative statement of needs and problems.

(c) A resource inventory that includes, but is not limited to:

(1) Source, amount, and funding period for all available public and private social service funds.

(2) Federal block grants available to the county or to communities in the county which are used for social services or which are not committed and may be available for social services.

(d) Statement of social service goals addressed by the plan.

(e) Statement of prioritied social service objectives which are measurable and designed to have a specific client impact.

(f) Program coordination statement developed pursuant to Section 10135.

(g) Descriptions of each social service program including the sets of activities or resources designed to attain an objective given a specific priority, which description shall include family planning. For the purposes of this chapter family planning is defined to include those activities referenced in subdivisions (a), (b), (c), and (d) of Section 14503.

(h) Statement of capacity to meet identified goals and identification of state and local constraints preventing the attainment of goals.

(i) Process for monitoring program implementation.

(j) A summary of the monitoring and reporting activities taking place in each of the local agencies.

(k) An evaluation of the effectiveness of the prior year's performance in relation to the measurable goals and objectives of social services for that year. This evaluation shall show the extent to which the numbers of persons and families proposed to be served have been served; the direct cost per unit for the delivery of those services; and the administrative cost per unit of social service for each category. The results of these evaluations shall be used to identify needs and establish priorities for the coming year.

(*l*) Total program cost and cost per unit for the delivery of the individual service program.

(m) Description of the process by which public input is solicited.

(n) Summary of public response to the plan and its priorities.

(o) Description of the process by which the plan can be amended pursuant to federal and state laws and regulations.

Notwithstanding any other provision of this part, and to the extent permitted by federal law, no new state social service plan shall be

submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83 and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a multi-year base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to instructions promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multi-year base plan update in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year plan by September 15, 1983.

For the purpose of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

SEC. 9. Section 10175 of the Welfare and Institutions Code is amended to read:

10175. The first planning cycle shall begin on January 1, 1983, and conclude with the publication of the multi-year base plan as described in Section 10131. The department shall submit to the Legislature on or before November 1, 1986, a report which evaluates the effectiveness of the multi-year planning approach contained in Section 10131. Counties shall be permitted a period not to exceed three years to phase into full compliance with the provisions of this chapter. The director shall specify the series of steps in sequence which the counties must carry out in order to achieve full implementation by the end of the three year phase-in period. Each county shall assess its capacity to implement the provisions of this chapter and shall notify the director at what level it will commence planning.

County plans for each of these three years shall, at a minimum, include those components specified by the director. During the phase-in period, counties and the state shall submit a new plan each year until full implementation is achieved.

SEC. 10. Section 16700 of the Welfare and Institutions Code is amended to read:

16700. (a) On or before September 15 of each year, the governing body of each county, the City of Berkeley, and each existing local health district formed pursuant to Chapter 6 (commencing with Section 800) of Part 2 of Division 1 of the Health and Safety Code, shall adopt a county health services plan and budget, and shall submit the plan and budget to the State Director

of Health Services in the form and in accordance with the procedures specified by the director.

(b) For purposes of this part, local jurisdiction shall mean a county, an existing local health district formed pursuant to Section 800 of the Health and Safety Code, or a city which has not transferred to the county enforcement authority of applicable health statutes and regulations.

(c) Notwithstanding any other provision of this part, no new county health services plan and budget shall be submitted by a county until September 15, 1983.

(1) Each county health services plan and budget shall be submitted for the 1981–82 fiscal year in accordance with procedures specified by the director.

(2) On or before September 15 of the 1982–83 and 1983–84 fiscal years, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the State Director of Health Services an update of its adopted 1981–82 county health services plan and budget in the form and in accordance with procedures specified by the director.

(3) On or before September 15, 1983 and each third subsequent year thereafter, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the department a multi-year base county health services plan and budget for the next fiscal year in the form and in accordance with procedures established in regulations promulgated by the department.

(4) On or before September 15 of each year, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit an update of its adopted multi-year county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department.

(5) Each multi-year county health services plan and budget and each update of a multi-year county health services plan and budget shall be submitted to the State Director of Health Services in accordance with procedures specified by the director.

(6) The department shall develop and implement the regulations governing the form and procedures for the preparation and submission of multi-year base county health services plans and budgets and updates in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year base county health services plans and budgets by September 15, 1983.

(7) For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base county health services plan and budget, but shall serve as a progress report both evaluating what has been accomplished over the past year and describing what will be accomplished in relation to each of the elements in the multi-year base county health services plan and

budget during the coming year.

(8) An update or a multi-year county health services plan and budget shall be considered a county health services plan and budget for purposes of this part.

SEC. 10.5. Section 16700 of the Welfare and Institutions Code, as amended by Section 10 of this act, is amended to read:

16700. (a) On or before September 15 of each year, the governing body of each county, the City of Berkeley, and each existing local health district formed pursuant to Chapter 6 (commencing with Section 800) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939, shall adopt a county health services plan and budget, and shall submit the plan and budget to the State Director of Health Services in the form and in accordance with the procedures specified by the director.

(b) For purposes of this part, local jurisdiction shall mean a county, an existing local health district formed pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939, or a city which has not transferred to the county enforcement authority of applicable health statutes and regulations, or a city which provides public health services pursuant to a contract with a county through an organized health department recognized by the State Department of Health Services.

(c) Notwithstanding any other provision of this part, no new county health services plan and budget shall be submitted by a county until September 15, 1983.

(1) Each county health services plan and budget shall be submitted for the 1981–82 fiscal year in accordance with procedures specified by the director.

(2) On or before September 15 of the 1982–83 and 1983–84 fiscal years, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the State Director of Health Services an update of its adopted 1981–82 county health services plan and budget in the form and in accordance with procedures specified by the director.

(3) On or before September 15, 1983 and each third subsequent year thereafter, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the department a multi-year base county health services plan and budget for the next fiscal year in the form and in accordance with procedures established in regulations promulgated by the department.

(4) On or before September 15 of each year, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit an update of its adopted multi-year county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department.

(5) Each multi-year county health services plan and budget and each update of a multi-year county health services plan and budget shall be submitted to the State Director of Health Services in accordance with procedures specified by the director.

(6) The department shall develop and implement the regulations governing the form and procedures for the preparation and submission of multi-year base county health services plans and budgets and updates in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multi-year base county health services plans and budgets by September 15, 1983.

(7) For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multi-year base county health services plan and budget, but shall serve as a progress report both evaluating what has been accomplished over the past year and describing what will be accomplished in relation to each of the elements in the multi-year base county health services plan and budget during the coming year.

(8) An update or a multi-year county health services plan and budget shall be considered a county health services plan and budget for purposes of this part.

SEC. 11. It is the intent of the Legislature, if this bill and Assembly Bill 173 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 5650 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 173, that Section 5650 of the Welfare and Institutions Code, as amended by Section 3 of Assembly Bill 173 be further amended on the effective date of this act in the form set forth in Section 6 of this act to incorporate the changes in Section 5650 proposed by this bill. Therefore, if this bill and Assembly Bill 173 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 173 is chaptered before this bill and amends Section 5650, Section 6 of this act shall become operative on the effective date of this act and Section 5 of this act shall not become operative.

SEC. 12. It is the intent of the Legislature, if this bill and Assembly Bill 1540 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 16700 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 1540, that Section 16700 of the Welfare and Institutions Code, as amended by Section 10 of this act, shall remain operative until the effective date of Assembly Bill 1540, and that on the effective date of Assembly Bill 1540 Section 16700 of the Welfare and Institutions Code as amended by Section 10 of this act, be further amended in the form set forth in Section 10.5 of this act to incorporate the changes in Section 16700 proposed by Assembly Bill 1540. Therefore, if this bill and Assembly Bill 1540 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 1540 is chaptered before this bill and amends Section 16700, Section 10.5 of this act shall become operative on the effective date of Assembly Bill 1540.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act is designed to simplify formats and procedures and to provide uniform submission dates to the state for various county plans and in order to achieve such goals it is necessary that this act go into immediate effect.

CHAPTER 1006

An act to amend Sections 12800.5, 12811, 13005, 13005.3, and 13005.5 of the Vehicle Code, relating to drivers' licenses.

[Became law without Governor's signature. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 12800.5 of the Vehicle Code is amended to read:

12800.5. A license issued after January 1, 1981, shall bear a fullface engraved picture or photograph of the licensee.

The department may demand proof of age prior to the issuance of a license.

SEC. 2. Secion 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age, and residence address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

The department shall use such process or processes in the issuance of engraved or colored licenses, that prohibit as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on such license without ready detection.

(b) With every driver's license issued on and after July 1, 1976, the department shall provide a sticker which may be affixed to the back of the license, by which the licensee may indicate his willingness and intent to make an anatomical gift pursuant to the provisions of subdivision (b) of Section 7154 of the Health and Safety Code. The sticker provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act, Chapter 3.5 (commencing with Section 7150), Part 1, Division 7, Health and Safety Code. To be effective, the statement shall be signed by the licensee in the presence of two witnesses, who shall sign the statement in his presence. If the licensee cannot sign, the statement may be signed for him at his direction and in his presence in the presence of two witnesses who shall sign the statement in his presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee shall be liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the sticker provided pursuant to subdivision (b).

(d) No contract shall be let to any nongovernmental entity for the processing of drivers' licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 3. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear his or her picture, and be produced in color or engraved by a process or processes that prohibit as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on such identification card without ready detection.

(b) With every identification card issued on and after July 1, 1976, the department shall provide a sticker, which may be affixed to the back of the identification card, by which the cardholder may indicate his willingness and intent to make an anatomical gift pursuant to the provisions of subdivision (b) of Section 7154 of the Health and Safety Code. The sticker provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act, Chapter 3.5 (commencing with Section 7150), Part 1, Division 7, Health and Safety Code. To be effective, the statement shall be signed by the holder of the card in the presence of two witnesses, who shall sign the statement in his presence. If the holder of the card cannot sign, the statement may be signed for him at his direction and in his presence in the presence of two witnesses who shall sign the statement in his presence. The gift shall become effective upon the death of the holder of the card.

(c) No contract shall be let to any nongovernmental entity for the processing of identification cards, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 4. Section 13005.3 of the Vehicle Code is amended to read:

13005.3. In addition to the requirements of Section 13005, any identification card issued pursuant to subdivision (b) of Section 13000 shall contain the words "Senior Citizen", which shall appear prominently, as to engraving, color, and size, on the card.

SEC. 5. Section 13005.5 of the Vehicle Code is amended to read:

13005.5. An identification card issued to any person shall bear a fullface engraved picture or photograph of the person.

CHAPTER 1007

An act to add Section 65590 to the Government Code, and to amend Section 30213 of, and to add Sections 30500.1 and 30607.2 to, the Public Resources Code, relating to the California coastal zone.

[Became law without Governor's signature. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 65590 is added to the Government Code, to read:

65590. (a) In addition to the other requirements of this article, the provisions and requirements of this section shall apply within the coastal zone as defined and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code. Each respective local government shall comply with the requirements of this section in that portion of its jurisdiction which is located within the coastal zone.

(b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependants thereof, is of low or moderate income.

For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income

if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish that structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision.

The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

(1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.

(2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resource Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code. However, the coastal-dependent or coastal-related use shall be consistent with the provisions of the land use plan portion of the local government's local coastal program which has been certified as provided in Section 30512 of the Public Resources Code. Examples of coastal-dependent or coastal-related uses include, but are not limited to, visitor-serving commercial or recreational facilities, coastal-dependent industry, or boating or harbor facilities.

(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.

(4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has, by ordinance, established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision. As otherwise required by this subdivision, the replacement units shall, (i) be located within the coastal zone if feasible, or, if location within the coastal zone is not feasible, shall be located within three miles of the coastal zone, and

(ii) shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition.

The requirements of this subdivision for replacement dwelling units shall not apply to the demolition of any residential structure which has been declared to be a public nuisance under the provisions of Division 13 (commencing with Section 17000) of the Health and Safety Code, or any local ordinance enacted pursuant to those provisions.

For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction.

(c) The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent", as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b).

(d) New housing developments constructed within the coastal zone shall, where feasible, provide housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. Where it is not feasible to provide these housing units in a proposed new housing development, the local government shall require the developer to provide such housing, if feasible to do so, at another location within the same city or county, either within the coastal zone or within three miles thereof. In order to assist in providing new housing units, each local government shall offer density bonuses or other incentives, including, but not limited to, modification of zoning and subdivision requirements, accelerated processing of required applications, and the waiver of appropriate fees.

(e) Any determination of the "feasibility" of an action required to be taken by this section shall be reviewable pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

(f) The housing provisions of any local coastal program prepared and certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code prior to January 1, 1982, shall be deemed to satisfy all of the requirements of this section. Any change or alteration in those housing provisions made on or after January 1, 1982, shall be subject to all of the requirements of this section.

(g) As used in this section:

(1) "Conversion" means a change of a residential dwelling to a condominium, cooperative, or similar form of ownership; or a change of a residential dwelling to a nonresidential use.

(2) "Demolition" means the demolition of a residential dwelling which has been found feasible for retention pursuant to Section 30612 of the Public Resources Code.

(3) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

(h) With respect to the requirements of Sections 65583 and 65584, compliance with the requirements of this section is not intended and shall not be construed as any of the following:

(1) A statutory interpretation or determination of the local government actions which may be necessary to comply with the requirements of those sections; except that compliance with this section shall be deemed to satisfy the requirements of paragraph (2) of subdivision (c) of Section 65583 for that portion of a local government's jurisdiction which is located within the coastal zone.

(2) A limitation on the program components which may be included in a housing element, or a requirement that a housing element be amended in order to incorporate within it any specific provision of this section or related policies.

(3) Except as otherwise specifically required by this section, a requirement that a local government adopt individual ordinances or programs in order to implement the requirements of this section.

(i) No provision of this section shall be construed as increasing or decreasing the authority of a local government to enact ordinances or to take any other action to ensure the continued affordability of housing.

(j) Local governments may impose fees upon persons subject to the provisions of this section to offset administrative costs incurred in order to comply with the requirements of this section.

SEC. 2. Section 30213 of the Public Resources Code is amended to read:

30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Neither the commission nor any regional commission shall either: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

SEC. 3. Section 30500.1 is added to the Public Resources Code, to read:

30500.1. No local coastal program shall be required to include

housing policies and programs.

SEC. 4. Section 30607.2 is added to the Public Resources Code, to read:

30607.2. (a) Conditions requiring housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, which were incorporated into a coastal development permit issued prior to January 1, 1982, may, at the request of the permittee, be amended or modified by the commission or by a local government having the authority to issue coastal development permits. In approving such amendments or modifications, only those conditions and requirements authorized by Section 65590 of the Government Code may be imposed on the permittee.

(b) Any person who, prior to January 1, 1982, has secured a coastal development permit which contains requirements for low- and moderate-income housing but who, prior to January 1, 1982, has not performed substantial work on the development site (such as grading, installation of streets, sewers or utilities or construction of major buildings) may elect to proceed under either of the following options:

(1) To proceed pursuant to all of the requirements of the coastal development permit, in which event the provisions of subdivision (a) shall apply to any subsequent request to amend or alter the coastal development permit in regard to housing requirements.

(2) To proceed without complying with the housing requirements contained in the coastal development permit, in which event the housing requirements for the development shall be governed by Section 65590 of the Government Code.

(c) On or after January 1, 1982, no new coastal development permit or amendment to any existing permit for a sewer project shall be denied, restricted, or conditioned in order to implement housing policies or programs.

(d) Nothing in this section shall authorize or require the modification or amendment to any terms or conditions of any previously issued coastal development permit which guarantees housing opportunities for persons and families of low or moderate income where the term or condition has been met through an agreement executed and recorded on or before January 1, 1982, between an applicant and the commission. Further, nothing in this section shall impair the commission's authority to deny, restrict, or condition new permits or amendments to existing permits based on any requirement of this division.

SEC. 5. (a) Notwithstanding the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code or of any term or condition attached to a coastal development permit issued pursuant thereto, the escrow account established to provide funding for the Beach Sand Replenishment Program required in connection with the San Francisco Westside Transport Phase of the San Francisco Wastewater Management Program is hereby

terminated. The money in this account shall revert to the City and County of San Francisco.

(b) Any money received by the City and County of San Francisco from any state or federal agency after January 1, 1982, for purposes of a beach sand replenishment program in connection with that project shall be reserved and expended solely for such purposes.

(c) The City and County of San Francisco shall prepare a beach nourishment plan designed to counter the effect of future erosion which can be anticipated at the site of the San Francisco Westside Transport Phase of the San Francisco Wastewater Management Program. The plan shall ensure protection of the structural integrity of the ocean outfall of the treatment plant and shall also ensure the integrity of the beach area as a recreational resource. The plan shall contain or provide for appropriate funding of beach restoration measures if, or when, such measures become necessary. The City and County of San Francisco shall contribute six hundred twenty-five thousand dollars ($625,000) to the implementation of this plan.

(d) The beach nourishment plan prepared pursuant to subdivision (c) shall be submitted to the State Water Resources Control Board for a determination that it is adequate to ensure the structural integrity of the ocean outfall of the treatment plant. The plan shall also be submitted to the California Coastal Commission for a determination that it is adequate to ensure the integrity of the beach area as a recreational resource. The respective determinations required by this subdivision shall be made by a majority vote of the membership of each body.

(e) The Westside Transport Phase of the San Francisco Wastewater Management Program shall not be approved for operation until the determinations required by subdivision (d) have been made.

(f) The Legislature hereby finds and declares that a general statute cannot be made applicable to the circumstances requiring the enactment of this section.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1008

An act relating to lands granted to the City of San Diego.

[Became law without Governor's signature. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Notwithstanding any provision of Chapter 142 of the Statutes of 1945, as amended by Chapter 1455 of the Statutes of 1955, or any provision of Chapter 2139 of the Statutes of 1963, the City of San Diego, not later than February 1, 1982, may, with respect to those lands granted in trust to the city commonly known as De Anza Point and more particularly described in Section 2 of this act, and subject to the provisions of Section 3 of this act, concur by resolution in the following findings and determinations:

(a) The City of San Diego, as trustee for the people of California, has entered into a 50-year lease agreement for development of the described lands as a tourist and trailer park, which term will end on November 23, 2003.

(b) The described lands were intended by the Legislature to be used for public recreation and public recreational support facilities, which uses could encompass transient-type guest housing. However, the described lands have in fact been developed with permanent sites for mobilehomes which can no longer be considered public guest housing facilities.

(c) Private residential use of these lands is in conflict with the Legislature's intent as declared in the legislative grants.

(d) Many members of the public have made De Anza Point their residence for many years and have come to look upon the lands described in Section 2 of this act as their home despite their month-to-month contractual tenancy.

(e) In balancing the hardship of relocating tenants with current public needs for expanded recreational lands on Mission Bay, sufficient lands are available or can be made available for recreational purposes on Mission Bay until the year 2003.

(f) In view of the foregoing, tenants should not be forced, by reason of their residential use of the described lands, to relocate outside those lands before November 23, 2003. Thus, it is the policy of the state to permit existing uses of the described lands to continue until November 23, 2003. This policy is not intended to affect the rights and obligations of landlord and tenant under the terms of existing leases.

SEC. 2. Upon compliance by the City of San Diego with the provisions of this act, the use of the lands described in this section in accordance with this act shall be deemed to be in furtherance of trust purposes and consistent with the provisions of Chapter 142 of the Statutes of 1945, as amended by Chapter 1455 of the Statutes of 1955, and the provisions of Chapter 2139 of the Statutes of 1963. The provisions of this act shall be applicable to the following described lands:

(a) That portion of the lands granted by the State of California to the City of San Diego pursuant to Chapter 2139 of the Statutes of 1963, and designated therein as parcel 3, being that portion of Pueblo Lot 1798 of the Pueblo Lands of San Diego according to a map

thereof made by James Pascoe in 1870, a copy of which map was filed in the Office of the Recorder of San Diego County, November 14, 1921, and known as Miscellaneous Map No. 36, and more particularly described as follows:

Beginning at a point which is shown as Station No. 1 on the U.S. Coast and Geodetic Survey of the Mean High Water Line of Mission Bay on Miscellaneous Map No. 69 filed in the Office of the Recorder of San Diego County on March 8, 1926, that point of beginning being South 14° 35′ East a distance of 446.92 feet from the Northeasterly corner of Pueblo Lot 1798; thence South 72° 40′ West a distance of 587.40 feet to a point shown as Station "E" on Miscellaneous Map No. 69; thence South 78° 21′ West a distance of 574.48 feet, more or less, to a point on the Mean High Tide Line of Mission Bay; thence Northerly along the Mean High Tide Line a distance of 390.79 feet, more or less; thence North 75° 37′ 15″ East a distance of 590.11 feet to a point tangent to a curve; thence Easterly along the arc of a curve concave to the right with a radius of 1,500 feet through an angle of 15° 14′ 33″ a distance of 399.05 feet; thence South 89° 08′ 12″ East a distance of 151.54 feet to a point on a straight line between the Northeasterly corner of Pueblo Lot 1798 and the point of beginning; thence South 14° 35′ East a distance of 294.32 feet to the point of beginning, containing 10.20 acres, more or less.

(b) Also, that portion of the lands granted by the State of California to the City of San Diego pursuant to Chapter 2139 of the Statutes of 1963, and designated therein as parcel 1, being that portion of Pueblo Lot 1208 of the Pueblo Lands of San Diego according to a map thereof made by James Pascoe in 1870, a copy of which Map was filed in the Office of the Recorder of San Diego County, November 14, 1921, and known as Miscellaneous Map No. 36, more particularly described as follows:

Beginning at a point which is shown as Station No. 1 on the U.S. Coast and Geodetic Survey of the Mean High Water Line of Mission Bay on Miscellaneous Map No. 69 filed in the Office of the County Recorder on March 8, 1926, that point of beginning bears South 14° 35′ East a distance of 446.92 feet from the Northeasterly corner of Pueblo Lot 1798; thence North 72° 26′ East a distance of 209.53 feet; thence due North 118.97 feet to the tangent point of a curve; thence along a curve concave to the left with a radius of 100 feet through an angle of 89° 8′ 12″ a distance of 155.57 feet; thence North 89° 08′ 12″ West a distance of 175.92 feet to a point on a straight line between the Northeasterly corner of Pueblo Lot 1798 and the point of beginning; thence South 14° 35′ East a distance of 294.32 feet to the point of beginning, containing 1.32 acres, more or less.

(c) Also, that portion of the lands granted by the State of California to the City of San Diego pursuant to Chapter 142 of the Statutes of 1945, and more particularly described as follows:

Beginning at a point 446.92 feet South 14° 35′ East from the Northwesterly corner of Pueblo Lot 1798, that point being shown on Miscellaneous Map No. 69 filed in the Office of the County Recorder

on March 8, 1926, as Station No. 1 on the U.S. Coast and Geodetic Survey of the Mean High Water Line of Mission Bay; thence South 78° 40′ West a distance of 587.40 feet; thence South 78° 21′ West a distance of 574.48 feet, more or less, to a point on the Mean High Tide Line of Mission Bay; thence Southerly along the Mean High Tide Line a distance of 1041.08 feet, more or less; thence North 79° 48′ 30″ East a distance of 830 feet, more or less; thence North 52° 27′ East a distance of 265.83 feet, more or less, to a point on the Mean High Tide Line of Mission Bay; thence continuing North 52° 27′ East a distance of 370.0 feet, more or less, to a point in the waters of Mission Bay; thence North 29° 27′ 54″ West a distance of 370.0 feet, more or less, to a point on the Mean High Tide Line of Mission Bay; thence due North a distance of 522.40 feet, more or less, to the Southeasterly corner of the parcel referenced immediately above; thence South 72° 26′ West a distance of 209.57 feet to the point of beginning, containing 28.3 acres of land, more or less, and 2.69 acres of water area, more or less.

(d) Also, that portion of the lands granted by the State of California to the City of San Diego pursuant to Chapter 142 of the Statutes of 1945, and more particularly described as follows:

Beginning at the Southwesterly corner of the parcel referenced immediately above, which is a point on the Mean High Tide Line of Mission Bay that point bearing South 25° 18′ 31″ West a distance of 1934.00, more or less, from the Northeasterly corner of Pueblo Lot 1798; thence South 10° 11′ 30″ East along the Mean High Tide Line a distance of 20 feet; thence continuing along the Mean High Tide Line Southerly and Easterly along a curve concave to the left a distance of 1381.94 feet, more or less; thence North 74° 40′ 02″ East along the Mean High Tide Line a distance of 1283.0 feet, more or less; thence Easterly, Northerly and Westerly along the Mean High Tide Line along a curve to the left a distance of 894.10 feet, more or less; thence North 4° 47′ 16″ West a distance of 100.0 feet to a point in the waters of Mission Bay; thence South 83° 40′ 09″ West a distance of 827.61 feet to a point in the waters of Mission Bay; thence North 4° 47′ 16″ West a distance of 270 feet to a point in the waters of Mission Bay, that point being the Southeasterly corner of the parcel referenced immediately above; thence South 52° 27′ West a distance of 370 feet, more or less, to a point on the Mean High Tide Line of Mission Bay; thence continuing South 52° 27′ West a distance of 265.83 feet, more or less; thence South 79° 48′ 30″ West a distance of 830.0 feet to the point of beginning, containing 30.08 acres of land area, more or less, and 3.46 acres of water area, more or less.

SEC. 3. The findings and determinations concurred in by the City of San Diego pursuant to Section 1 of this act shall be subject to compliance with the following conditions:

(a) Until November 23, 2003, public access to the lands described in Section 2 of this act shall be permitted to the maximum extent possible.

(b) On and after November 23, 2003, the lands described in

Section 2 of this act shall be developed for park and recreation purposes consistent with the Master Plan for Mission Bay Park as in effect on August 11, 1981, and shall be maintained and operated or caused to be maintained and operated for these purposes by the City of San Diego under the provisions of Chapter 142 of the Statutes of 1945, as amended by Chapter 1455 of the Statutes of 1955, and the provisions of Chapter 2139 of the Statutes of 1963, and the City of San Diego may administer the lands in any manner consistent with the provisions of those statutes.

(c) The City of San Diego shall submit an annual report and audit to the State Lands Commission on the management of the lands described in Section 2 of this act and the progress in increasing public use of the area while respecting tenants' rights to remain.

(d) The City of San Diego and its lessee shall notify all tenants and residents of the mobilehome park of the existence of this act and the provisions contained herein.

(e) The City of San Diego shall, in any renegotiation of the existing lease with its lessee, insure that fair rental value be obtained by the city as trustee of these lands and shall not execute any lease amendment prior to formal written approval by the State Lands Commission.

(f) The provisions of Section 6359 of the Public Resources Code shall not apply to this act.

SEC 4. If by February 1, 1982, the City of San Diego fails to concur in the findings and determinations set forth in Section 1 of this act, the provisions of this act shall be inoperative.

CHAPTER 1009

An act to add Section 647d to the Penal Code, relating to disorderly conduct.

[Became law without Governor's signature. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 647d is added to the Penal Code, to read:

647d. (a) Notwithstanding any other provision of law, subdivision (b) shall become operative in a county only if the board of supervisors adopts the provisions of subdivision (b) by ordinance after a finding that sufficient alcohol treatment and recovery facilities exist or will exist to accommodate the persons described in that subdivision.

(b) In any accusatory pleading charging a violation of subdivision (f) of Section 647, if the defendant has been previously convicted two or more times of a violation of subdivision (f) of Section 647 within the previous 12 months, each such previous conviction shall be

charged in the accusatory pleading. If two or more of the previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 90 days. The trial court may grant probation or suspend the execution of sentence imposed upon the defendant if the court, as a condition of the probation or suspension, orders the defendant to spend 60 days in an alcohol treatment and recovery program in a facility which, as a minimum, meets the standards described in the guidelines for alcoholic recovery home programs issued by the Division of Alcohol Programs of the Department of Alcohol and Drug Abuse.

(c) The provisions of Section 4019 shall apply to the conditional attendance of an alcohol treatment and recovery program described in subdivision (b).

CHAPTER 1010

An act to amend Section 6140 of the Business and Professions Code, relating to the State Bar of California.

[Became law without Governor's signature. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 6140 of the Business and Professions Code is amended to read:

6140. (a) The board shall fix the annual membership fee as follows:

(1) For active members who have been admitted to the practice of law in this state for three years or longer at a sum not exceeding one hundred sixty-five dollars ($165).

(2) For active members who have been admitted to the practice of law in this state for less than three years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding ninety-five dollars ($95).

(b) For the years commencing January 1, 1973, and ending December 31, 1982, the board may increase the annual membership fee fixed pursuant to subdivision (a) by an additional amount not exceeding ten dollars ($10) in any or all of such years, the additional amount in any year to be applied only to the cost of land and buildings to be used to conduct the operations of the State Bar, including furniture, furnishings, equipment, architects' fees, construction and financing costs, landscaping and other expenditures incident to the acquisition, construction, furnishing and equipping of such land and buildings, the payment of interest on and the repayment of moneys borrowed for such purposes, and the

reimbursement of the State Bar's treasury expended for such purposes.

(c) The annual membership fee for active members is payable on or before the first day of February of each year.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

CHAPTER 1011

An act to add Section 33112.1 to the Food and Agricultural Code, relating to milk and milk product inspection services.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 33112.1 is added to the Food and Agricultural Code, to read:

33112.1. Notwithstanding any other provision of this chapter, the director shall issue a limited milk inspection certificate to any registered sanitarian employed by any city or county health department who will be employed in connection with an approved milk inspection service. A person holding the certificate shall have full authority to enforce all provisions of this code if this authority is restricted to the inspection and sampling of market milk products in retail outlets and in the inspection of retail establishments licensed pursuant to Section 33704 where an approved milk inspection service has entered into an agreement with the director pursuant to Section 33704.

The limited milk inspection certificate shall be issued following the completion of a certification course that has been approved by the director. This limited milk inspection certificate shall expire upon the termination of employment as a registered sanitarian by the individual or at any time an approved milk inspection service has been terminated.

CHAPTER 1012

An act to amend Sections 2615, 2621, 2706, and 2764 of, and to repeal Section 2615.3 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 2615 of the Revenue and Taxation Code is amended to read:

2615. Whenever taxes are paid in cash or whenever a receipt is requested at the time of payment by the person paying the tax, the tax collector shall give a receipt to the person making payment, specifying each of the following:

(a) The amount paid.

(b) The fiscal year and the installment of taxes to which the payment applies.

(c) The description of the property.

The receipt shall be issued without charge.

SEC. 2. Section 2615.3 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 2621 of the Revenue and Taxation Code is amended to read:

2621. After the second installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of five dollars ($5) for preparing the delinquent tax records and giving notice of delinquency on each separate valuation on the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property cross-secured to real property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 4. Section 2706 of the Revenue and Taxation Code is amended to read:

2706. After the second installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of five dollars ($5) for preparing the delinquent tax records and giving notice of delinquency on each separate valuation on the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property cross-secured to real property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 5. Section 2764 of the Revenue and Taxation Code is amended to read:

2764. After the fourth installment of taxes on the secured roll is delinquent, the tax collector shall collect a cost of five dollars ($5) for preparing the delinquent tax records and giving notice of delinquency on each separate valuation of the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property cross-secured to real property.

The costs shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

CHAPTER 1013

An act to amend Section 2601 of the Elections Code, and to amend Section 36503 of, and to add Section 36503.5 to, the Government Code, relating to municipal elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 2601 of the Elections Code is amended to read:

2601. Except as provided in Sections 34329.1, 36503.5, and 36504 of the Government Code, a general municipal election shall be held on the second Tuesday in April of even-numbered years.

SEC. 2. Section 36503 of the Government Code is amended to read:

36503. Unless otherwise required by Section 34329.1 and except as authorized by Section 36503.5 or 36504, a general municipal election shall be held on the second Tuesday in April in each even-numbered year. Except as otherwise provided in this title, city councilmen, the city clerk, and the city treasurer shall be elected by the city electors at a general municipal election. City councilmen, the city clerk, and the city treasurer shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

SEC. 3. Section 36503.5 is added to the Government Code, to read:

36503.5. (a) A city council may enact an ordinance requiring its general municipal election to be held on the same day as the statewide direct primary election, the day of the statewide general election, or on the day of school district elections, as set forth in Section 2602 of the Elections Code. Any ordinance adopted pursuant to this subdivision shall become operative upon the approval of the board of supervisors.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, the provisions contained in Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code shall govern the consolidation, and, if the county clerk is requested to conduct the municipal election, Section

22003 of the Elections Code shall be applicable to that election.

(c) If, pursuant to subdivision (a), a general municipal election is held on the same day as a statewide election or the same day as a school district election, those elected city officers whose four-year terms of office would have, prior to the adoption of the ordinance, expired on the Tuesday succeeding the second Tuesday in April of an even-numbered year, shall, instead, continue in their offices until no later than the fourth Tuesday after the day of the general municipal election.

(d) Within 30 days after the ordinance becomes operative pursuant to subdivision (a), the city clerk shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in the election date, elected city officeholders' terms in office will be extended and that no terms shall be decreased.

(e) If a city adopts an ordinance pursuant to subdivision (a), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (a), unless the ordinance in question is later repealed by the city council.

SEC. 4. If any section, part, clause, or phrase of this measure or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that certain cities may provide for the orderly conduct of their municipal elections in consolidation with an otherwise scheduled election at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 1014

An act to amend Section 1985.3 of, and to repeal Section 1987.4 of, the Code of Civil Procedure, and to amend Section 1563 of the Evidence Code, relating to subpoenas.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 1985.3 of the Code of Civil Procedure is amended to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original or any copy of books, documents or other things pertaining to a consumer and which are maintained by any "witness" which is a physician, hospital, state or national bank, state or federally chartered savings and loan association, state or federal credit union, trust company, insurance company, attorney, or accountant.

(2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with or has used the services of such witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding commenced pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to the provisions of Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(b) The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days from the date the subpoena is issued. Except as provided in subdivision (e) or (f), at least 15 days prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall do both of the following:

(1) Give constructive notice to the consumer whose records are being sought by delivering a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (c) to him personally, or at his last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he is a party, to his attorney of record.

(2) Simultaneously with service of the subpoena duces tecum, serve upon the witness a certificate signed by the subpoenaing party or his attorney, attesting to compliance with paragraph (1).

(c) Every copy of the subpoena duces tecum and affidavit served on a consumer or his attorney in accordance with paragraph (1) of subdivision (b) shall be accompanied by a notice in a typeface designed to call attention to the notice indicating that (1) records about the consumer are being sought from the witness named on the attached subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court within 10 days from the receipt of the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should

be consulted about the consumer's interest in protecting the right of privacy.

(d) Any consumer whose personal records are sought by a subpoena duces tecum may, within 10 days from the receipt of the subpoena, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. No witness shall be required to produce personal records after receipt of a notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

(e) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(f) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which does require a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(g) The provisions of this section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

SEC. 1.5. Section 1987.4 of the Code of Civil Procedure is repealed.

SEC. 2. Section 1563 of the Evidence Code is amended to read:

1563. (a) This article shall not be interpreted to require tender or payment of more than one witness fee and one mileage fee or other charge unless there is an agreement to the contrary.

(b) All reasonable costs incurred by any witness which is not a party with respect to the production of all or any part of business records the production of which is requested pursuant to a subpoena duces tecum may be charged against the party serving the subpoena duces tecum.

(1) "Reasonable costs," as used in this section, shall mean ten cents ($.10) per page for standard reproduction of documents of a size of 8½ by 14 inches or less, and actual costs for reproduction of oversize documents or documents the reproduction of which require special processing, necessarily done in responding to the subpoena together with additional reasonable clerical costs incurred in locating and making the records available. The clerical costs may be billed at the rate of ten dollars ($10) per hour per person, computed on the basis of two dollars and fifty cents ($2.50) per quarter hour or fraction thereof, and actual costs, if any, charged to the witness by a third person for retrieval and return of records held by such a third person.

(2) The requesting party shall not be required to pay those costs or any estimate thereof prior to the time such records are available

for delivery pursuant to the subpoena, but the witness may demand payment of costs pursuant to this section simultaneous with actual delivery of the subpoenaed records, and until such time as payment is made, is under no obligation to deliver the records.

(3) The witness shall submit an itemized statement for such costs to the requesting party setting forth the reproduction and clerical costs incurred by the witness. Upon demand by the requesting party, the witness shall furnish a statement setting forth the actions taken by the witness in justification of such costs.

(4) The requesting party may petition the court in which the action is pending to recover from the witness all or a part of the costs paid to the witness, or to reduce all or a part of the costs charged by the witness, pursuant to this subdivision, on the grounds that such costs were excessive. Upon the filing of the petition the court shall issue an order to show cause and from the time the order is served on the witness the court has jurisdiction over the witness. The court may hear testimony on the order to show cause and if it finds that the costs demanded and collected, or charged but not collected, exceed the amount authorized by this subdivision, it shall order the witness to remit to the requesting party, or reduce its charge to the requesting party by an amount equal to, the amount of the excess. In the event that the court finds the costs excessive and charged in bad faith by the witness, the court shall order the witness to remit the full amount of the costs demanded and collected, or excuse the requesting party from any payment of costs charged but not collected, and the court shall also order the witness to pay the requesting party the amount of the reasonable expenses incurred in obtaining the order including attorney's fees. If the court finds the costs were not excessive, the court shall order the requesting party to pay the witness the amount of the reasonable expenses incurred in defending the petition, including attorney's fees.

(5) If a subpoena is served to compel the production of business records and is subsequently withdrawn, or is quashed, modified or limited on a motion made other than by the witness, the witness shall be entitled to reimbursement pursuant to paragraph (1) for all costs incurred in compliance with the subpoena to the time that the requesting party has notified the witness that the subpoena has been withdrawn or quashed, modified or limited. In the event the subpoena is withdrawn or quashed, if those costs are not paid within 30 days after demand therefor, the witness may file a motion in the court in which the action is pending for an order requiring payment, and the court shall award the payment of expenses and attorney's fees in the manner set forth in paragraph (4).

(6) Where the personal attendance of the custodian of such records or other qualified witness is not required, the sole fees for complying with such subpoena shall be those provided for in this subdivision.

(c) When the personal attendance of the custodian of a record or other qualified witness is required pursuant to Section 1564, he or she

shall be entitled to 20 cents ($0.20) a mile for mileage actually traveled, one way only, to twelve dollars ($12) for each day of actual attendance, and to any additional costs incurred as provided by subdivision (b).

CHAPTER 1015

An act to amend Sections 13862, 13882, 13884, and 13885 of the Water Code, relating to domestic water systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 13862 of the Water Code is amended to read:

13862. For the purpose of administering this chapter, the total expenditures of the department and the State Department of Health Services may not exceed 3 percent of the total amount of the bonds authorized to be issued under this chapter. The department shall establish a reasonable schedule of administrative fees, which fees shall be paid by the supplier pursuant to Section 13861, to reimburse the state for the costs of state administration of this chapter.

The amendment to this section enacted at the 1981–82 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 1.5. Section 13882 of the Water Code is amended to read:

13882. (a) The department, subject to the requirements of this chapter, is authorized to make state grants to public agencies from moneys in the fund available for such purpose pursuant to subdivision (d) of Section 13861, to aid in the planning and construction of projects which will enable the public agency to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. Any such grant in excess of one hundred thousand dollars ($100,000) may be made by the department only upon the specific approval of the Legislature, by an act enacted after the receipt of a report filed pursuant to Section 13884.

(b) Any contract for a grant pursuant to this chapter may include such provisions as may be agreed upon by the parties thereto, and any such contract shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the project, which may include planning costs.

(2) An agreement by the department to grant to the public agency, during the progress of construction or following completion of construction as may be agreed upon by the parties, an amount which equals the portion of construction and planning costs found by the department to be eligible for a state grant.

(3) An agreement by the public agency, (i) to proceed expeditiously with, and complete, the project, (ii) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (iii) to apply for and make reasonable efforts to secure federal assistance for the project, (iv) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of such assistance available, and (v) to provide for payment of the public agency's share of the cost of the project, if any.

SEC. 2. Section 13884 of the Water Code is amended to read:

13884. The department shall prepare a report on each application pursuant to this chapter for a grant in excess of one hundred thousand dollars ($100,000). The report shall be filed with the Legislature, if it is in session, or if it is not in session, with the Rules Committee of the Assembly and Senate. The department shall be authorized to make a grant in excess of one hundred thousand dollars ($100,000) only upon the specific approval of the grant by the Legislature, by an act enacted after the receipt of such report from the department.

SEC. 3. Section 13885 of the Water Code is amended to read:

13885. Grants may be made only for projects for domestic water systems. The department may make reasonable allowance for future water supply needs and may provide for additional capacity when excessive costs would be incurred by later enlargement. Such grants may be made for all or any part of the cost of constructing, improving, or rehabilitating any such system when, in the judgment of the State Department of Health Services, such improvement or rehabilitation is necessary to provide pure, wholesome, and potable water available in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. No single public agency shall receive grants pursuant to this chapter totaling more than four hundred thousand dollars ($400,000). The total amount of grants made pursuant to this chapter shall not exceed thirty million dollars ($30,000,000), of which up to fifteen million dollars ($15,000,000) may be used for grants for projects for the construction, improvement, or rehabilitation of domestic water systems which have become contaminated by organic or inorganic compounds (such as nitrates, DBCP (dibromochloropropane), TCE (trichloroethylene), and arsenic), or radiation, in such amounts as to render the water unfit or hazardous for human consumption.

SEC. 4. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California

Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Parlier for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 5. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the West Parlier Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 6. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Del Rey Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 7. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Hornbrook Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 8. A grant not to exceed the amount of three hundred forty-one thousand dollars ($341,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Biggs for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 9. A grant not to exceed the amount of three hundred fifty

thousand dollars ($350,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Etna for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 10. A grant not to exceed the amount of one hundred nine thousand dollars ($109,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Mendocino Unified School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall determine eligibility for the grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with those provisions.

SEC. 11. The Legislature hereby finds and declares that, in order to meet the minimum safe drinking water standards, there is a critical need within the City of Parlier, the West Parlier Community Services District, the Del Rey Community Services District, the City of Biggs, the City of Etna, the Mendocino Unified School District, and the Hornbrook Community Services District to immediately undertake certain improvements necessary to enable the residents of those communities to have a dependable and potable water supply.

SEC. 12. The Legislature further finds and declares that the water systems of the City of Parlier, the West Parlier Community Services District, the Del Rey Community Services District, the City of Biggs, the City of Etna, the Mendocino Unified School District, and the Hornbrook Community Services District have critical deficiencies which pose a serious threat to the public health and welfare of all consumers within the communities and that each entity is only barely meeting the demand for water within the community.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the provisions of Proposition 9 of the 1980 general election and to permit grants to be made for projects for the construction, improvement, or rehabilitation of domestic water systems which have become contaminated by organic or inorganic compounds or radiation at the earliest possible time, and in order to authorize grants from the California Safe Drinking Water Fund to the City of Parlier, the West Parlier Community Services District, the Del Rey Community Services District, the City of Biggs, the City of Etna, the Mendocino Unified School District, and the Hornbrook

Community Services District to resolve the critical water supply problems of the communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1016

An act relating to lands within the City of Oakland.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) The City of Oakland, commencing on or about 1927, began purchasing, through its Board of Port Commissioners (hereafter referred to as the "Port of Oakland"), land in the vicinity of San Leandro Bay in the City of Oakland for the promotion and development of commerce, shipping, and navigation. A substantial portion of that land, approximately 1,070 acres, is in the "Port Area" of the City of Oakland and now comprises the Port of Oakland's Oakland Airport Business Park and Distribution Center. Most of the Oakland Airport Business Park and the Distribution Center presently is not subject to the daily tides, has been filled, is within the boundaries of the Rancho de San Antonio granted by the Spanish government in 1820 to Luis Peralta, and is within the boundaries of that portion of the Rancho de San Antonio that the United States government, pursuant to the Treaty of Guadalupe Hidalgo and "An Act to ascertain and settle private land claims in the State of California", 9 Stat. 631, confirmed and then patented in part to Ygnacio Peralta by patent issued February 3, 1858 (recorded in Book A of Patents at page 52 in the Office of the County Recorder of Alameda County) and in part to Antonio Maria Peralta by patent issued May 8, 1874 (recorded in Book A of Patents at page 648 in the Office of the County Recorder of Alameda County). The Board of Port Commissioners is the legislative body of the City of Oakland with the complete and exclusive power and jurisdiction, for and on behalf of the City of Oakland, over that part of the City of Oakland defined in Section 628 of the Charter of the City of Oakland as the "Port Area".

(b) The Port of Oakland sought to, and reasonably and in good faith believed that it did, acquire fee title to the land in the vicinity of San Leandro Bay subject only to encumbrances of record, and reasonably was not aware that fee title was subject to any alleged claim of a sovereign state public trust right for purposes of commerce, navigation, and fisheries.

(c) The Port of Oakland, pursuant to the Charter of the City of

Oakland, has established and for several years has taken action to implement a comprehensive plan for development of the land in order to make provision for and to promote the city's harbor and airport and the commerce, shipping, and navigation of the City of Oakland.

(d) Pursuant to plans to dredge a shipping channel through San Leandro Bay, and to construct piers, transit sheds, and other terminal shipping facilities, and thereby to benefit the various tidelands, submerged lands, and salt marsh granted by the Legislature in trust to the City of Oakland from time to time commencing in 1852, the Port of Oakland in the 1940's began to fill and reclaim certain portions of lands described in subdivision (b) of Section 5 of this act. Most of this fill and reclamation was completed by 1972, although after 1972 there has been additional fill placed for construction purposes in some of the reclaimed areas and additional construction fill is contemplated for the future. Even if portions of the lands described in subdivision (b) of Section 5 of this act which on or after the date of the Spanish land grant to Luis Peralta in 1820 may have been submerged lands or subject to the daily tides, as the result of the filling and reclamation, the lands are no longer submerged and are no longer subject to the daily tides.

(e) The State Lands Commission, in good faith and to protect the interests of the people of the state in the public trust for commerce, navigation, and fisheries, alleges that such public trust exists over some portion of the land described in subdivision (b) of Section 5 of this act by virtue of the existence of tidelands and submerged lands in that parcel as of the date the lands were originally granted by the Spanish government to Luis Peralta in 1820. Based upon this claim, the State Lands Commission further alleges that those tidelands and salt marsh lands within the property described in subdivision (b) of Section 5 of this act and subject to the public interest passed in trust to the City of Oakland pursuant to the legislative grant enacted by Chapter 654 of the Statutes of 1911.

(f) The total acreage of the lands granted by the Legislature to the City of Oakland in trust commencing with Chapter 107 of the Statutes of 1852, and presently subject to trust, is approximately 14,500 acres.

The total acreage of filled lands within the property described in subdivision (b) of Section 5 of this act that the State Lands Commission alleges is subject to a state public trust interest for commerce, navigation, and fisheries because the State Lands Commission claims that it was submerged lands and tidelands, is approximately 43 acres. The extent to which any other portion of the lands described in subdivision (b) of Section 5 of this act in addition to 43 acres was subject to the daily tides is subject to considerable controversy, uncertainty, and problems of proof. Only approximately 900 linear feet of the 43 acres fronts on San Leandro Bay.

(g) Pursuant to the Port of Oakland's comprehensive plan for development of the San Leandro Bay lands included within its

Oakland Airport Business Park and Distribution Center, the Port of Oakland since approximately 1962, in accordance with the City Charter of the City of Oakland and ordinances adopted pursuant thereto, has conveyed fee title or has leased for terms in excess of 50 years substantial portions of the lands described in subdivision (b) of Section 5 of this act.

(h) Due to (1) the claims asserted by the State Lands Commission to portions of the lands described in subdivision (b) of Section 5 of this act, (2) potential future claims of the State Lands Commission in other portions of the lands described in subdivision (b) of Section 5 of this act, and (3) the uncertainty of the boundaries of the lands subject to future State Lands Commission claims of sovereign public trust interest, the Port of Oakland feasibly cannot sell and cannot lease for more than 25 years with a 25-year renewal right most of the remaining approximately 160 acres of undeveloped lands in the lands described in subdivision (b) of Section 5 of this act, and sales or lease assignments or substantial new improvement of most of the lands that the Port of Oakland has previously sold or leased for terms in excess of 25 years with a 25-year renewal right practically may be halted. The effects of this controversy and dispute threaten to create severe detriment and loss to the commerce, navigation, and shipping at the Port of Oakland's harbors and airport, threaten to create severe detriment and loss to the trust established by the legislative grants to the City of Oakland, and threaten severe and irreparable harm to employment and economic growth in the City of Oakland. The extent and nature of land within the lands described in subdivision (b) of Section 5 of this act, claimed by the State Lands Commission to be subject to the public trust, is uncertain and subject to genuine controversy and dispute, and it is in the best interests of the people of the state, the City of Oakland, and other interested parties to resolve that controversy and dispute as provided in this act.

(i) The Legislature expressly does not make any determination by virtue of this act or any provision of this act as to the merits of any pending litigation or any claim involving the state's assertion of sovereign public trust interests for commerce, navigation, and fisheries in any former rancho lands within the boundaries of a federal patent.

(j) All portions of the lands described in subdivision (b) of Section 5 of this act were filled before 1980 and have not at any time after filling been subject to tidal action.

SEC. 2. Based upon the findings and declarations made in Section 1 of this act, the Legislature further finds and declares the following with respect to the land described in subdivision (b) of Section 5 of this act:

(a) The total area reasonably subject to the state's claimed sovereign public trust interest for commerce, navigation, and fisheries is but a relatively small part of the submerged lands and tidelands granted in trust by the Legislature to the City of Oakland.

(b) The areas subject to the state's claimed sovereign public trust

interests have been filled and reclaimed by the Port of Oakland as the result of a program of beneficial development of the harbor and airport of the City of Oakland, the major part of which harbor and airport are located on lands granted by the Legislature in trust to the City of Oakland.

(c) The lands described in subdivision (b) of Section 5 of this act that are subject to the claim by the state of a sovereign public trust easement for commerce, navigation, and fisheries are not under present circumstances useful for trust purposes.

(d) The trust interests of the people of the state in commerce, navigation, and fisheries will be better promoted and benefited by the exchange of the state's claimed trust interests in the filled portions of the lands described in subdivision (b) of Section 5 of this act for those trust interests in the City of Oakland's land described in subdivision (c) of Section 5 of this act. The trust interests which this act authorizes to be exchanged are of equal value.

SEC. 3. There is hereby granted to the City of Oakland in trust, to be held pursuant to the provisions of Chapter 654 of the Statutes of 1911, and amendatory acts, all former submerged lands located within the boundaries of the lands described in subdivision (b) of Section 5 of this act. This grant does not constitute a determination by the Legislature that Chapter 654 of the Statutes of 1911, as amended, does not convey submerged lands in trust to the City of Oakland.

SEC. 4. Notwithstanding the provisions of Chapter 107 of the Statutes of 1852, Chapter 73 of the Statutes of 1854, Chapter 390 of the Statutes of 1909, Chapter 654 of the Statutes of 1911, Chapter 657 of the Statutes of 1911, Chapter 59 of the Statutes of 1917, Chapter 516 of the Statutes of 1919, Chapter 174 of the Statutes of 1923, Chapter 621 of the Statutes of 1931, Chapter 45 of the Statutes of 1937, Chapter 343 of the Statutes of 1937, Chapter 908 of the Statutes of 1937, Chapter 720 of the Statutes of 1941, Chapter 218 of the Statutes of 1945, Chapter 1028 of the Statutes of 1955, Chapter 709 of the Statutes of 1957, and Chapter 931 of the Statutes of 1961, or any other act granting tidelands, submerged lands, and salt marsh in trust to the City of Oakland, the City of Oakland may grant franchises and leases with respect to those lands for terms not to exceed 66 years, but shall otherwise be subject to all the terms and conditions of the prior grants.

SEC. 5. (a) The Legislature hereby terminates all of the state's sovereign public trust right, title, and interest, to the extent that any of the right, title, and interest exists, in all former submerged lands, tidelands, and salt marsh that may have been, on and after the date of the Spanish land grant to Luis Peralta in 1820 situated within the lands described in subdivision (b) of this section and subject to each of the following:

(1) The termination shall be effective only upon delivery of an unconditional and duly authorized, executed, and acknowledged deed from the City of Oakland, acting by and through its Board of

Port Commissioners, to the State of California, acting by and through its State Lands Commission, granting to the state a public trust easement for commerce, navigation, and fisheries, in the lands described in subdivision (c) of this section in exchange for the Legislature's foregoing termination. The City of Oakland is not required to deliver that deed, but the trust termination shall be effective only if delivery is made on or before January 1, 1984.

(2) Upon delivery of the deed to the state as described in paragraph (1) of this subdivision, Section 1 of Chapter 1028 of the Statutes of 1955 shall be deemed to have been supplemented by this act to provide that the City of Oakland is granted the public trust easement for commerce, navigation, and fisheries conveyed by the deed, to be forever held by the city, and its successors, in trust for the uses and purposes and upon the express conditions set forth in Chapter 1028 of the Statutes of 1955; provided, however, that the city shall not be required to improve the lands as provided in Section 1 of Chapter 1028 of the Statutes of 1955.

(b) The lands in which are located the former submerged lands, tidelands, and salt marsh in which the Legislature by this act terminates all of the state's sovereign public trust right, title, and interest, are described as follows:

All that property located above the presently existing line of mean high water located in the "Port Area" of the City of Oakland bounded on the east by Hegenberger Road, on the northeast by the Nimitz Freeway, on the northwest by the south bank of East Creek Slough and its direct prolongation southwesterly to its point of intersection with the City of Oakland-City of Alameda boundary line, on the west by the City of Oakland-City of Alameda boundary line from that point of intersection southerly to Doolittle Drive, and on the south and southwest by Doolittle Drive, excluding therefrom, however, Parcel 1 of that certain real property over which the Board of Port Commissioners relinquished control and jurisdiction by adoption of Port Ordinance No. 1235 on August 5, 1963, the Parcel 1 being more particularly described as follows:

Parcel 1

Beginning at the point of intersection of the northwestern line of 50th Avenue, formerly Bay Avenue, with the southwestern line of the Nimitz Freeway, formerly known as the Eastshore Freeway, designated as "State of California, Department of Public Works survey through the City of Oakland, Road IV-Ala-69-Oak", as described in deed from Pacific Gas and Electric Company, a corporation, to the State of California, dated February 5, 1943 and recorded July 17, 1943, in Book 4391 of Official Records of Alameda County, page 231; running thence along the southwestern line of that state freeway south 34°52′44″ east 408.30 feet until intersected by the direct prolongation northeasterly of the southeastern line of that certain parcel of land described in deed from City of Oakland, a

municipal corporation, acting by and through its Board of Port Commissioners to Pacific Gas and Electric Company, a corporation, dated January 18, 1955, and recorded April 5, 1955, in Book 7621 of Official Records of Alameda County, page 111; thence along that line so produced south 55°07′16″ west 52.00 feet to the actual point of commencement; thence along a line parallel with that state freeway and distant 52.00 feet southwesterly therefrom, measured at a right angle therefrom, south 34°52′44″ east 2927.65 feet; thence south 55°07′16″ west 1888.01 feet; thence south 89°49′48″ west 54.73 feet; thence north 34°52′44″ west 2360.72 feet to a point on the southwestern boundary line of that certain parcel of land designated as Parcel "E" in Final Judgment of Condemnation made on December 31, 1951, in the Superior Court of Alameda County, State of California, entitled City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, vs. Pacific Gas and Electric Company, a corporation, et al., Case No. 209246, a certified copy whereof was recorded on December 31, 1951, in Book 6624 of Official Records of Alameda County, page 345; thence along the southwestern and northwestern lines of the Parcel "E" north 22°07′52″ west 277.23 feet and north 35°35′18″ east 900.20 feet to a point on the southwestern boundary line of that certain parcel of land described in deed from City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners, to Pacific Gas and Electric Company, a corporation, dated January 18, 1955, and recorded April 5, 1955, in Book 7621 of Official Records of Alameda County, page 111; thence along the last mentioned line south 34°52′44″ east 35.60 feet to the southeastern boundary line thereof; thence along the last mentioned line and its direct prolongation north 55°07′16″ east 1023.43 feet to the actual point of commencement;

Also excluding therefrom Arrowhead Marsh and also excluding all that property lying westerly of Arrowhead Marsh and Airport Channel along the northeasterly line of Doolittle Drive. Arrowhead Marsh is that portion of land labeled "Arrowhead Marsh" depicted on a map entitled "Attachment I San Leandro Bay Regional Shoreline," such Attachment I being a portion of that document entitled "Development Plan for San Leandro Bay Regional Shoreline" recorded on the 13th day of September 1977, in Reel 5043, Image 667, Official Records of Alameda County, such portion being bounded on the southeast and east by an "L" shaped "New Channel" adjoining the artificially filled Play Meadow, and being bounded elsewhere by the waters of San Leandro Bay, all as shown on that map.

(c) The lands on which the City of Oakland is required, as a condition of trust termination, to grant to the state a public trust easement for commerce, navigation, and fisheries, are described as follows:

All of those portions of the following described lands which lie within the present City of Oakland, County of Alameda, State of

California:

Lots 29, 30, and 31 in Section 30, and lots 2, 3, and 4 in Section 31, all in township 2 south, range 3 west, Mount Diablo Base and Meridian, as such lots are shown on "Sale Map No. 10, Salt Marsh and Tide Lands, situate in the County of Alameda, State of California," filed June 9, 1888, in book 17 of maps at page 30, in the office of the County Recorder of Alameda County, containing 84 acres more or less.

SEC. 6. The Legislature's termination of the state's sovereign public trust to the lands described in subdivision (b) of Section 5 of this act is not intended to constitute a legislative determination or finding that such a public trust actually exists in those lands, or that whatever public trust may at some time have existed in those lands has not terminated for reasons separate from and in addition to the termination effected by this act, including without limitation, application of the holding and decision of the California Supreme Court in City of Berkeley v. Superior Court, 26 Cal. 3d 515 (1980).

SEC. 7. The legislative findings and declarations in Sections 1 and 2 of this act shall not be admissible as evidence in any administrative, judicial, or quasi-judicial proceeding unless and until the City of Oakland has delivered to the State Lands Commission the deed described in paragraph (1) of subdivision (a) of Section 5 of this act.

CHAPTER 1017

An act to amend, repeal, and add Section 800 to, and to add and repeal Section 802.5 of, the Penal Code, relating to limitations of actions.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 800 of the Penal Code is amended to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, or 288 of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within three years after its commission.

(b) An indictment for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, or an arrest warrant

issued by the municipal or, where appropriate, the justice court within six years after its commission.

(c) An indictment for grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within three years after its discovery.

(d) An indictment for a violation of Section 288 of the Penal Code shall be found, or an arrest warrant issued by the municipal, or where appropriate, the justice court within five years after its commission.

SEC. 1.5. Section 800 of the Penal Code is amended to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286, or subdivision (c), (d), or (f) of Section 288a, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within six years after its commission.

(c) An indictment for grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, or an arrest warrant issued by the municipal or, where appropriate, the justice court within three years after its discovery.

SEC. 2. Section 800 is added to the Penal Code, to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, or 288 of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government

Code, shall be found, an information filed, or case certified to the superior court within three years after its commission.

(b) An indictment for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission.

(c) An indictment for grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

(d) An indictment for a violation of Section 288 of the Penal Code shall be found, an information filed, or case certified to the superior court within five years after its commission.

SEC. 2.5. Section 800 is added to the Penal Code, to read:

800. (a) An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286, or subdivision (c), (d), or (f) of Section 288a, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission.

(b) An indictment for a violation of Section 261, 264.1, 288, or 289 of, or subdivision (c), (d), or (f) of Section 286, or subdivision (c), (d), or (f) of Section 288a, or for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission.

(c) An indictment for grand theft, felony welfare fraud in violation of Section 11483 of the Welfare and Institutions Code, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

SEC. 3. Section 802.5 is added to the Penal Code, to read:

802.5. The time limitations provided in this chapter for the commencement of a criminal action shall be tolled upon the issuance of an arrest warrant or the finding of an indictment, and no time during which a criminal action is pending is a part of any limitation

of the time for recommencing that criminal action in the event of a prior dismissal of that action, subject to the provisions of Section 1387.

SEC. 4. Section 800 of the Penal Code as amended by Section 1 or 1.5 of this act and Section 802.5 of the Penal Code as added by Section 3 of this act shall remain in effect only until a decision of a court of appeal or of the California Supreme Court becomes final, or an amendment to the California Constitution takes effect, whichever occurs first, which decision or amendment provides that a person charged by indictment with a felony is not entitled to a preliminary hearing, and as of such date Section 800 as amended by Section 1 or 1.5 of this act and Section 802.5 as added by Section 3 of this act shall be repealed, and Section 800 shall be added to the Penal Code in the form set forth in Section 2 or 2.5 of this act.

As used in this section, a decision of a court of appeal is final if not reviewed by the California Supreme Court or United States Supreme Court, and a decision of the California Supreme Court is final if not reviewed by the United States Supreme Court.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bills 209 and 276 and Assembly Bill 303 are all chaptered and become effective January 1, 1982, all bills amend Section 800 of the Penal Code, and this bill is chaptered after Senate Bills 209 and 276 and Assembly Bill 303, that the amendments to Section 800 proposed by all bills be given effect and incorporated in Section 800 in the form set forth in Sections 1.5 and 2.5 of this act.

Therefore, Sections 1.5 and 2.5 of this act shall become operative only if this bill and Senate Bills 209 and 276 and Assembly Bill 303 are all chaptered and become effective January 1, 1982, all amend Section 800, and this bill is chaptered after Senate Bills 209 and 276 and Assembly Bill 303, in which case Sections 1 and 2 of this act shall not become operative.

CHAPTER 1018

An act to amend Sections 1328, 3655, and 4655 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1328 of the Unemployment Insurance Code is amended to read:

1328. The department shall consider the facts submitted by an employer pursuant to Section 1327 and, if benefits are claimed subsequent to the filing of the new or additional claim, make a determination as to the claimant's eligibility for benefits. The

department shall promptly notify the claimant and any employer who prior to the determination has submitted any facts or given any notice pursuant to Section 1327 or this section and authorized regulations of the determination or reconsidered determination and the reasons therefor. If after notice of a determination or reconsidered determination the employing unit acquires knowledge of facts which may affect the eligibility of the claimant and such facts could not reasonably have been known within the 10-day period provided by Section 1327, the employing unit shall within 10 days of acquiring such knowledge submit such facts to the department, and such 10-day period may be extended for good cause. The claimant and any such employer may appeal from a determination or reconsidered determination to a referee within 20 days from mailing or personal service of notice of the determination or reconsidered determination. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal.

SEC. 2. Section 3655 of the Unemployment Insurance Code is amended to read:

3655. The Employment Development Department shall consider the facts submitted by an employer pursuant to Section 3654 and, if benefits are claimed subsequent to the filing of the extended duration benefits claim, make a determination as to the exhaustee's eligibility for the extended duration benefits. The Employment Development Department shall promptly notify the exhaustee and any employer who prior to the determination has submitted any facts pursuant to Section 3654 of the determination and the reasons therefor. The exhaustee and any such employer may appeal therefrom to a referee within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The Director of Employment Development shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 3. Section 4655 of the Unemployment Insurance Code is amended to read:

4655. The Employment Development Department shall consider the facts submitted by an employer pursuant to Section 4654 and, if benefits are claimed subsequent to the filing of the federal-state extended benefits claim, make a determination as to the individual's eligibility for the federal-state extended benefits. The Employment Development Department shall promptly notify the individual and any employer who prior to the determination has submitted any facts pursuant to Section 4654 of the determination and the reasons therefor. The individual and any such employer may appeal therefrom to a referee within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The Director of Employment

Development shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

CHAPTER 1019

An act to add Section 66786.7 to the Government Code, relating to solid waste, and making an appropriation therefor.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 66786.7 is added to the Government Code, to read:

66786.7. (a) The board shall be responsible for ensuring that landfill operators and local governments protect the public health and safety with respect to the migration of combustible gas from solid waste disposal sites. In carrying out that responsibility, the board shall undertake a two-year study in order to do all of the following:

(1) Determine the most effective means of monitoring gas release.

(2) Develop technical specifications for gas migration control systems which would be compatible with maximum recovery of the gas for use as an energy source.

(3) Formulate standards for determining the maximum concentration of methane gas that should be allowed to migrate from landfills.

(4) Develop a technical assistance strategy to help local governments and landfill operators correct deficiencies.

During the course of the study, the board shall evaluate existing gas monitoring systems; consult with industry representatives and conduct a literature search to develop a compendium of gas control techniques; and test new technologies at California landfills that have experienced gas migration problems.

(b) The board shall prepare two reports on or before January 1, 1984, on the findings made during the study conducted pursuant to subdivision (a). One report shall be technical in nature, and shall include recommended actions that landfill operators could take to minimize gas migration and maximize the public health and safety at existing landfills. Another report, to the Legislature, shall include a summary of the technical findings and recommendations for legislative and administrative actions which could be taken to enhance the above safety objectives.

(c) The board may seek federal funds for activities in support of its responsibilities under these provisions.

SEC. 2. Notwithstanding subdivision (d) of Section 21191 of the

Public Resources Code, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the California Environmental License Plate Fund for expenditure by the State Solid Waste Management Board during the 1981–82 fiscal year to fund the study authorized by Section 66786.7 of the Government Code.

SEC. 3. The State Solid Waste Management Board shall allocate up to two hundred thousand dollars ($200,000) of the funds designated for resource recovery during the 1981–82 fiscal year, pursuant to Section 68046 of the Government Code, to assist in financing the study authorized by Section 66786.7 of the Government Code.

CHAPTER 1020

An act to amend Section 51421 of the Education Code, relating to general education equivalency certificates, and making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 51421 of the Education Code is amended to read:

51421. Applications for a California high school equivalency certificate shall be submitted by an applicant on a form prescribed by the Superintendent of Public Instruction. The superintendent may charge a fee, established by the State Board of Education, to be submitted with the application sufficient in an amount not greater than the amount required to pay the cost of administering this article. The amount of each fee may not exceed twenty dollars ($20) per person.

CHAPTER 1021

An act to amend Section 44865 of the Education Code, relating to schools

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 44865 of the Education Code is amended to read:

44865. A valid teaching credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing, based on a bachelor's degree, student teaching, and special fitness to perform, shall be deemed qualifying for assignment as a teacher in the following assignments, provided that the assignment of a teacher to a position for which qualifications are prescribed by this section shall be made only with the consent of the teacher:

(a) Home teacher.
(b) Classes organized primarily for adults.
(c) Hospital classes.
(d) Necessary small high schools.
(e) Continuation schools.
(f) Alternative schools.
(g) Opportunity schools.
(h) Juvenile court schools.
(i) County community schools.

CHAPTER 1022

An act to amend Sections 32050 and 32051 of, to amend, repeal, and add Section 32052 to, and to add and repeal Section 32053 of, the Education Code, relating to schools.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 32050 of the Education Code is amended to read:

32050. As used in this article, "hazing" includes any method of initiation or preinitiation into a student organization or any pastime or amusement engaged in with respect to such an organization which causes, or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm, to any student or other person attending any school, community college, college, university or other educational institution in this state; but the term "hazing" does not include customary athletic events or other similar contests or competitions.

SEC. 2. Section 32051 of the Education Code is amended to read:

32051. No student, or other person in attendance at any public, private, parochial, or military school, community college, college, or other educational institution, shall conspire to engage in hazing, participate in hazing, or commit any act that causes or is likely to cause bodily danger, physical harm, or personal degradation or

disgrace resulting in physical or mental harm to any fellow student or person attending the institution.

The violation of this section is a misdemeanor, punishable by a fine of not less than fifty dollars ($50), nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both.

SEC. 3. Section 32052 of the Education Code is amended to read:

32052. Any person who participates in the hazing of another, or any corporation or association which knowingly permits hazing to be conducted by its members or by others subject to its direction or control, shall forfeit any entitlement to public funds, scholarships or awards which are enjoyed by him, by her, or by it and shall be deprived of any sanction or approval granted by any public educational institution or agency.

If the Attorney General or the district attorney of any county or city and county has reason to believe that a forfeiture should be declared under this section, he or she may institute a special proceeding in the superior court to establish such forfeiture. Any funds so forfeited shall be deposited in the State Treasury and credited to the State School Fund.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 4. Section 32052 is added to the Education Code, to read:

32052. Any person who participates in the hazing of another, or any corporation or association which knowingly permits hazing to be conducted by its members or by others subject to its direction or control, shall forfeit any entitlement to state funds, scholarships or awards which are enjoyed by him, by her, or by it and shall be deprived of any sanction or approval granted by any public educational institution or agency.

The governing board of any public school, public college, public university or other public educational institution or agency shall adopt rules and regulations to implement this section.

If the Attorney General or the district attorney of any county or city and county has reason to believe that a forfeiture should be declared under this section, he or she may institute a special proceeding in the superior court to establish such forfeiture. Any funds so forfeited shall be deposited in the State Treasury and credited to the State School Fund.

Notice of the existence of these provisions of law and implementing institutional regulations prohibiting hazing, together with the campus location where verbatim copies can be obtained, shall be published in all campus general catalogs.

This section shall become operative January 1, 1988, and shall remain in effect only until January 1, 1994, and as of that date is repealed unless a later enacted statute, which is chaptered on or before January 1, 1994, extends or deletes that date.

SEC. 5. Section 32053 is added to the Education Code, to read:

32053. The governing board of any public school or any other public educational institution or agency may adopt rules and regulations to implement this article.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1023

An act to amend Sections 22724, 44922, and 87483 of the Education Code, and Section 20815 of the Government Code, relating to public education employees.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 22724 of the Education Code is amended to read:

22724. Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district may establish regulations which allow an employee who is a member of this system to reduce his or her workload from full-time to part-time duties, and receive the service credit the member would receive if the member was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits that the member is entitled to under this part, based upon the salary that the member would have received if employed on a full-time basis.

Such regulations shall include, but shall not be limited to, the following:

(a) The option of part-time employment shall be exercised at the request of the member and can be revoked only with the mutual consent of the employer and the member.

(b) The member shall have been employed full time in a position requiring membership in this system for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring membership in this system for a total of

at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The member shall have reached the age of 55 prior to reduction in workload.

(e) The period of such part-time employment shall not extend beyond the end of the school year during which the member reaches his or her 70th birthday.

(f) The period of such part-time employment shall not exceed five years.

(g) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the member's contract of employment during his or her final year of service in a full-time position.

(h) The member shall be paid a salary which is the pro rata share of the salary the member would be earning had he or she not elected to exercise the option of part-time employment.

Prior to the reduction of an employee's workload under this section, the district personnel responsible for the administration of this program, in conjunction with the administrative staff of the State Teachers' Retirement System and the Public Employees' Retirement System, shall verify the eligibility of the applicant for the reduced workload program.

The member shall contribute to the Teachers' Retirement Fund the amount that would have been contributed had the member been employed full time.

The employer shall contribute to the Teachers' Retirement Fund an amount based upon the salary that would have been paid to the member had the member been employed full time and at the rate specified by the board.

The employer shall maintain the necessary records to separately identify each member receiving credit pursuant to this section.

SEC. 2. Section 44922 of the Education Code is amended to read:

44922. Notwithstanding any other provision, the governing board of a school district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

Such regulations shall include, but shall not be limited to, the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code:

(a) The employee shall have reached the age of 55 prior to reduction in workload.

(b) The employee shall have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring certification for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment shall be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) The employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his or her final year of service in a full-time position.

(g) This option is limited in prekindergarten through grade 12 to certificated employees who do not hold positions with salaries above that of a school principal.

(h) The period of such part-time employment shall not exceed five years.

(i) The period of such part-time employment shall not extend beyond the end of the school year during which the employee reaches his or her 70th birthday.

SEC. 3. Section 87483 of the Education Code is amended to read:

87483. Notwithstanding any other provision, the governing board of a community college district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

Such regulations shall include, but shall not be limited to, the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code:

(a) The employee shall have reached the age of 55 prior to reduction in workload.

(b) The employee shall have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring certification for a total of at least five

years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment shall be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) The employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his or her final year of service in a full-time position.

(g) The period of such part-time employment shall not exceed five years.

(h) The period of such part-time employment shall not extend beyond the end of the school year during which the employee reaches his or her 70th birthday.

SEC. 4. Section 20815 of the Government Code is amended to read:

20815. Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976, shall, for such period of part-time employment, receive the credit he would receive if he or she was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits he or she is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis if he or she and his or her employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of an employee's workload under this section, the district personnel responsible for the administration of this program, in conjunction with the administrative staff of the State Teachers' Retirement System and the Public Employees' Retirement System, shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to members who are academic employees of California State University and Colleges or who are certificated employees of school districts and who have met the criteria provided in Sections 44922 and 87483 of the Education Code or Section 89516 of the Education Code and are not older than 70 years and is limited to a period of five years of such part-time status. The employer shall

maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

CHAPTER 1024

An act to amend Sections 7370, 7376.5, 7384.5, 7413, and 7436 of, and to repeal Sections 7321.1, 7356, 7420.5, and 7435 of, the Business and Professions Code, relating to cosmetology.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 7321.1 of the Business and Professions Code is repealed.

SEC. 2. Section 7356 of the Business and Professions Code is repealed.

SEC. 3. Section 7370 of the Business and Professions Code is amended to read:

7370. Every application for admission to examination, and every application for license as a cosmetologist, or in any branch of cosmetology, shall be in writing, on blanks prepared and furnished by the board.

Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination for registration and license. It shall be verified by the oath of the applicant, and shall also be accompanied by two photographs of the applicant, taken within 90 days prior to date of application, size of photograph to be no larger than 5 inches by 3 inches.

SEC. 4. Section 7376.5 of the Business and Professions Code is amended to read:

7376.5. Any applicant who without good cause, as defined in the regulations of the board, fails to appear for examination after being duly notified by the board of his or her eligibility therefor shall forfeit his or her examination fee, and may again become eligible for examination only upon filing a new application and paying a new examination fee.

SEC. 5. Section 7384.5 of the Business and Professions Code is amended to read:

7384.5. Every cosmetological establishment where hairdressing services are performed shall provide at least one public toilet room located on the premises for its patrons. Any toilet room installed after the effective date of this chapter shall be not less than 18 square feet in area. The entrance to the room shall be effectively screened so that no toilet compartment is visible from any workroom. The door of the room and any anteroom shall be self-closing. The room shall

be kept in a clean condition and in good repair, well lighted and ventilated to the outside air and effectively screened against insects and free from rodents. The floor shall be of cement, tile laid in cement, vitrified brick, or other nonabsorbent material. All sewer drains shall be connected to an approved disposal system, and shall be properly trapped. No toilet room shall be used for storage.

SEC. 6. Section 7413 of the Business and Professions Code is amended to read:

7413. A duplicate license shall be issued upon the filing of a statement explaining the loss verified by the oath of the applicant, and accompanied by a fee of not more than two dollars ($2).

SEC. 7. Section 7420.5 of the Business and Professions Code is repealed.

SEC. 8. Section 7435 of the Business and Professions Code is repealed.

SEC. 9. Section 7436 of the Business and Professions Code is amended to read:

7436. Licenses issued under the provisions of this chapter, unless specifically excepted, shall be issued for a two-year period and shall expire at midnight on the last day of the month of the date of issuance established by the board.

The board may establish procedures for administration of a two-year continuous renewal program. The program shall include, but not be limited to, the establishment of a pro rata formula for the payment of fees by licentiates affected by the implementation of such program. The renewal program shall provide that a relatively equal number of licenses expire annually and in a manner as to best distribute the renewal and reregistration work of the board in a uniform manner.

CHAPTER 1025

An act to add Sections 684, 685, and 2606.5 to the Unemployment Insurance Code, relating to disability insurance, and making an appropriation therefor.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 684 is added to the Unemployment Insurance Code, to read:

684. (a) Solely for the purposes of Part 2 (commencing with Section 2601) of this division, "employer" also means any employing unit which employs individuals to perform domestic service in a private home, local college club, or local chapter of a college fraternity or sorority and pays wages in cash of seven hundred fifty

dollars ($750) or more to individuals employed in such service during any calendar quarter in the calendar year or the preceding calendar year.

(b) Any employing unit which qualifies as an employer under this section shall not be treated as an employer with respect to wages paid for any service other than domestic service specified by this section unless such employing unit also qualifies as an employer with respect to such other service under Section 675, 676, 677, 678, 680, or 681.

SEC. 2. Section 685 is added to the Unemployment Insurance Code, to read:

685 Solely for the purposes of Part 2 (commencing with Section 2601) of this division, "employer" also means any employing unit which employs individuals to perform domestic service comprising in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code and pays wages in cash of seven hundred fifty dollars ($750) or more to individuals employed in such service during any calendar quarter in the calendar year or preceding calendar year, and is one of the following:

(a) The recipient of the services, if the state or county makes or provides for direct payment to a provider chosen by the recipient or to the recipient of the services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

(b) The individual or entity with which a county contracts to provide in-home supportive services.

(c) Any county which hires and directs in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service systems.

SEC. 3. Section 2606.5 is added to the Unemployment Insurance Code, to read:

2606.5. (a) "Employment" for purposes of this part also means domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed for an employing unit which pays wages in cash of seven hundred fifty dollars ($750) or more to individuals employed in such service during any calendar quarter in the calendar year or the preceding calendar year.

(b) "Employment" for purposes of this part also means domestic service comprising in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, performed for an employing unit which pays wages in cash of seven hundred fifty dollars ($750) or more to individuals employed in such service during any calendar quarter in the calendar year or preceding calendar year, and is one of the following:

(1) The recipient of such services, if the state or county makes or

provides for direct payment to a provider chosen by the recipient or to the recipient of such services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

(2) The individual or entity with which a county contracts to provide in-home supportive services.

(3) Any county which hires and directs in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service systems.

CHAPTER 1026

An act to amend Section 872 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 872 of the Penal Code is amended to read:

872. (a) If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe the defendant guilty thereof, the magistrate must make or indorse on the complaint an order, signed by him, to the following effect: "It appearing to me that the offense in the within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe the within named A.B. guilty thereof, I order that he be held to answer to the same."

(b) The finding of sufficient cause may be based in whole or in part upon hearsay evidence in the form of written statements of witnesses in lieu of testimony. At the time the defendant appears before the magistrate for arraignment, the prosecuting attorney may file with the court, and furnish a copy to the defendant, a statement made under penalty of perjury of the testimony of any witness which the prosecution wishes to introduce into evidence at the examination in lieu of the testimony of the witness. The statement shall be considered as evidence in the examination. This subdivision shall not apply if the witness is a victim of a crime against his or her person, or the testimony of the witness includes eyewitness identification of a defendant, or the prosecuting attorney has not filed with the court and furnished a copy to the defendant the statement of the testimony of the witness at the time of the arraignment or at least 10 court days prior to the date set for the preliminary hearing. For the purposes of this section an "eyewitness" is any person who sees the perpetrator during the commission of the crime charged, whether or not he or

she can identify the perpetrator.

(c) Nothing in this section shall limit the right of the defendant to call any witness for examination at the preliminary hearing. If the witness called by the defendant is one whose statement of testimony was offered by the prosecuting attorney as provided in subdivision (b), the defendant shall have the right to cross-examine the witness as to all matters asserted in the statement. If the defendant makes reasonable efforts to secure the attendance of the witness but is unsuccessful in securing his or her attendance, the court shall grant a short continuance at the request of the defendant and shall require the prosecuting attorney to present the witness for cross-examination. If the prosecuting attorney fails to present the witness for cross-examination, the statement of the testimony of the witness shall not be considered as evidence in the examination.

CHAPTER 1027

An act to amend Sections 855 and 7412 of, and to repeal Section 9252 of, the Financial Code, relating to financial institutions.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 855 of the Financial Code is amended to read:

855. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any time deposit described in subdivision (g), a bank shall notify the depositor, in writing, of the maturity date.

(b) The notification shall also inform the depositor of the length of time available to the depositor for affecting the status of the deposit after the maturity date.

(c) If no interest is paid beyond the maturity date, and after such date the deposit shall be considered a demand deposit, the depositor shall be so informed.

(d) If, pursuant to an agreement, the deposit after maturity again constitutes a time deposit, the depositor shall be informed of the rate of interest and new maturity date.

(e) It is the intent of the Legislature that banks not be precluded from supplying depositors with additional written notices of the maturity date and the new rate of interest in the event the deposit becomes a new time deposit.

(f) This section is not applicable to:

(1) Time deposits represented by instruments payable to bearer.

(2) Time deposits which contemplate subsequent deposits to the account having the same maturity date as the initial deposit, as to which the bank has agreed to pay the balance in the account to the

depositor or to credit the balance to another account of the depositor which is not a time deposit on an annual or more frequent basis.

(3) Time deposits having a fixed-term maturity of not more than 90 days.

(g) For the purposes of this section, time deposit includes an account which consists of funds deposited to the credit of one or more natural persons or an association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes; and does not include accounts which consist of funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

SEC. 2. Section 7412 of the Financial Code is amended to read:

7412. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any fixed-term savings account certificate, an association shall notify the depositor, in writing, of the maturity date.

(b) The notification shall also inform the depositor of the length of time available to the depositor for affecting the status of the deposit after the maturity date.

(c) If no interest is paid beyond the maturity date, the depositor shall be so informed.

(d) If, pursuant to an agreement, the fixed-term savings account certificate is renewed, the depositor shall be informed of the rate of interest and new maturity date.

(e) It is the intent of the Legislature that associations not be precluded from supplying depositors with additional written notices of the maturity date and the new rate of interest in the event the certificate is renewed.

(f) This section is not applicable to:

(1) A fixed-term savings account certificate payable to bearer.

(2) A fixed-term savings account certificate which contemplates subsequent additions to the certificate amount having the same maturity date as the initial certificate, as to which the association has agreed to pay the balance of the certificate amount to the holder of the certificate on an annual or more frequent basis.

(3) A fixed-term savings account certificate having a fixed term of not more than ninety (90) days.

(g) For the purposes of this section, fixed-term savings account certificate includes a certificate which represents funds deposited to the credit of one or more natural persons, or an association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes; and does not include certificates which represent funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

SEC. 3. Section 9252 of the Financial Code is repealed.

CHAPTER 1028

An act to amend Section 25538 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 25538 of the Public Resources Code is amended to read:

25538. Upon receiving the commission's request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the commission to reimburse the local agency for the actual and added costs of this review by the local agency. The commission shall reimburse the local agency for the added costs that shall be actually incurred by the local agency in complying with the commission's request. The local agency may also request reimbursement for permit fees that the local agency would receive but for the operation of Section 25500, provided, however, that such fees may only be requested in accordance with actual services performed by the local agency. The commission shall either request a fee from the person proposing the project or devote a special fund in its budget, for the reimbursement of such costs incurred by local agencies.

CHAPTER 1029

An act to amend Sections 5003, 6001, 6705.4, 7101, 7102, 7150, 7152, 7153.2, 7153.4, 7153.10, 7154, 7154.5, 7177.5, 7184, 7187, 7187.1, and 7189 of, to add Sections 5054.5, 5060.5, 5064.5, 5501.6, 5501.7, 6421, 6705.8, 7153, and 7157.1 to, to repeal Sections 7153, 7153.1, 7153.5, 7153.8, 7153.11, and 7154.1 of, and to repeal and add Sections 6002, 7155.3, and 7184.1 of, the Financial Code, relating to savings and loan associations.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 5003 of the Financial Code is amended to read:

5003. No association shall advertise or hold itself out to the public as a bank.

SEC. 2. Section 5054.5 is added to the Financial Code, to read:

5054.5. "Appraised value" for a real estate loan means market

value.

SEC. 3. Section 5060.5 is added to the Financial Code, to read:

5060.5. "Cooperative housing development" means real property primarily comprising a group of single-famiy dwellings owned by a nonprofit cooperative housing organization.

SEC. 4. Section 5064.5 is added to the Financial Code, to read:

5064.5. "Real estate loan" means any loan secured by real property where the association relies substantially upon that real property as the primary security for the loan.

SEC. 5. Section 5501.6 is added to the Financial Code, to read:

5501.6. (a) Notwithstanding any provisions of Division 1 (commencing with Section 99), Section 202 of the Corporation Code, or any other provisions of law relating to trusts and trust authority, subject to regulations of the commissioner, an association may act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which banks, trust companies, or other corporations are permitted to act under the laws of this state, directly or through a state or nationally chartered subsidiary.

(b) All acts provided in this code to be performed by the State Superintendent of Banks, the State Treasurer, or other public officials for or in respect to the deposit of securities by trust companies for the protection of court and private trusts shall be performed as well for or in respect to the deposit of securities by trust companies for any savings and loan association organized or doing business under the laws of this state, or by any federal savings and loan association authorized to transact a trust business. Every such association shall be permitted to advertise its authority to engage in and conduct a trust business and to advertise for and solicit such business in this state, notwithstanding any other provision of law.

SEC. 6. Section 5501.7 is added to the Financial Code, to read:

5501.7. An association is authorized to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.

SEC. 7. Section 6001 of the Financial Code is amended to read:

6001. The application for a branch license other than for an existing branch proposed to be acquired in connection with a merger shall be accompanied by a filing fee in the amount prescribed by the commissioner pursuant to Section 5255.1, shall be in such form as the commissioner requires, and shall include an itemized statement of the estimated receipts and expenditures of the association in connection with such branch for the first year or such longer period as the commissioner requires, and a showing that undue injury to existing associations or federal savings and loan associations will not be caused by the operation of such branch.

SEC. 8. Section 6002 of the Financial Code is repealed.

SEC. 9. Section 6002 is added to the Financial Code, to read:

6002. The commissioner may refuse to approve an application after finding any of the following:

(a) Establishment of the branch may cause undue injury to

existing associations or federal savings and loan associations.

(b) The policies, condition and operation of the applicant afford a basis for the commissioner's objection.

(c) The proposed branch will not open within 12 months of approval, unless otherwise allowed by the commissioner.

In considering whether to approve an application, the commissioner may take into account an association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods pursuant to the Housing Financial Discrimination Act of 1977.

SEC. 10. Section 6421 is added to the Financial Code, to read:

6421. (a) Notwithstanding any other provision of law but subject to subdivision (b) of this section, an association is authorized to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) Subdivision (a) of this section shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.

SEC. 11. Section 6705.4 of the Financial Code is amended to read:

6705.4. An association may make loans on the security of property held by the association under Section 6705 and sold pursuant to Section 6705.1 or Section 6705.2 to finance improvements thereon. Except with the consent of the commissioner the total amounts loaned by the association on the security of such property shall not exceed 90 percent of the appraised value of the completed improved property.

SEC. 12. Section 6705.8 is added to the Financial Code, to read:

6705.8. An association may make secured or unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined by the commissioner, provided the total of loans and investments under this section does not exceed 20 percent of the assets of the association.

SEC. 13. Section 7101 of the Financial Code is amended to read:

7101. If the security under this chapter is a leasehold interest, the appraised value shall be the market value of the leasehold interest and not of the fee title.

SEC. 14. Section 7102 of the Financial Code is amended to read:

7102. For each loan made by an association a note or other obligation must be executed by the borrower and must be secured, except as otherwise provided in this chapter, by any of the following:

(a) A mortgage or trust deed upon real property.

(b) The pledge of shares or investment certificates of such association.

(c) The pledge of bonds or other collateral.

SEC. 15. Section 7150 of the Financial Code is amended to read:

7150. An association may make amortized loans, as defined in Section 5074, upon the security of real property for the following terms, from the due date of the first principal installment.

(a) Loans secured by the improved real property consisting of a single-family dwelling, or dwelling units for four or less families, for a term of not more than 40 years.

(b) Loans secured by other improved real property, for a term of not more than 30 years.

(c) Loans secured by other real property, for a term of not more than 20 years.

(d) Loans made pursuant to Article 3 of this chapter, for the maximum term, applicable to such loan pursuant to the provisions of the National Housing Act or any act of Congress supplementary or amendatory thereof or of the Servicemen's Readjustment Act of 1944 or any act of Congress supplementary or amendatory thereof or of the Veteran's Readjustment Act of 1952 or any act of Congress supplementary or amendatory thereof.

SEC. 16. Section 7152 of the Financial Code is amended to read:

7152. (a) An association may make amortized loans upon the security of improved real property in an amount not in excess of 90 percent of the appraised value of such real property.

(b) Subject to the rules and regulations of the commissioner, an association may make amortized loans upon the security of improved commercial real property for a term not to exceed 31 years, provided the association takes as additional security the assignment of a long-term lease.

SEC. 17. Section 7153 of the Financial Code is repealed.

SEC. 18. Section 7153 is added to the Financial Code, to read:

7153. (a) In determining compliance with maximum loan-to-value limitations in this division, at the time of making a loan the association shall add together the unpaid amount of all recorded loans secured by prior mortgages, liens, or other encumbrances on the security property that would take precedence over the association's loan, and shall not make such a loan unless the total amount of such loans, including the one to be made, but excluding loans that will be paid off out of the proceeds of the new loan, does not exceed applicable maximum loan-to-value limitations prescribed in this division.

(b) In valuing the real estate security, an association shall use the current appraised value of the security property, which may include any expected value of improvements to be financed.

SEC. 19. Section 7153.1 of the Financial Code is repealed.

SEC. 20. Section 7153.2 of the Financial Code is amended to read:

7153.2. Notwithstanding the provisions of Section 7152, an association may make amortized loans upon the security of real property in an amount in excess of 90 percent of the appraised value of such real property, if:

(a) There is located thereon only a structure designed for residential use for one, two, three, or four families or a structure

designed for residential use for one, two, three, or four families and structures ancillary to such residential use.

(b) The amount of the loan does not exceed the lesser of (1) 95 percent of the appraised value of the real property, or (2) if the loan is made to finance the purchase of the real property 95 percent of the purchase price.

(c) If the loan is sought or assumed for the purpose of enabling a purchaser to acquire the security property, the purchaser and the vendor or vendors have jointly executed a certification in writing stating the purchase price of the security property and the items comprising such price.

(d) The association has made or obtained, prior to approval of the loan, a written report on the credit standing of the borrower and the financial ability of such borrower to undertake and pay off the obligation involved in the loan.

(e) The borrower, including a purchaser who assumes the loan, has certified in writing that he intends to occupy at least one of the dwelling units of the property as his home.

(f) The loan requires repayment in monthly installments and each such payment includes the monthly proration of annual taxes in advance until the unpaid balance of such loan shall have been reduced to 90 percent of the appraised value or the purchase price, if any, whichever is less, of such property.

(g) (1) That portion of the unpaid balance of such loan which is in excess of an amount equal to 90 percent of the appraised value of the real estate is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation; or (2) the association establishes and maintains a specific reserve with respect to such loan equal to 1 percent of the unpaid principal balance thereof until the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the appraised value or purchase price of the real estate security, whichever is less, determined at the time the loan was made.

A loan under this section may be made to finance the construction of a structure described in the first paragraph hereof, but the amount by which such a loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed. If the loan is made to finance construction of such structure for sale the borrower need not certify that he intends to occupy the property as his home, but the amount by which such loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed, the property has been sold and title has been conveyed to a purchaser who has executed an agreement with the association assuming and agreeing to pay the loan and there is then compliance with all the provisions of the first paragraph hereof.

SEC. 21. Section 7153.4 of the Financial Code is amended to read:

7153.4. (a) An association may make amortized loans upon the

security of a cooperative housing development. The association shall require that cooperative housing developments maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

(b) An association may make amortized loans secured by individual cooperative units, under Section 7153.2 provided the loans are made on the following security:

(1) A security interest in stock, membership certificate, or other evidence of ownership issued to a stockholder or member by a cooperative housing organization.

(2) An assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by the organization.

SEC. 22. Section 7153.5 of the Financial Code is repealed.

SEC. 23. Section 7153.8 of the Financial Code is repealed.

SEC. 24. Section 7153.10 of the Financial Code is amended to read:

7153.10. An association may make loans to finance rehabilitation of primarily residential property within the maximum loan-to-value ratios permitted for loans under Section 7152 or 7153.2. For the purposes of this section, "rehabilitation" means substantial alteration, repair, or improvement of the real property. The loans shall be repayable within 3 years or 18 months in the case of a single-family dwelling, with interest payable at least semiannually.

SEC. 25. Section 7153.11 of the Financial Code is repealed.

SEC. 26. Section 7154 of the Financial Code is amended to read:

7154. An association may make unamortized loans upon the security of improved real property on the following terms:

(a) In an amount not exceeding 60 percent of the appraised value of such property if the terms of such loans do not exceed three years, after which the loan may not be extended and may be refinanced or modified only with an amortized loan in accordance with the provisions of Section 7150.

(b) In an amount not exceeding 70 percent of the appraised value of such property if the terms of such loans do not exceed two years, after which the loan may not be extended and may be refinanced or modified only with an amortized loan in accordance with the provisions of Section 7150.

(c) In an amount which, together with any amount recorded by mortgage or deed of trust, does not exceed 80 percent of the fair market value of such property. Loans shall not be made under this subdivision unless (1) the terms of such loans do not exceed one year, (2) the terms of the loan prohibit the imposition of a prepayment penalty if the loan is repaid during the year, (3) the proceeds of the loans are utilized by the borrowers only toward the purchase of other improved real property to be occupied in whole or in part by the borrowers as a principal residence, and (4) the loan is on the principal residence of the borrower at the time the loan is made.

(d) In an amount not exceeding 90 percent of the appraised value of such property if the terms of the loans do not exceed 18 months,

with interest payable at least semiannually. Loans shall not be made under this subdivision unless the proceeds of the loan are utilized by the borrowers to facilitate the trade-in or exchange of security property.

SEC. 27. Section 7154.1 of the Financial Code is repealed.

SEC. 28. Section 7154.5 of the Financial Code is amended to read:

7154.5. An association may make loans upon the security of real property, the principal improvement upon which consists of a combination of a farm residence and property used for a commercial farming enterprise, provided such loans conform with all the following conditions in addition to any other applicable provisions of the law:

(a) Interest and principal on any such loan is payable at least annually in an amount sufficient to retire the debt, interest and principal within 40 years.

(b) The amount of any such loan does not exceed 90 percent of the appraised value of the real property securing such loan.

(c) The commercial farming enterprise shall not include hobby and vacation properties and the enterprise must be operational within a reasonable time.

(d) The farm residence is used as the principal residence of the owner of the commercial farming enterprise.

SEC. 29. Section 7155.3 of the Financial Code is repealed.

SEC. 30. Section 7155.3 is added to the Financial Code, to read:

7155.3. In addition to loans in which it may invest under other provisions of this division, an association may invest an amount not exceeding 5 percent of its assets in loans, advances of credit, and interests therein, secured by residential real estate or real estate used or to be used for commercial farming, which are not otherwise authorized under this division.

SEC. 31. Section 7157.1 is added to the Financial Code, to read:

7157.1. An association may make secured or unsecured loans in the form of overdraft privileges specifically related to negotiable order-of-withdrawal and other transaction accounts.

SEC. 32. Section 7177.5 of the Financial Code is amended to read:

7177.5. An association may make or acquire loans to any of the persons enumerated in subdivision (a) of Section 7177 if they are made in the ordinary course of business of such association or subsidiary and do not involve more than normal risk of collectibility or present other unfavorable features, and are of the following types:

(a) A loan secured by a single-family dwelling or mobilehome owned and occupied by the borrower as principal residence.

(b) Loans in the aggregate not exceeding ten thousand dollars ($10,000) for construction, adding to, improving, altering, repairing, equipping, or furnishing a single-family dwelling owned and occupied by the borrower as his or her principal residence.

(c) Loans secured by savings accounts maintained by the affiliated person at the institution.

(d) Loans in the aggregate not exceeding ten thousand dollars

($10,000) for payment of educational expenses.

(e) Consumer loans in the aggregate not exceeding ten thousand dollars ($10,000), including any amounts borrowed under subdivision (b).

If the borrower is a substantial stockholder, director, or officer of the association, or a member of the immediate family of the persons above enumerated, loans made or lines of credit extended pursuant to the provisions of this section shall be approved in advance by a resolution approved by a majority (with no director having an interest in the transaction voting) of the entire board of directors of the association.

SEC. 33. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing residential real property alteration, repair, or improvement, or for equipping or furnishing residential real property, with installments payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. Installments shall be substantially equal except to the extent that the loan and terms conform to terms permitted for any other loan an association is authorized to make.

SEC. 34. Section 7184.1 of the Financial Code is repealed.

SEC. 35. Section 7184.1 is added to the Financial Code, to read:

7184.1. In addition to the loans in which it may invest under other provisions of this division, an association may invest an amount not exceeding the greater of its statutory net worth or 5 percent of its assets in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where the borrower's general credit standing and forecast of income, with or without other security, or (b) other assurances of repayment, including, but not limited to, a third-party guaranty or similar obligation.

SEC. 36. Section 7187 of the Financial Code is amended to read:

7187. (a) Subject to such rules and regulations as the commissioner may prescribe, an association may make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of mobile dwelling financing. Any rules or regulations promulgated by the commissioner shall be made after determining that such rules or regulations are in the interests of investors and associations generally, and are in the public interest.

(b) Loans, advances of credit and obligations secured by a mobile dwelling and installed equipment with respect to a new mobile dwelling to be occupied by the owner or beneficial owner or relatives or employees of the owner or beneficial owner may be made for a term not to exceed 40 years. Such loans shall be payable in monthly payments which are substantially equal except to the extent that the loan terms conform to terms permitted for any other

loan an association is authorized to make.

(c) "Mobile dwelling," as used in this section, means a movable dwelling constructed in one or more units to be occupied on land, having a minimum width of 10 feet and a minimum area of 400 square feet and containing living facilities for year-round occupancy by one family, including permanent provision for eating, sleeping, cooking and sanitation.

SEC. 37. Section 7187.1 of the Financial Code is amended to read:

7187.1. An association may make amortized loans upon the security of an improved mobilehome park in an amount not in excess of 90 percent of the appraised value of such real property. Such loans may be made for a term of not to exceed 31 years. For the purposes of this section a "mobilehome park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

SEC. 38. Section 7189 of the Financial Code is amended to read:

7189. An association may make loans guaranteed under the Farmers Home Administration Rural Housing Program on the security of residential real property, subject to the following limitations:

(a) The Farmers Home Administration shall guarantee at least 80 percent of the principal amount and accrued interest of each loan made under the program;

(b) The loan terms must be acceptable to the Farmers Home Administration;

(c) The aggregate outstanding balance of the nonguaranteed portions of all loans made under the program and held by an association shall not exceed the greater of 2.5 percent of its total assets or one-half of its statutory net worth.

An association shall maintain records to verify compliance with the requirements for each loan made under this section, including the loan note guarantee, lender's agreement and documentation that the loan limitation has not been exceeded.

CHAPTER 1030

An act to add Chapter 3.5 (commencing with Section 13826) to Title 6 of Part 4 of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Chapter 3.5 (commencing with Section 13826) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 3.5. GANG VIOLENCE SUPPRESSION

13826. The Legislature hereby finds and declares that violent activity by gangs is a serious and growing problem in the State of California. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute the perpetrators of gang violence through organizational and operational techniques that have been proven effective in selected counties in this and other states.

13826.1. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the Gang Violence Suppression Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which gang violence suppression units are established in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made on the application of the district attorney of the county and with the approval of the board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Gang Violence Suppression Program, be made available to support the prosecution of gang-related criminal cases.

(d) On or before April 1, 1982, the executive director shall prepare and issue written program and administrative guidelines and procedures for the Gang Violence Suppression Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of the guidelines and procedures, a complete and final draft of the guidelines and procedures shall be submitted on or before March 1, 1982, to the chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(e) Annually, commencing November 1, 1983, the executive director shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained by gang violence prosecutor units of district attorneys' offices receiving funds under this chapter and under comparable federally financed awards.

(f) Criteria for selection of district attorneys to receive gang violence suppression funding shall be developed in consultation with the Gang Violence Suppression Advisory Committee whose members shall be appointed by the Executive Director of the Office of Criminal Justice Planning.

(g) The Gang Violence Suppression Advisory Committee shall be

composed of five district attorneys; three attorneys primarily engaged in the practice of juvenile criminal defense; three law enforcement officials with expertise in gang-related investigations; one member from the California Youth Authority Gang Task Force nominated by the Director of the California Youth Authority; one member of the Department of Corrections Law Enforcement Liaison Unit nominated by the Director of the Department of Corrections; and one member from the Department of Justice nominated by the Attorney General.

13826.2. Gang violence prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon cases identified under criteria set forth in Section 13826.3. Enhanced prosecution efforts shall include, but not be limited to:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a gang-related case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) Assignment of highly qualified investigators and prosecutors to gang-related cases.

(c) Significant reduction of caseloads for investigators and prosecutors assigned to gang-related cases.

(d) Measures taken in coordination with law enforcement agencies to protect cooperating witnesses from intimidation or retribution at the hands of gang members or associates.

13826.3. (a) An individual shall be subject to gang violence prosecution efforts who is under arrest for the commission or the attempted commission of any gang-related violent crime where the individual is (1) a known member of a gang, and (2) has exhibited a prior criminal background.

(b) For purposes of this chapter, gang-related means that the suspect or victim of the crime is a known member of a gang.

(c) For purposes of this chapter, gang violence prosecution includes both criminal prosecutions and proceedings in Juvenile Court in which a petition is filed pursuant to Section 602 of the Welfare and Institutions Code.

13826.4. The Office of Criminal Justice Planning and the California Council on Criminal Justice are encouraged to utilize any federal funds that may become available for purposes of this act. This act becomes operative only if federal funds are made available for its implementation.

CHAPTER 1031

An act to amend Sections 50073, 50074, 50080, 50092, 50099, 50955, 50958, 51057, 51066, 51100, 51125, 51126, 51150, 51175, 51176, 51200, 51202, 51207, 51226, 51227, 51232, 51308, and 51351 of, to add Sections 50073.5, 50074.5, and 50099.5 to, and to repeal Sections 50103, 51227.5, and 51303 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 50073 of the Health and Safety Code is amended to read:

50073. "Housing development," for the purpose of housing assisted by the department, means any work or undertaking of new construction or rehabilitation, or the acquisition of existing residential structures in good condition, for the provision of housing which is financed pursuant to the provisions of this division for the primary purpose of providing decent, safe, and sanitary housing for persons and families of low or moderate income. "Housing development" also means housing financed pursuant to this part for rental occupancy of, for resale to, or sold to, persons and families of low or moderate income. Notwithstanding other provisions of this section, "housing development" does not include a work or undertaking financed by a neighborhood improvement loan. A housing development may include housing for other economic groups as part of an overall plan to develop new or rehabilitated communities or neighborhoods, where housing for persons and families of low or moderate income is a primary goal. A housing development may include any buildings, land, equipment, facilities, or other real or personal property which the agency determines pursuant to its rules and regulations to be necessary or convenient in connection with the provision of housing pursuant to this division, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities, such as administrative, community, health, recreational, educational, commercial facilities, and child-care facilities which the agency determines are an integral part of a housing development or developments.

"Housing development," for the purpose of housing assisted by the department, includes the acquisition of a residential structure by a nonprofit housing sponsor, whether or not including rehabilitation, for the purpose of forming a limited-equity housing cooperative as defined in Section 33007.5.

SEC. 2. Section 50073.5 is added to the Health and Safety Code, to read:

50073.5. "Housing development," for the purpose of the

California Housing Finance Agency, means any existing structure of five or more dwelling units or any work or undertaking of five dwelling units or more of new construction or rehabilitation for the provision of housing financed pursuant to the provisions of this division for the primary purpose of providing decent, safe, and sanitary housing for persons and families of low or moderate income. A housing development may include housing for other economic groups as part of an overall plan to develop new or rehabilitated communities or neighborhoods, where housing for persons and families of low or moderate income is a primary goal. A housing development may include any buildings, land, equipment, facilities, or other real or personal property which the agency determines pursuant to its rules and regulations to be necessary or convenient in connection with the provision of housing pursuant to this division, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities, such as administrative, community, health, recreational, educational, commercial facilities, and child-care facilities which the agency determines are an integral part of a housing development or developments.

SEC. 3. Section 50074 of the Health and Safety Code is amended to read:

50074. "Housing sponsor," for the purpose of housing assisted by the department, means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the agency pursuant to rules and regulations of the agency as qualified to either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division. "Housing sponsor" includes persons and families of low or moderate income who are approved by the agency as eligible to own and occupy a housing development and individuals and legal entities receiving property improvement loans through the agency.

SEC. 4. Section 50074.5 is added to the Health and Safety Code, to read:

50074.5. "Housing sponsor," for the purpose of the California Housing Finance Agency, means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, approved by the agency as qualified to either own, construct, acquire or rehabilitate a housing development, or a residential structure other than an owner-occupied single unit whether for profit, nonprofit, or limited profit.

SEC. 5. Section 50080 of the Health and Safety Code is amended

to read:

50080. "Market interest" means the interest rate determined by the agency to be the interest rate generally available in the private market for similar housing loans.

SEC. 6. Section 50092 of the Health and Safety Code is amended to read·

50092. "Owner-occupied housing development," for the purpose of housing assisted by the department, means a housing development containing not more than four residential units, one of which is occupied by the owner of the housing development.

SEC. 7. Section 50099 of the Health and Safety Code is amended to read:

50099. "Residential structure," for the purpose of housing assisted by the department, means a real property improvement used, or intended to be used, for residential or mixed residential and commercial purposes, or for commercial purposes if, in the judgment of the department, it is an integral part of a residential neighborhood.

SEC. 8. Section 50099.5 is added to the Health and Safety Code, to read:

50099.5. "Residential structure," for the purpose of the California Housing Finance Agency, means any existing structure of one to four units or any work or undertaking of one to four dwelling units of new construction or rehabilitation for the provision of housing financed pursuant to the provisions of this division for the primary purpose of providing decent, safe, and sanitary housing for persons and families of low or moderate income. "Residential structure" may include structures used for mixed residential and commercial uses, or for commercial uses if, in the judgment of the agency, it is an integral part of a residential neighborhood.

SEC. 9. Section 50103 of the Health and Safety Code is repealed.

SEC. 10. Section 50955 of the Health and Safety Code is amended to read:

50955. The agency and every housing sponsor shall require that occupancy of housing developments assisted under this part shall be open to all regardless of race, sex, marital status, color, religion, national origin, or ancestry, that contractors and subcontractors engaged in the construction of housing developments shall provide an equal opportunity for employment, without discrimination as to race, marital status, sex, color, religion, national origin, or ancestry, and that such contractors and subcontractors shall submit and receive approval of an affirmative action program prior to the commencement of construction or rehabilitation. Affirmative action requirements respecting apprenticeship shall be consistent with Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

All contracts for the management, construction, or rehabilitation of housing developments, and contracts let by housing sponsors, contractors, and subcontractors in the performance of such management, construction or rehabilitation, shall be let without

discrimination as to race, sex, marital status, color, religion, national origin, or ancestry and pursuant to an affirmative action program, which shall be at not less than the Federal Housing Administration affirmative action standards unless the board makes a specific finding that the particular requirement would be unworkable. The agency shall periodically review implementation of affirmative action programs required by this section.

It shall be the policy of the agency and housing sponsors to encourage participation with respect to all projects by minority developers, builders, and entrepreneurs in all levels of construction, planning, financing, and management of housing developments. In areas of minority concentration the agency shall require significant participation of minorities in the sponsorship, construction, planning, financing, and management of housing developments. The agency shall (1) require that, to the greatest extent feasible, opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing developments financed pursuant to this part be given to persons of low income residing in the area of such housing, and (2) determine and implement means to secure the participation of small businesses in the performance of contracts for work on housing developments and to develop the capabilities of such small businesses to more efficiently and competently participate in the economic mainstream. In order to achieve such participation by small businesses, the agency may, among other things, waive retention requirements otherwise imposed on contractors or subcontractors by regulation of the agency and may authorize or make advance payments for work to be performed. The agency shall develop relevant selection criteria for the participation of small businesses to ensure that, to the greatest extent feasible, the participants possess the necessary nonfinancial capabilities. With respect to such small businesses the agency may waive bond requirements otherwise imposed upon contractors or subcontractors by regulation of the agency, but the agency shall in such case substantially reduce the risk through (1) a pooled-risk bonding program, (2) a bond program in cooperation with other federal or state agencies, or (3) development of a self-insured bonding program with adequate reserves.

The agency shall adopt rules and regulations to implement the provisions of this section.

Prior to commitment of a mortgage loan, the agency shall require each housing sponsor, except with respect to mutual self-help housing, to submit an affirmative marketing program which meets standards set forth in regulations of the agency. The agency shall require such a housing sponsor to conduct the affirmative marketing program so approved. Additionally, the agency shall supplement the efforts of individual housing sponsors by conducting affirmative marketing programs with respect to such housing at the state level.

SEC. 11. Section 50958 of the Health and Safety Code is amended to read:

50958. Mortgage loans made pursuant to this part to housing sponsors, other than local public entities and nonprofit housing sponsors of rental and cooperative housing developments, shall not exceed 95 percent of the development costs of the housing development for which the loan is made. Loans made pursuant to this part to local public entities and nonprofit housing sponsors shall in no event exceed 100 percent of development costs.

SEC. 12. Section 51057 of the Health and Safety Code is amended to read:

51057. Prior to the commitment of moneys under this part for a mortgage loan on a housing development as provided in Articles 1 to 4 inclusive, of Chapter 5 (commencing with Section 51100) of this part, the agency shall take adequate measures to assure (a) the economic feasibility of the housing development, (b) the financial eligibility of the housing sponsors and tenants, (c) the consistency of the proposed housing development with the current housing objectives of the agency, (d) the sufficiency of access of the housing development to supporting social services, public mass transit services and other transportation, schools, employment, and retail merchants, and (e) that the location of the proposed housing development is consistent with the agency's policies of dispersing housing developments throughout communities and of avoiding undue concentration of lower income households. Wherever possible, the agency shall verify such facts before financing is committed.

In providing for dispersal of housing developments, the agency shall consider economic feasibility, which shall be determined in light of all relevant factors, including the assistance programs and funds which could be utilized to reduce costs. Nothing in this section shall prohibit the agency from financing housing developments in neighborhood preservation areas in a manner that would otherwise be in conflict with the agency's policies respecting dispersal of housing developments or concentration of lower income households, where necessary to accomplish the purposes for which financing or loan insurance is made available by the agency in such an area.

SEC. 13. Section 51066 of the Health and Safety Code is amended to read:

51066. For housing developments and residential structures financed by a mortgage loan from the agency, the agency shall establish a grievance procedure or require housing sponsors to establish such a procedure, or both, for the purpose of resolving complaints by housing sponsors and tenants of housing sponsors and contractual disputes between two or more housing sponsors or between a housing sponsor and a tenant of such housing sponsor. Notwithstanding any other provision of law, no individual or family shall be evicted from a housing development or residential structure unless the following requirements are met:

(a) The eviction is for good cause as defined by rules and regulations of the agency.

(b) Eviction proceedings shall be commenced by the giving of notice as required by Section 1946 of the Civil Code or Section 1161 or 1161a of the Code of Civil Procedure and served as provided by Section 1162 of the Code of Civil Procedure. Such notice shall contain a statement of the cause for eviction and of the right of the tenant to a hearing and decision pursuant to regulations of the agency if a request for such a hearing is made to the landlord in writing within the period specified in Section 1946 of the Civil Code or Section 1161 of the Code of Civil Procedure, as the case may be.

(c) When the tenant so requests the landlord in writing within the period specified in Section 1946 of the Civil Code or Section 1161 of the Code of Civil Procedure, as the case may be, a hearing, in accordance with procedures established pursuant to regulations of the agency, shall be held by an impartial individual or panel selected or approved by the agency and a decision rendered within two weeks after receipt by the landlord of the tenant's written request for a hearing. Good cause for eviction shall be established at the hearing by the weight of the evidence. Before a right to a hearing vests, the tenant must pay rent for the two-week hearing period to the owner or to an escrow account of the agency, if not already paid.

A defendant in an unlawful detainer proceeding may assert as a defense the failure of the plaintiff or the agency to comply with the requirements of this section or regulations adopted pursuant to this section. A defendant in such a proceeding may assert as a defense that the findings at the hearing were not supported by the weight of evidence.

The costs of any hearing conducted pursuant to this section shall be assessed to, and paid by, the losing party as provided in regulations of the agency. If neither party prevails, the costs of the hearing shall be equitably apportioned.

As used in this section, "tenant" includes a resident shareholder of a cooperative housing development. Nothing in this section shall be construed as a limitation of the rights of a resident shareholder of a cooperative housing development.

SEC. 14. Section 51100 of the Health and Safety Code is amended to read:

51100. Subject to the limitations prescribed by Article 4 (commencing with Section 51175), the agency may make, or undertake commitments to make, development loans, construction loans, property improvement loans, mortgage loans, and advances in anticipation of such loans to housing sponsors to finance housing developments and residential structures.

The agency shall not issue more than two hundred million dollars ($200,000,000) of its authorized revenue bond authority in aggregate principal amount of bonds in any one calendar year to finance, directly or indirectly, construction loans for which the agency is not providing a mortgage loan, exclusive of bonds issued to refund or renew bonds of the agency previously issued for those purposes.

SEC. 15. Section 51125 of the Health and Safety Code is amended

to read:

51125. The agency may invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, construction loans, mortgage loans, property improvement loans, obligations secured by construction loans, mortgage loans, property improvement loans and participations therein for financing or refinancing of housing developments and residential structures.

The agency may also invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, loans for rehabilitation or home improvements not secured by a mortgage but wholly or partially insured by an agency or instrumentality of the United States, or participation in such loans.

Such construction loans, mortgage loans, property improvement loans, obligations secured by construction loans, property improvement loans or mortgage loans, rehabilitation and home improvement loans, or participations therein may be held or sold by the agency, or the agency may create pools of such loans, obligations, and participations held by the agency and may sell securities backed by such pools.

SEC. 16. Section 51126 of the Health and Safety Code is amended to read:

51126. The agency may invest in, purchase, or make commitments to purchase any residential mortgage or any obligation secured by a residential mortgage or participation therein, and sell such obligations, residential mortgages, or participations or create pools of such obligations, residential mortgages, or participations held by the agency and issue and sell securities backed by such pools. The agency shall require the seller of such obligations, residential mortgages, or participations purchased by the agency to use the proceeds for the purpose of financing housing developments and residential structures.

SEC. 17. Section 51150 of the Health and Safety Code is amended to read:

51150. The agency may make loans to qualified mortgage lenders under terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the purpose of making construction loans and mortgage loans for the purpose of financing housing developments and residential structures.

SEC. 18. Section 51175 of the Health and Safety Code is amended to read:

51175. Except as provided in this article, the agency shall not make construction loans or mortgage loans for the purpose of financing owner-occupied residential structures unless such loans are made through a qualified mortgage lender.

SEC. 19. Section 51176 of the Health and Safety Code is amended to read:

51176. In rural mortgage areas the agency may make and undertake commitments to make construction loans and mortgage

loans to finance owner-occupied residential structures without the participation of a qualified mortgage lender if no qualified mortgage lender will participate in financing such residential structures as provided in Article 2 (commencing with Section 51125) or Article 3 (commencing with Section 51150) of this chapter, or if the board determines that the agency can initiate or service loans directly at less cost than through use of a qualified mortgage lender.

SEC. 20. Section 51200 of the Health and Safety Code is amended to read:

51200. With respect to housing developments financed by a mortgage loan from the agency, the agency shall:

(a) Prescribe uniform systems of accounts and records for rental and cooperative housing developments and require the housing sponsors to make reports and give answers to specific questions on such forms and at such times as may be necessary for the purposes of this part.

(b) Establish minimum reserves to be maintained by nonprofit and limited-dividend housing sponsors of rental and cooperative housing developments.

(c) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of rental and cooperative housing developments who are persons and families of low or moderate income with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing developments and to provide profits to housing sponsors subject to the limitations of Section 51202. Income from commercial facilities constituting a portion of a housing development or residential structure financed pursuant to this part shall, to the extent they receive the benefit of below-market-interest financing from the agency, assist in the support of appurtenant residential facilities. No housing sponsor shall increase the rent charged on any assisted rental or cooperative unit of a housing development without the prior permission of the agency, which shall be given only if the housing sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing development or to provide the agreed rate of return with respect to additional equity money contributed by investors pursuant to Section 51202, and additional debt service and necessary operating costs with respect to increases in mortgage loans for improvements to the housing development deemed necessary by the agency.

Applications to the agency for permission to adjust rents shall include a statement of the existing and proposed rent for each unit, a detailed statement of the necessity and authority for the increase under this subdivision, and the extent to which rent increases would be paid by residents of assisted units and not offset by increased subsidy payments. Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code. Prior to the time any rent increase is effective the housing sponsor shall notify

every affected resident, in writing, of informal meetings with the housing sponsor to review the proposed rent increase and that each resident, upon request, will be provided the information submitted to the agency under this subdivision.

(d) Determine standards for, and control selection by housing sponsors of, tenants and purchasers.

(e) Regulate the terms of occupancy agreements to be used in housing financed under this chapter.

(f) Provide such bilingual services and publications, or require housing sponsors to provide such bilingual services and publications, as are necessary to ensure informed access to housing financed pursuant to this part for persons and families of low or moderate income who have limited fluency in the English language.

SEC. 21. Section 51202 of the Health and Safety Code is amended to read:

51202. Every housing sponsor of a rental or cooperative housing development which receives a construction loan or mortgage loan or a grant pursuant to this part shall enter into an agreement with the agency providing for the regulation of the disposition of property. No housing sponsor of a rental housing development receiving a mortgage loan pursuant to this part shall receive an earnings distribution of more than 6 percent of the equity invested in the housing development, unless a higher limitation on earnings distribution is otherwise provided by rules and regulations of the agency.

The agency may permit a distribution greater than 6 percent to investors contributing additional equity money to an existing housing development, or in the case of a housing development over which the agency has assumed managerial and financial control pursuant to Section 51203, or in any case where it would materially contribute to meeting the policies or goals of this division.

SEC. 22. Section 51207 of the Health and Safety Code is amended to read:

51207. A person or family of low or moderate income shall not receive financial assistance under this part if such person or family has already received assistance under this part for purchase of other real property, unless such property is sold or transferred for good cause as determined by the agency.

SEC. 23. Section 51226 of the Health and Safety Code is amended to read:

51226. (a) Subject to the availability of adequate subsidies, not less than 30 percent of the combined total units financed by mortgage loans and property improvement loans pursuant to this part during each fiscal year shall be made available on a priority basis to very low income households. Subject to the availability of adequate subsidies, not less than 20 percent of the units in each housing development shall be made available on a priority basis to very low income households, except that such requirement shall not apply to housing developments of less than 12 units where the agency

finds it is not necessary to make units available in the development for very low income households to meet the requirement of making 30 percent of total units available to very low income households. In housing developments for which the agency provides a construction loan but not a mortgage loan, not less than 20 percent of the units shall be made available on a priority basis to lower income households. Units required to be made available on a priority basis pursuant to this section, shall be offered exclusively to those within the priority group unless or until the agency permits the unit to be offered to other potential occupant groups.

(b) The agency shall actively and aggressively pursue all available federal housing programs and utilize fully all available subsidies in order to achieve the purposes of this section.

SEC. 24. Section 51227 of the Health and Safety Code is amended to read:

51227. At the close of each fiscal year the agency shall ascertain that not less than 25 percent of the total units financed by mortgage loans during the preceding 12 months pursuant to this part were made available to very low-income households. At the close of each fiscal year the agency shall ascertain that not less than 25 percent of all units financed pursuant to this part by mortgage loans are occupied or available to very low-income households. If the agency finds that such very low-income occupancy goals have not been met the agency shall immediately notify the Governor, the Speaker of the Assembly, and the Senate Rules Committee and shall recommend such legislation or other action as may be required to make (a) at least 25 percent of the units so available, and (b) at least 25 percent of the units thereafter financed so available. In housing developments for which the agency provides a construction loan but not a mortgage loan, the agency shall report annually on the percentage of units projected to be made available for occupancy and actually occupied by low-income households.

SEC. 25. Section 51227.5 of Health and Safety Code is repealed.

SEC. 26. Section 51232 of the Health and Safety Code is amended to read:

51232. To implement the purposes of this division, the agency shall develop or require housing sponsors to develop, pursuant to regulations of the agency, resident selection plans. Resident selection plans for housing developments financed by mortgage loans from the agency, which shall provide that preference be given to households displaced by a housing development, public action, or natural disaster. Such plans shall include criteria for resident selection, which shall establish income limits for residents, and may include a counseling program designed to promote the financial success of the housing development or the health, safety, and welfare of residents of the housing development. The agency may make participation in such a counseling program a condition or precondition of occupancy of a housing development. The agency may develop or require housing sponsors to develop, pursuant to regulations of the agency,

resident selection plans for large urban revitalization programs which recognize a need to attract a full range of income groups for housing developments in central-city areas.

SEC. 27. Section 51303 of the Health and Safety Code is repealed.

SEC. 28. Section 51308 of the Health and Safety Code is amended to read:

51308. Financing assistance may include mortgage loans for the acquisition of housing developments and residential structures in any mortgage assistance area, or any other neighborhood preservation area which the agency finds to be mortgage deficient.

SEC. 29. Section 51351 of the Health and Safety Code is amended to read:

51351. Notwithstanding any other provisions of this part, only the following types of housing developments and residential structures are eligible for mortgage loans made with the proceeds of bonds:

(a) Housing developments and residential structures financed with bonds of the agency guaranteed by the federal government.

(b) Housing developments and residential structures financed with bonds of the agency that are guaranteed, or the time payment of principal and interest of which is insured, by an agency of the state or by a private insuring entity authorized to engage in such business.

(c) Housing developments and residential structures, the mortgage loans on which presently are or are expected to be guaranteed, insured, or coinsured by the federal government.

(d) Housing developments and residential structures, the bonds or mortgage loans on which are presently or are expected to be insured or guaranteed in whole or in part by an agency of the state, including the California Housing Finance Agency, a political subdivision of the state, or by a private insuring entity authorized to engage in such business, or by any combination thereof, in percentages determined by the agency.

(e) Housing developments and residential structures financed by a loan made by the agency to a qualified mortgage lender, if both of the following conditions are met:

(1) The loan to the qualified mortgage lender is a general obligation of the mortgage lender, and

(2) The qualified mortgage lender is a member of, or a subsidiary of a member of, the Federal Deposit Insurance Corporation or of the Federal Savings and Loan Insurance Corporation.

(f) Housing developments and residential structures financed by tax-exempt bonds for which a bond reserve fund is created which complies with the terms and conditions of the agreement or agreements with agency bondholders.

SEC. 30. Notwithstanding the 10-day review period required by subdivision (b) of Section 11349.6 of the Government Code, any emergency regulations adopted by the agency to implement the provisions of this act shall go into effect immediately but shall otherwise be subject to review by the Office of Administrative Law conducted pursuant to Article 6 (commencing with Section 11349)

of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 1032

An act to add Section 10177.6 to the Insurance Code, relating to insurance.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 10177.6 is added to the Insurance Code, to read:

10177.6. On and after the effective date of this section, a self-insured employee welfare benefit plan shall not prohibit the insured from selecting any person who is the holder of a certificate or license under Section 3055 of the Business and Professions Code to perform the particular services covered under the terms of the plan, such certificate holder or licensee being expressly authorized by law to perform such services.

This section shall not apply to any plan governed by federal law which expressly preempts state regulation.

CHAPTER 1033

An act to add Part 7 (commencing with Section 53000) to Division 31 of the Health and Safety Code, relating to energy conservation mortgages.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Part 7 (commencing with Section 53000) is added to Division 31 of the Health and Safety Code, to read:

PART 7. SOLAR AND ENERGY CONSERVATION MORTGAGE CORPORATION

CHAPTER 1. LEGISLATIVE FINDINGS AND INTENT

53000. This part may be cited as the Solar and Energy Conservation Mortgage Corporation Act of 1981.

53001. The Legislature hereby determines that:

(a) There is a national policy of reducing demand for nonrenewable energy sources, recognition of which is especially important to the economic welfare of California residents and is, therefore, an important state policy goal.

(b) Widespread purchase, installation, and use of effective energy conservation measures in designated buildings is a particularly promising and expeditious manner in which this goal may be pursued.

(c) The provisions of this part are intended to provide a flexible, practicable, and effective program for the financing of solar and energy conservation measures in buildings throughout the state.

53002. The Legislature further declares its intention that the provisions of this part be interpreted and implemented in a manner which will accomplish the following:

(a) Maintain a high level of diversity and competition among businesses and institutions which finance energy conservation measures and structural improvements.

(b) Help to reduce the dependence of California on imported and nonrenewable energy sources, as well as to hold down increases in the cost of energy.

(c) Encourage the movement of private capital into renewable energy and conservation investments, thereby eliminating or reducing the need to place additional burdens on California taxpayers and utility ratepayers, through creation of a secondary mortgage market instrumentality for the purchase of energy related loans.

(d) Develop impetus toward creation of new jobs for California workers in the renewable energy, conservation, and building industries.

(e) Help provide secure, progressive investment opportunities for financial institutions, insurance companies, pension funds, and other private investors in the fields of energy conservation and building improvement.

CHAPTER 2. DEFINITIONS

53050. Unless the context otherwise requires and so stipulates, the definitions provided in this chapter shall govern construction of this part.

53052. "Corporation" means the Solar and Energy Conservation Mortgage Corporation, also known as "Sunny Mac," created by this part.

53054. "Energy conservation measure" means any one or more of the following:

(a) A device, system, or design that utilizes solar energy or wind power for water heating, space heating or cooling, or the generation of electricity.

(b) Ceiling, attic, wall, or floor insulation.

(c) Storm windows and doors, multi-glazed windows and doors,

and heat-absorbing or heat-reflective glazed windows and door materials, which substantially reduce the energy needed for space heating and cooling.

(d) Such other measures or devices as may reasonably be deemed energy conservation enhancements or structural improvements.

53056. "Financial institution" means any commercial bank, trust company, savings and loan association, credit union, insurance company, industrial loan company, mortgage banker, or California business and industrial development company, in this state.

53058. "Financing" means to lend money for the purpose of purchasing, leasing, installing, or constructing energy conservation measures.

53060. "Holder-in-due course," means the purchaser of a loan or loans from a financial institution that participates in, arranges, or finances a loan pursuant to the provisions of this part, and who takes the loan instrument:

(a) For value;

(b) In good faith; and

(c) Without notice that it is overdue or has been dishonored or of any defense against or claim to it on the part of any person.

53062. "Structural improvements" means alterations or additions to a designated building intended to enhance energy conservation and efficiency of building space utilization.

CHAPTER 3. PURPOSE AND ORGANIZATION

53100. The corporation created by this part shall be known as "Sunny Mac."

53101. The Solar and Energy Conservation Mortgage Corporation is hereby created for the following purposes:

(a) To facilitate financing of energy conservation measures and structural improvements.

(b) To provide liquidity for loans made by member financial institutions for such purpose.

(c) To provide that such loans shall be financed by private capital to the maximum extent feasible.

53102. The corporation shall have common stock, without par value, which shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting. Shares may be held beneficially and of record only by member financial institutions, shall be transferable only on the books of the corporation, and shall be subject to the following conditions:

(a) The board of directors of the corporation shall, from time to time, establish a stated value for shares issued and sold by it, and a minimum number of shares which shall be owned by any member financial institution. The minimum number of shares shall be the higher of (1) a fixed minimum per member financial institutions and (2) a minimum expressed as a percentage of such member's sales of loans to the corporation.

(b) Dividends may be declared by the board of directors, in its discretion, to be paid by the corporation to the holders of its common stock, but in any one fiscal year the aggregate amount of cash dividends paid on account of any share of stock shall not exceed the percentage dividend rate paid for that year by the Federal Home Loan Bank of San Francisco.

(c) If the corporation's dividend rate in any one year does not equal the dividend rate paid for that year by the Federal Home Loan Bank of San Francisco, the difference in these rates may be applied to the corporation's dividend rate in any subsequent year, even if it would mean exceeding that dividend rate for that year.

53103. The board of directors of the corporation shall consist of seven members, selected and appointed as follows:

(a) One member, representing the public interest, for a term of four years, appointed by the Governor.

(b) One member, for a term of four years, appointed by the State Treasurer.

(c) One member, representing the solar energy industry, for a term of three years, appointed by the Secretary of the Business, Transportation and Housing Agency.

(d) Four members, for terms of two years, elected by the stockholders of the corporation.

53104. The members of the board shall annually elect a chairman from among their membership.

53105. In order to expedite the startup of the corporation, the four members representing the stockholders shall initially be appointed by the Secretary of the Business, Transportation and Housing Agency. These members will serve until the first stockholders' meeting, at which point they will be replaced by elected members.

53106. On or before February 1, 1982, the Governor, the State Treasurer, and the Secretary of Business, Transportation and Housing shall appoint the directors authorized under Sections 53103 and 53105. These directors shall call the first general shareholders' meeting not later than May 30, 1983, at which time the shareholders of record shall elect the directors authorized by subdivision (f) of Section 53103.

53108. For the purposes set forth in this chapter, the corporation is authorized pursuant to commitments, or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in, any loans or advances of credit made for financing energy conservation measures. To be eligible for purchase, the loan shall be secured and comply with such other standards as required by the corporation.

53109. For the purposes set forth in this chapter, the corporation is authorized to borrow money through the issuance of notes, bonds, debentures, mortgage trust certificates, or any other security or secondary mortgage market instrument and shall have such other corporate powers as permitted under Section 207 of the Corporations Code.

53110. Any financial institution may apply to the corporation to

become a member financial institution. The corporation shall establish standards and procedures for qualification as a member financial institution, from which the corporation shall purchase loans made for the purposes set forth in this part.

53111. Any purchases of loans made by the corporation pursuant to the provisions of this part, for value, in good faith and without actual and written notice of any adverse claims against the loans, shall place the corporation in the status of holder-in-due course of the loans.

53112. Any mortgage trust certificates, mortgage-backed bonds, mortgage-backed passthrough certificates, or other obligations of the corporation secured by the loans and related deeds of trust purchased by the corporation shall be a legal investment for every executor, administrator, trustee, guardian, conservator of a natural person, receiver, fiduciary, public corporation, political subdivision, public instrumentality, charitable institution, educational and eleemosynary institution, bank, savings bank, trust company, financial institution, insurance company, public or private pension fund or profit sharing trust, or cemetery association, without court order.

53113. The corporation may accept and administer grants, subsidies, loans, loan guarantees, and other special programs as may be established for that purpose by the Public Utilities Commission, State Energy Resources Conservation and Development Commission, or any other federal or state agency. However, the corporation shall not be required to accept any administration which would require operation at a loss to the corporation.

CHAPTER 1034

An act to add Section 1039 to the Code of Civil Procedure, and to amend Sections 26721, 26725, 26726, 26728, 26730, 26733, 26734, 26735, 26736, 26738, 26742, 26743, 26744, and 26750 of, and to repeal Sections 26721.5, 26725.5, 26728.5, 26730.5, 26733.5, 26734.5, 26735.5, 26736.5, 26738.5, 26742.5, 26743.5, and 26744.5 of, the Government Code, relating to courts.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1039 is added to the Code of Civil Procedure, to read:

1039. In superior courts, municipal courts, and justice courts, if the plaintiff recovers judgment the plaintiff shall be allowed five dollars ($5) as costs in addition to other costs. If the action is dismissed or the defendant recovers judgment, the defendant shall

be allowed five dollars ($5) in addition to other costs and judgment shall be entered accordingly. The provisions of this section shall not be applicable to small claims courts.

SEC. 2. Section 26721 of the Government Code is amended to read:

26721. Except as provided in this article, the fee for serving or executing any process or notice required by law or the litigants to be served is fourteen dollars ($14).

SEC. 3. Section 26721.5 of the Government Code is repealed.

SEC. 4. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, execution, or order on real estate is fourteen dollars ($14) as to the initial service or posting of a continuous unbroken parcel or tract, and fourteen dollars ($14) for serving a record owner other than the defendant.

SEC. 5. Section 26725.5 of the Government Code is repealed.

SEC. 6. Section 26726 of the Government Code is amended to read:

26726. The fee for keeping and caring for property under attachment, execution, or claim and delivery shall not exceed thirty-five dollars ($35) when necessarily employed for any eight (8) hour period or any part thereof. If an additional keeper or keepers are required during such periods, the fee for the additional keeper or keepers shall be the same as herein fixed, but, in no event shall any one keeper receive more than seventy dollars ($70) during any twenty-four (24) hour period when so employed.

Notwithstanding any other fee charged, a keeper shall receive fourteen dollars ($14) when pursuant to Section 26738 a levying officer prepares a Not Found Return.

SEC. 7. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under attachment, execution, or order of court is fourteen dollars ($14).

SEC. 8. Section 26728.5 of the Government Code is repealed.

SEC. 9. Section 26730 of the Government Code is amended to read:

26730. The fee for conducting or postponing the sale of real or personal property as required by law or the litigant is fourteen dollars ($14).

SEC. 10. Section 26730.5 of the Government Code is repealed.

SEC. 11. Section 26733 of the Government Code is amended to read:

26733. The fee for serving a writ of possession or restitution, putting a person in possession of the premises, and removing the occupant is fourteen dollars ($14).

SEC. 12. Section 26733.5 of the Government Code is repealed.

SEC. 13. Section 26734 of the Government Code is amended to

read:

26734. The fee for making a levy on personal property already in possession of the officer who is holding same under attachment in the same action, is fourteen dollars ($14).

SEC. 14. Section 26734.5 of the Government Code is repealed.

SEC. 15. Section 26735 of the Government Code is amended to read:

26735. The fee for serving and filing notices of attachment of the interest of a defendant in the estate of a decedent is fourteen dollars ($14) for serving the personal representative of the decedent, and fourteen dollars ($14) for filing a copy of the writ of attachment and notice with the county clerk.

SEC. 16. Section 26735.5 of the Government Code is repealed.

SEC. 17. Section 26736 of the Government Code is amended to read:

26736. The fee for cancellation of the service or execution of any process or notice prior to its completion is fourteen dollars ($14). The fee provided by this section shall not be charged where a charge is made pursuant to the provisions of any other section of this article; nor shall such fee be charged where the cancellation is requested prior to the time a trip is made in attempting to serve or execute such process or notice.

SEC. 18. Section 26736.5 of the Government Code is repealed.

SEC. 19. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not-found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial district in which the address specified is situated, is fourteen dollars ($14).

SEC. 20. Section 26738.5 of the Government Code is repealed.

SEC. 21. Section 26742 of the Government Code is amended to read:

26742. The fee for executing and delivering any other instrument is fourteen dollars ($14).

SEC. 22. Section 26742.5 of the Government Code is repealed.

SEC. 23. Section 26743 of the Government Code is amended to read:

26743. The fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, is fourteen dollars ($14).

SEC. 24. Section 26743.5 of the Government Code is repealed.

SEC. 25. Section 26744 of the Government Code is amended to read:

26744. The fee for serving or executing a bench warrant arising from an order of appearance issued under Sections 491.010, 714, 715 or 717 of the Code of Civil Procedure shall be fourteen dollars ($14).

SEC. 26. Section 26744.5 of the Government Code is repealed.

SEC. 27. Section 26750 of the Government Code is amended to read:

26750. (a) The fee for serving an earnings withholding order under the Employees' Earnings Protection Law, Chapter 2.5 (commencing with Section 723.010) of Title 9 of Part 2 of the Code of Civil Procedure, including but not limited to the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to such levy is fourteen dollars ($14).

(b) No additional fees, costs, or expenses may be charged by the levying officer for performing the duties under the Employees' Earnings Protection Law, Chapter 2.5 (commencing with Section 723.010) of Title 9 of Part 2 of the Code of Civil Procedure.

CHAPTER 1035

An act to add and repeal Chapter 3.3 (commencing with Section 50525) of Part 2 of Division 31 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Chapter 3.3 (commencing with Section 50525) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.3. SENIOR CITIZENS SHARED HOUSING PILOT PROGRAM

50525. The Legislature finds and declares:

(a) The paucity of available housing in this state often creates grave hardships for persons such as senior citizens who often must live on a fixed income.

(b) Many senior citizens would prefer to live independently, but are forced to resort to institutionalized living arrangements due to the economic difficulties of living in the community and the loneliness and fear which are often prevalent among senior citizens living by themselves.

(c) Living in institutional facilities prematurely is not only undesirable for senior citizens, but it also places severe financial burdens upon taxpayers since the cost of institutionalization is far greater than the cost of assisting persons to remain in their communities.

(d) Programs designed to help seniors find other seniors with whom they may share existing housing have proven to be extremely

beneficial in bettering the lives of elderly persons.

50525.5. There is hereby established the Senior Citizens Shared Housing Pilot Program. It is the purpose of the Senior Citizens Shared Housing Program to assist pilot projects which shall assist senior citizens in finding other seniors with whom they may share existing housing units.

50526. The Department of Housing and Community Development shall administer the Senior Citizens Shared Housing Program and select nonprofit organizations, for the establishment of projects to assist seniors in finding other seniors with whom to share existing housing units.

50526.5. The methods for assisting senior citizens in the Senior Citizens Shared Housing Program shall include, but not be limited to:

(1) Information contacts shall be initiated with local landlords.

(2) Volunteers shall be utilized to find vacancy listings.

50527. The following criteria shall be used to analyze the effectiveness of the Senior Citizens Shared Housing Program:

(a) At least 500 seniors each year, through the efforts of the projects established in this chapter, shall be expected to have changed their living arrangements from that of living alone to sharing existing housing.

(b) Seniors assisted by the pilot projects in finding shared living arrangements shall be expected to enjoy a reduced cost of living due to their change in living arrangements, and living costs for these seniors shall be expected to be lower than costs of institutionalization.

50527.5. The department shall provide funds on an equal matching basis to each nonprofit organization it selects for projects under this chapter. No organization shall receive funds under this chapter without first raising its matching share. The funds shall be used to cover staff and office operations costs.

50528. The department may determine the duration of each pilot project under this chapter. No pilot project shall exceed two years after the commencement of the first pilot project. The department shall notify each house of the Legislature and the Legislative Counsel Bureau of the date of commencement of the first pilot project.

50528.5. The department shall make a preliminary report one year after the effective date of this chapter and a final report six months prior to the termination of the pilot project program under this chapter.

50529. Fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development, which shall be allocated to the projects selected under the conditions stated in this chapter. The department may make such allocations in such increments and at such times as the department in its discretion determines.

50529.5. This chapter shall remain in effect only until two years after the commencing of the first pilot project and as of such date is repealed, unless a later enacted statute, which is chaptered before

such date, deletes or extends it.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act which would provide for senior citizens housing pilot programs may take effect at the earliest possible time to analyze the effectiveness of the programs and to help alleviate the acute housing shortage for senior citizens, it is necessary that this act take effect immediately.

CHAPTER 1036

An act to add Section 14672.4 to the Government Code, relating to state government.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 14672.4 is added to the Government Code, to read:

14672.4. Notwithstanding Section 14670, the Director of General Services, on terms and conditions the director deems in the interests of the state and for a period not longer than 50 years, may lease to a nonprofit corporation, for the exclusive use of providing a residential facility and related services, including recreation, training, and community reintegration for handicapped persons, that parcel of land owned by the state in the City of Santa Clara containing 4.09 acres more or less and known as the Adults Toward Independent Living Parcel.

If the lessee-nonprofit corporation is wound up or dissolved prior to the expiration of the term of the lease or if the parcel ceases, for any reason, to be used exclusively for the purposes required by this section, the lease shall be immediately canceled and the parcel shall revert to the state.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. The review shall be made by the Director of General Services, who shall do all of the following:

(a) Assure the state the original purposes of the lease are being carried out.

(b) Determine what, if any, adjustment should be made in the terms of the lease.

Any lease executed pursuant to this section shall include a provision that the lease shall be canceled if permanent facilities are not constructed on the leased land on or before January 1, 1986, or

if the lessee-nonprofit corporation is wound up or dissolved prior to the expiration of the term of the lease, or if the parcel ceases, for any reason, to be used exclusively for the purposes required by this section.

CHAPTER 1037

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. The sum of six hundred fifty-five thousand one hundred sixty-nine dollars and sixty-five cents ($655,169.65) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$421,011.39
California Housing Finance Fund	689.20
Motor Vehicle Fund	3.00
Transportation Fund	
Motor Vehicle Account	4,514.47
Motor Vehicle License Fee Account	587.00
State Highway Account	180.00
Unemployment Administration Fund	5,223.49
Unemployment Compensation Disability Insurance Fund	3,857.15
Unemployment Compensation Fund	45.00
Unemployment Fund	13.66
Federal Unemployment Compensation Account	45.00
Item 082-001-001(A), Budget Act of 1981	1,280.79
Item 084-001-001(A), Budget Act of 1981	250.00
Item 086-001-001(A), Budget Act of 1981	1,201.61
Item 086-001-001(B), Budget Act of 1981	20.00
Item 119-016-769(A), Budget Act of 1981	970.24
Item 123-018-735(A), Budget Act of 1981	5,338.64
Item 123-018-735(B), Budget Act of 1981	262.62
Item 138-042-758(A), Budget Act of 1981	1,309.00
Item 163-064-702(A), Budget Act of 1981	100.00
Item 163-064-702(C), Budget Act of 1981	104.15
Item 171-001-001(B), Budget Act of 1981	12,571.00
Item 173-001-001(A), Budget Act of 1981	906.79
Item 173-001-001(B), Budget Act of 1981	816.04

Item 176-001-666(B), Budget Act of 1981	8,177.96
Item 188-001-001, Budget Act of 1981	952.68
Item 188-001-001(A), Budget Act of 1981	96.70
Item 190-001-830(B), Budget Act of 1981	19.00
Item 192-001-835(A), Budget Act of 1981	15.56
Item 218-001-001(B), Budget Act of 1981	14.00
Item 232-001-317(A), Budget Act of 1981	83.00
Item 232-001-317(B), Budget Act of 1981	35.75
Item 266-001-042, Budget Act of 1981	3,640.45
Item 266-001-042(A), Budget Act of 1981	134.90
Item 270-001-044(A), Budget Act of 1981	1,692.46
Item 272-001-044(A), Budget Act of 1981	214.36
Item 274-001-044(A), Budget Act of 1981	11,903.59
Item 340-001-001(A), Budget Act of 1981	715.10
Item 340-001-001(B), Budget Act of 1981	542.90
Item 348-001-001(A), Budget Act of 1981	734.83
Item 354-001-001(B), Budget Act of 1981	394.00
Item 360-001-200(B), Budget Act of 1981	417.40
Item 379-001-001(A), Budget Act of 1981	1,546.28
Item 379-001-001(B), Budget Act of 1981	14,237.00
Item 386-001-001(A), Budget Act of 1981	1,325.28
Item 394-001-001(A), Budget Act of 1981	103.00
Item 420-001-001(B), Budget Act of 1981	458.07
Item 426-001-001(A), Budget Act of 1981	17,651.14
Item 426-001-001(B), Budget Act of 1981	1,636.47
Item 430-001-001(A), Budget Act of 1981	3,853.65
Item 430-011-001(A), Budget Act of 1981	36,684.77
Item 444-001-001(A), Budget Act of 1981	2,469.82
Item 444-001-001(B), Budget Act of 1981	900.00
Item 444-011-001(A), Budget Act of 1981	1,194.88
Item 510-001-870, Budget Act of 1981	5,004.38
Item 516-001-001(A), Budget Act of 1981	7,179.48
Item 516-001-001(C), Budget Act of 1981	2,864.70
Item 516-001-001(D), Budget Act of 1981	27.83
Item 518-001-001(A), Budget Act of 1981	2,363.14
Item 518-001-001(B), Budget Act of 1981	127.60
Item 524-001-001(B), Budget Act of 1981	11,452.92
Item 524-001-001(D), Budget Act of 1981	1,159.45
Item 546-001-001(A), Budget Act of 1981	11,523.57
Item 546-001-001(B), Budget Act of 1981	11,917.20
Item 546-001-001(C), Budget Act of 1981	2,941.93
Item 610-001-001(A), Budget Act of 1981	306.00
Item 661-001-001(A), Budget Act of 1981	440.02
Item 661-001-001(E), Budget Act of 1981	2,776.00
Item 661-001-001(F), Budget Act of 1981	2,179.42
Item 835-001-001(B), Budget Act of 1981	65.20
Item 835-001-001(D), Budget Act of 1981	1,650.40
Item 835-001-001(E), Budget Act of 1981	181.71
Item 857-001-001(B), Budget Act of 1981	3,408.80

Item 864-001-001(D), Budget Act of 1981	12,793.18
Item 887-001-001(A), Budget Act of 1981	486.32
Item 894-001-001(A), Budget Act of 1981	1,175.16
Total	$655,169.65

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1038

An act to amend Section 320.2 of, and to repeal and add and repeal Sections 320.5 and 321.7 of, the Health and Safety Code, relating to health.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. The Legislature finds and declares that there is a multiplicity of programs and advisory boards influencing policy on maternal, child, and adolescent health services throughout the state. Further, the Legislature finds and declares that while important strides have been made in meeting some specific health needs of mothers and children, no overall plans and standards have as yet been developed for assuring the health of California's children and women of the childbearing age. The resulting fragmented system is characterized by a lack of coordination, continuity, and comprehensive management of maternal, child, and adolescent health services both within local communities and on a statewide basis.

It is the intent of the Legislature to establish a State Maternal, Child, and Adolescent Health Board, advisory to the Director of the State Department of Health Services in order to develop broad public input and provide consistent statewide policy advice supporting the coordination and integration of state programs serving mothers and children. Further, it is the intent of the Legislature to improve coordination and to promote an innovative and integrated maternal, child, and adolescent health system at the local level, by establishing local maternal, child, and adolescent health boards which may supersede and incorporate other local bodies advisory to local government on programs affecting the

health of mothers and children.

SEC. 2. The Legislature finds and declares that there is a multiplicity of programs and advisory boards influencing policy on maternal, child, and adolescent health services at the local level. The resulting fragmented system is characterized by a lack of coordination, continuity, and comprehensive management of maternal, child, and adolescent health services within local communities.

It is the intent of the Legislature to establish a local maternal, child, and adolescent health board which may supersede and incorporate other local bodies advisory to local government on programs affecting the health of mothers and children which will provide consistent, communitywide policy advice to improve coordination and to promote an innovative and integrated health system serving mothers and children at the local level.

SEC. 3. Section 320.2 of the Health and Safety Code is amended to read:

320.2. As used in this article:

(a) "State board" means the State Maternal, Child, and Adolescent Health Board.

(b) "Department" means the State Department of Health Services.

(c) "Director" means the State Director of Health Services.

(d) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

(e) "Local board" means local maternal, child, and adolescent health board.

(f) "Local health jurisdiction" means county health department or combined health department in the case of counties acting jointly or city health department within the meaning of Section 1102.

SEC. 4. Section 320.5 of the Health and Safety Code is repealed.

SEC. 5. Section 320.5 is added to the Health and Safety Code, to read:

320.5. A State Maternal, Child, and Adolescent Health Board advisory to the director is hereby established within the State Department of Health Services.

The state board shall consist of 13 voting members. The membership shall reflect the ethnic and geographic diversity of the State of California and shall include individuals or parents of individuals who are recipients of services administered by the department, health providers, including Board of Medical Quality Assurance certified or qualified physicians, and representatives of other related interests. The Governor shall appoint seven members of the state board, including a county health officer; a member of the Primary Care Clinics Advisory Committee; one family practice physician, one dentist a major part of whose practice is children's dentistry; one pediatrician; one representative of a child health advocacy organization; and one parent, who is not a health care provider, of a child eligible for health services administered by the

department. The Chairman of the Senate Rules Committee shall appoint three members of the state board, including a pediatrician, a parent, who is not a health care provider, of a child eligible for health services administered by the department, and an individual experienced in administering a local family planning agency. The Speaker of the Assembly shall appoint three members of the state board, including a pediatrician, a nurse specializing in child health, and an obstetrician/gynecologist. A member of the State Council on Developmental Disabilities, a member of the State Commission on Special Education, the Directors of the Departments of Health Services, Mental Health, and Social Services and the Superintendent of Public Instruction, or their designees, shall serve as ex officio, nonvoting members of the state board. The term of each member shall be three years, or for the duration that each member maintains the qualifications under which he or she was appointed, whichever is shorter. In order to maintain continuity, present members of the State Child Health Board shall be appointed to the state board for the duration of their current terms.

The members of the state board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this article. Members who are parents of children eligible for departmental programs may additionally be reimbursed upon request for their actual and necessary costs of additional child care and lost wages. The Director of Health Services shall provide necessary support staff and services to the state board. The state board shall utilize available department staff to carry out specific tasks enumerated in this article. The state board may hire staff for special projects provided the total budget level for board operations does not exceed the existing level, except as provided for by the director or the Legislature by statute.

The state board shall select its own chairperson from among the 13 appointed members by majority vote of the members and shall establish technical advisory committees as it deems necessary and desirable for the efficient and expeditious performance of its duties. The director may provide or the state board may request that the director provide additional technical experts and consultants to facilitate and support the work of the state board. The state board shall meet on call of the chairperson, at least once quarterly, or as often as necessary to fulfill its duties. All meetings and records of the state board shall be open to the public.

The state board shall have all of the following powers, duties and responsibilities:

(a) Conduct independent studies, investigations, and hearings on the health of mothers, children, and adolescents and the system of health services for mothers, children, and adolescents.

(b) Review health related programs which serve women, children, and adolescents for the purpose of recommending steps to facilitate interdepartmental integration of service delivery.

(c) Identify deficiencies and barriers in the maternal, child, and adolescent health delivery system on a statewide basis, recommend priorities for remedying deficiencies, and develop recommendations to remove barriers to appropriate health service utilization.

(d) Review, during the developmental stage, any plans affecting health programs for mothers, children, and adolescents developed by the department and comment on such plans vis a vis consistency with the state board's policy and goals and make recommendations on a unified planning process for programs affecting the health of mothers, children, and adolescents.

(e) Receive from the department for review and comment prior to their adoption all rules, regulations, and standards affecting maternal, child, and adolescent health. The director shall submit to the board a copy of the final statement prepared for the Office of Administrative Law pursuant to Section 11346.7 of the Government Code. The director may impose a reasonable time limit for the review of regulations, including, but not limited to, the following:

(1) Review of standards for health screening, evaluation, and diagnostic procedures for community maternal, child, and adolescent health programs.

(2) Review of standards for directors of community maternal, child, and adolescent health programs.

(3) Review of standards for public and private health providers, facilities, and agencies which participate in community maternal, child, and adolescent health programs.

(f) Review and comment upon proposed department policies affecting maternal, child, and adolescent health programs.

(g) Review policies and develop recommendations regarding:

(1) Health goals with measurable objectives for all children, adolescents, and pregnant females in California.

(2) A standard of financial eligibility for preventive programs which will facilitate program integration.

(3) A reimbursement mechanism that will encourage provider participation in an integrated maternal, child, and adolescent health program.

(4) Current programs that could be combined to foster integrated service delivery.

(5) Systems to assure coordination within the department in order to insure uniform case management and referral of children, youth, and pregnant women.

(6) Coverage of preventive care, health maintenance, and health education and counseling by third party payers.

(h) Review reports and respond to needs and recommendations of the local boards.

(i) Work with local boards to evaluate the success of established programs and assess the potential viability of proposed programs.

(j) Review and make recommendations to the director on written appeals received from local organizations and providers.

(k) Prepare a biennial report to the director summarizing the

progress of the state board in fulfilling the above listed duties, powers and responsibilities, which report shall be transmitted to the Legislature and the local boards. The first such report shall be due on or before January 1, 1983.

In order to further the intent of this section and to support the work of the state board, the department shall develop, not later than July 1, 1982, alternative models for the provision of integrated health service delivery to women, children, and adolescents at the local level. Such models shall address the concerns and recommendations of the state board relating to integrated service delivery.

The provisions of this section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 6. Section 321.7 of the Health and Safety Code is repealed.

SEC. 7. Section 321.7 is added to the Health and Safety Code, to read:

321.7. A local maternal, child, and adolescent health board is hereby established to advise the governing body and the local health officer on local programs and services affecting the health of mothers, children, and adolescents. The local board shall be appointed by the governing body and shall reflect the demographic and ethnic characteristics of the geographic area served. The governing body may constitute local boards on a subcounty or multicounty basis, as appropriate. Local boards shall supersede and incorporate the local child health and disability prevention program advisory board and may supersede and incorporate any other bodies advisory to local government on maternal, child, and adolescent health programs under the jurisdiction of the department. Each local board shall include individuals who are eligible or who are parents of children eligible for health services administered by the department, representatives from health professions and organizations concerned with maternal, child, and adolescent health, a school health representative, members of existing local groups advisory to maternal, child, and adolescent health programs in the jurisdiction, and other individuals interested in the health of mothers and children.

The local health officer shall be responsible for providing support staff and services to the local board from state or federal funding presently utilized for planning and organizing maternal, child, and adolescent health service. Counties shall not be required to expend more funds than presently are being expended for the purpose of this section and shall include such costs in whatever annual maternal child health plan is required for department approval. Local board members shall serve without compensation, except that members shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their duties. Members may additionally be reimbursed upon request to the governing body for their actual and necessary additional costs of child care and lost

wages.

The local board shall have all of the following powers, duties and responsibilities:

(a) Review the community's maternal, child, and adolescent health needs and the adequacy of health care services, programs, providers, and facilities to meet those needs.

(b) Review and comment during the development and adoption of the required annual local maternal and child health services plan. The plan should address strategies for coordinating and integrating local maternal, child, and adolescent health programs and planning processes.

(c) Advise the governing body and local health officer on methods of integration at the local level of categorical programs affecting the health of mothers and children, including, but not limited to:

(1) Proposing specific models, including funding levels, which integrate maternal and child health services at the local level which are consistent with state guidelines and the local maternal and child health plan.

(2) Disseminating information on and recommending uses of block grant funding or other innovative financing methods which may be made available to the local jurisdiction.

(3) Monitoring and evaluating model integrated delivery systems as to outcome and cost effectiveness, and recommending termination or continuation of such models based on such review.

(d) Review local health statistics and program data to assess improvement in the overall health status of mothers and children.

(e) Provide formal written input on local maternal, child and adolescent health services and needs to the local health planning agencies for inclusion in plans for health services and local proposed use of public funds.

(f) Represent the concerns of consumers and local service providers in their relationship with the State Department of Health Services.

(g) Serve as a catalyst for policy development by the state board to assure that state policy reflects local needs.

(h) Review and comment to the governing body on local implications of reports, recommendations and actions of the state board. Local individuals and organizations may respond to the actions of the local board in their jurisdiction by submitting written comments to the governing body and local health officer.

The local board may also perform such other duties relating to maternal and child health which may be delegated to it by the governing body.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 8. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose

of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1039

An act to amend Section 14104.6 of, and to add Sections 14104.8 and 14115.2 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 14104.6 of the Welfare and Institutions Code is amended to read:

14104.6. (a) The procedures for system and acceptance testing specified in the contract awarded by the State Department of Health Services to Computer Sciences Corporation for fiscal intermediary services shall be followed. By November 12, 1980, the Director of the State Department of Health Services shall report to the Legislature on procedures, findings, remedies instituted to correct deficiencies, and on the results of such remedies.

(b) The Joint Legislative Audit Committee shall continue to investigate contracts in force for fiscal intermediary services awarded by the State Department of Health Services, to ascertain and identify problems concerning the claims processing procedures developed pursuant thereto. A report summarizing the findings of the committee shall be submitted to the Legislature by January 1, 1981.

(c) The Joint Legislative Audit Committee and the Joint Legislative Budget Committee shall have access to records of the disbursement of funds or payments, including documents identifying names of applicants and recipients of benefits under Title XIX of the Social Security Act, and such records shall be released when requested by the committees. The committees shall use information from such records only for the purpose of investigating the procedures developed by the department for claims processing under the fiscal intermediary contracts. In any case, where disclosure is authorized pursuant to this section, the committees shall not disclose the identity of any applicant or recipient.

Except for the aforementioned release of information to the committees, this section shall not otherwise be construed to supersede any other provision of state law, including Section 10850.

(d) No Medi-Cal fiscal intermediary contract shall be approved, renewed or continued if a state employee is employed in a

management, consultant or technical position by the contractor or a subcontractor to the contractor within one year after the state employee terminated state employment.

For purposes of this section, "state employee" means any appointive or civil service employee of the Governor's office, the Health and Welfare Agency, the State Department of Health Services, the Controller's office, the Attorney General, or the Legislature who, within two years prior to leaving state employment, had responsibilities related to development, negotiation, contract management, supervision, technical assistance or audit of a Medi-Cal fiscal intermediary.

The requirements of this section shall not apply to any state employee who terminated state employment prior to the operative date of this section.

SEC. 2. Section 14104.8 is added to the Welfare and Institutions Code, to read:

14104.8. (a) The Secretary of the Health and Welfare Agency shall be responsible for oversight of the contract for fiscal intermediary services awarded by the State Department of Health Services to Computer Sciences Corporation. The director of the department shall confer with the secretary of the agency regarding the progress made in implementing the contract.

(b) Within four months of enactment of this section, the State Director of Health Services shall contract for an 18-month period with a qualified systems engineering firm that has the ability to work at the software level to acquire the system produced by Computer Sciences Corporation for the purposes of monitoring the contract awarded by the department to Computer Sciences Corporation and ascertaining if the system meets contract requirements.

(c) The systems engineering firm shall monitor compliance with all provisions contained within the above-mentioned contract between the department and Computer Sciences Corporation.

(d) The contract shall:

(1) Require the firm to conduct an evaluation of Computer Sciences Corporation contract compliance, including design or operational deficiencies, and, within four months of the award of the monitoring contract, to report on this evaluation to the Secretary of the Health and Welfare Agency and the State Director of Health Services, who shall forward this report to the Legislature.

(2) Include provisions to permit the firm to develop specific remedies for design and operation deficiencies in the state owned Medi-Cal fiscal intermediary system.

(3) Require the firm to develop, install and operate the type of monitoring and control system required by the contract.

(4) Require production by the firm within one year of a detailed work plan and budget for managing the contract with Computer Sciences Corporation, including job descriptions, staffing levels and organizational controls in order to continue operation of the monitoring and control system at a high level of efficiency and

expertise.

(5) Preclude the firm from bidding (or from being a major subcontractor to a prime bidder) on any subsequent contract for fiscal intermediary services for a period of five years from the date of the contract.

(e) If all requested documentation records and deliverables required in the contract between the department and Computer Sciences Corporation are not made available, as specified in that contract, to the designated systems engineering firm, the Secretary of the Health and Welfare Agency, the State Department of Health Services or the Joint Legislative Audit Committee, whichever has so requested, all applicable penalties and fines available under the contract shall be evoked by the State Department of Health Services.

(f) Subject to the approval of the Secretary of Health and Welfare, the State Director of Health Services shall have the authority to enter into a subsequent fiscal intermediary monitoring contract to be in effect upon the expiration of the one-year contract called for in subdivision (b) and to be based upon findings and recommendations produced under subdivision (d).

SEC. 3. Section 14115.2 is added to the Welfare and Institutions Code, to read:

14115.2. (a) The department shall not require skilled nursing and intermediate care facilities as defined in Section 1250 of the Health and Safety Code to originate monthly bills for beneficiaries if the following conditions are met:

(1) A claim on which in-patient per diem days have been billed by the provider is received by the fiscal intermediary by the fifth working day of the month following the month being billed; and

(2) The claim received by the fiscal intermediary does not show a patient status code that indicates discharge or death on the last day billed for the recipient for that month.

(b) When the conditions listed above are met, the fiscal intermediary shall, by the 20th of the month, mail to the provider a preimprinted claim to cover the current month's services to those beneficiaries.

(c) The provider shall be required to check the preimprinted claim for accuracy, to make corrections, and to certify that the beneficiaries who are listed on the claim received the services listed.

(d) The preimprinted claim shall be returned in the manner required by Section 14115; provided, the preimprinted claim shall be deemed a late submission no earlier than two months following the end of the month of service being billed.

(e) Except as otherwise provided in this section, the rights and duties of providers and the department with respect to the billing procedures hereby established shall be governed by the provisions of this chapter.

SEC. 4. Skilled nursing and intermediate care facilities, as defined in Section 1250 of the Health and Safety Code, shall be assessed a one-time charge not to exceed fifty dollars ($50) per

facility by the State Department of Health Services to cover the cost of fiscal intermediary charges to implement the change in procedure provided for in this act.

SEC. 5. Funds for carrying out Sections 1 and 2 of this act shall be paid from moneys appropriated in the 1981 Budget Act for support of the State Department of Health Services, including funds for support of the Fiscal Intermediary Management Division of the State Department of Health Services. The Department of Finance shall prevent duplication of effort by the State Department of Health Services and the systems engineering firm and shall authorize only those Fiscal Intermediary Management Division positions as are necessary to perform tasks not to be performed by the systems engineering firm. No funds made available by this section may be encumbered any sooner than 30 days after written notification of the intent to encumber is provided to the Chairman of the Joint Legislative Budget Committee by the State Director of Health Services, or not sooner than such lesser time after written notification as the chairman, or his designee, may in each instance determine.

CHAPTER 1040

An act to add Chapter 7 (commencing with Section 31300) to Division 21 of, the Public Resources Code, relating to coastal resources, and making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Chapter 7 (commencing with Section 31300) is added to Division 21 of the Public Resources Code, to read:

CHAPTER 7. URBAN WATERFRONT RESTORATION

31300. This chapter shall be known and may be cited as the "Urban Waterfront Restoration Act of 1981".

31301. The Legislature finds and declares that California's urban waterfronts, being often the first part of an urban area to develop and, thus, the first to decay, are in need of restoration in order to be the vital economic and cultural component of the community which they once were. The Legislature further finds and declares that developing the state's urban waterfronts into environmentally sound areas through, but not limited to, the creation of parks, open space, visitor serving facilities, and housing for all income levels will promote tourism, public access, and private sector development in these areas. The Legislature further finds and declares that the

encouragement of tourism, public access to the coast, and planned private sector development to be a benefit to the citizens of the state, as well as the local citizenry in affected urban waterfront areas. It is, therefore, the intent of this chapter to promote the restoration of the state's vital urban waterfronts.

31302. The conservancy shall administer the provisions of this chapter. The conservancy shall coordinate the activities of all other state agencies and all federal agencies that have programs affecting California's urban waterfronts in order to increase the efficiency and minimize duplication of those programs.

31303. The conservancy shall request the commission, local public agencies, nonprofit organizations, and other public and private groups to assist in the development of criteria and guidelines for the submission, evaluation, and determination of priority of projects. After considering comments received from such sources and ensuring that adequate opportunity for public review and comment has been provided, the conservancy shall adopt guidelines and criteria for the administration of the urban waterfront restoration program authorized under this chapter.

In accordance with procedures adopted by the conservancy, local public agencies and nonprofit organizations may submit proposed urban waterfront projects for consideration by the conservancy for state or federal funding.

31305. In reviewing grant applications and urban waterfront restoration plans, the conservancy shall seek to promote excellence of design and shall stimulate projects which exhibit innovation in sensitively integrating man-made features into the natural coastal environment.

31306. The conservancy shall propose projects and programs, generated by the conservancy, local public agencies, or nonprofit organizations for grants available under Section 306A of the Coastal Zone Management Improvement Act (P.L. 96–464). The commission shall forward the proposed projects to the Department of Commerce as applications recommended for funding. The commission shall not forward any application unless it has been proposed by the conservancy.

31307. The conservancy may award grants to local public agencies and nonprofit organizations for the restoration of urban coastal waterfront areas. The conservancy shall award grants only after finding that the plan or project conforms with the policies and objectives of Division 20 (commencing with Section 30000).

31308. The conservancy may provide up to the total cost of any urban waterfront project, including the local share of federally supported projects. The conservancy may also require local funding participation in urban waterfront projects. The amount of funding provided by the conservancy and the degree of local participation shall be determined by the total amount of funding available for urban waterfront projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible urban waterfront

projects, the degree to which the project meets the objectives set forth in Section 31305, and the application of other factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of this division.

31309. Following approval of a proposed urban waterfront project by the conservancy, the conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing urban waterfront restoration plans.

31310. Notwithstanding any other provisions of law, the conservancy may enter into an option to purchase land included in the project when such action is necessary to reserve such lands during the period of preparation of the restoration plan and acquisition proceedings, and when the Legislature appropriates funds for purposes of carrying out the objective of this chapter. The cost of such option shall not exceed one hundred thousand dollars ($100,000).

31311. Costs of providing parks, open space, or other public areas and facilities may be included as project costs within urban waterfront restoration areas, if they are designed to serve the residents of the restoration area and do not constitute a disproportionate share of the total project cost. Costs of providing public coastal access sites and scenic easements serving the public may be permitted as project costs where such features are part of an approved urban waterfront restoration plan.

31312. Local public agencies and nonprofit organizations, in undertaking urban waterfront restoration projects as provided in this chapter, shall be subject to the provisions of Division 24 (commencing with Section 33000) of the Health and Safety Code.

31313. Any funds over and above eligible project costs which remain after completion of an urban waterfront project as provided in this chapter shall be transmitted by the recipient to the state and deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purposes of funding the programs specified in this division.

SEC. 2. Notwithstanding Section 21191 of the Public Resources Code, the sum of fifty thousand dollars ($50,000) is hereby appropriated from the California Environmental License Plate Fund to the State Coastal Conservancy to prepare and disseminate a report on California's urban waterfronts. The report shall be for national distribution to promote tourism, as well as educate others about the potential of urban waterfronts as economic, cultural, and environmental education centers. The report shall be of high quality, emphasizing the beauty of these coastal resources, and instructing others in the methods of successful urban waterfront restoration. The report shall also enumerate quality urban waterfront restoration projects which could be accomplished within one year of funds being provided. The report shall be submitted to the Legislature not later than March 1, 1982. An interim report, including the specific projects

proposed for funding, shall be submitted to the Legislature not later than January 8, 1982.

CHAPTER 1041

An act to amend Section 2 of Chapter 1341 of the Statutes of 1978, relating to public resources, making an appropriation therefor.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 2 of Chapter 1341 of the Statutes of 1978 is amended to read:

Sec. 2. Within 60 days after the effective date of this act or within 60 days after obtaining the approval described in Section 1, whichever is later, the Director of General Services shall grant to the City of Sacramento all of the state's interest in the following property:

A portion of the lands described in the Corporation Quitclaim Deed from the City of Sacramento to the State of California recorded December 5, 1972, in Book 72 1205, Official Records of said County at Page 383, said lands being also shown on that certain Record of Survey recorded in the Office of the County Recorder of said County June 27, 1968, in Book 26 of Survey, Map No. 18, said portion being more particularly described as follows:

Beginning at a point on the Northerly line of said "I" Street from which the point of intersection of the Northerly line of said "I" Street with the Westerly line of Second Street (80 feet wide) as said street is shown on said Record of Survey, bears South 71°31′30″ East 319.35 feet; thence from said point of beginning along the Northerly line of said "I" Street North 71°31′30″ West 138.00 feet; thence North 18°28′30″ East 64.81 feet; thence from a tangent that bears North 83°13′21″ East curving to the left on an arc of 60.00 feet radius, said arc being subtended by a chord bearing North 69°19′43″ East 28.82 feet; thence South 71°31′30″ East 115.65 feet; thence South 18°28′30″ West 83.00 feet to the point of beginning; containing 11,217 square feet (0.258 acre), more or less.

SEC. 2. The Director of General Services, with the consent of the Department of Fish and Game, may lease to the Mount Shasta Chamber of Commerce, at no cost, and subject to any other terms and conditions that the director deems appropriate, for a term not to exceed 25 years, a portion of the Mount Shasta Fish Hatchery situated in the County of Siskiyou, commonly known as Building A. The property leased shall only be used for the operation of an historical museum and for environmental educational purposes open to the public.

SEC. 3. (a) The Legislature hereby finds and declares that the operation of Building A of the Mount Shasta Fish Hatchery as an historical museum will serve a statewide public purpose.

(b) It is the intent of the Legislature that the funds appropriated by this act shall be used only for the initial renovation and restoration of Building A of the Mount Shasta Fish Hatchery, and not for any ongoing expenses incurred in the operation of the museum.

SEC. 4. Notwithstanding subdivision (d) of Section 21191 of the Public Resources Code, the sum of eighty thousand dollars ($80,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Fish and Game for allocation to the Mount Shasta Chamber of Commerce for the purpose of renovating and restoring Building A of the Mount Shasta Fish Hatchery so that it may be leased and utilized as an historical museum and for environmental educational purposes pursuant to Section 2 of this act.

CHAPTER 1042

An act to amend Section 5705 of, and to add Section 5705.2 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 5705 of the Welfare and Institutions Code, as amended by Section 6 of Chapter 133 of the Statutes of 1981, is amended to read:

5705. Commencing with the 1979–80 fiscal year, the net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services. The department may also approve any waiver of nonhospital inpatient share of costs requested by the board of supervisors provided that the board has held a special hearing during the formal budget deliberations at which the board considered testimony on the impact of the waiver on local mental health services and determines,

based on all available information, that the county cannot meet the matching requirements provided by this section.

During the 1979–80 and 1980–81 fiscal years, the requirement for local financial participation in the net cost of services provided under this part shall be waived except for state hospital services provided on and after January 1, 1980. The required local financial participation in the net cost of state hospital services under this part shall only be waived until January 1, 1980.

Notwithstanding any other provision of law, for the 1981–82 fiscal year, counties shall be required to submit the narrative portion of their Short-Doyle plan for mental health services only once in the first phase of the planning process. The second phase shall consist of only budget information.

During the 1981–82 fiscal year, the cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The State Department of Mental Health is hereby permitted to reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28.00 of the Budget Act of 1981, provided these reallocated funds shall not be counted into the base allocation.

This section shall remain in effect only until July 1, 1982, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends that date.

SEC. 2. Section 5705 of the Welfare and Institutions Code, as amended by Section 3.2 of Chapter 69 of the Statutes of 1981, is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The State Department of Mental Health is hereby permitted to

reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act, provided such reallocated funds shall not be counted into the base allocation.

This section shall become operative July 1, 1982, and shall remain in effect only until July 1, 1983, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date.

SEC. 3. Section 5705 of the Welfare and Institutions Code, as amended by Section 3.3 of Chapter 69 of the Statutes of 1981, is amended to read:

5705. (a) The net cost of all services specified in the approved county Short-Doyle plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, except for local hospital inpatient costs, which shall be financed on a basis of 85 percent state funds and 15 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health as provided in Section 5705.2. In counties of less than 100,000 population, the cost requirement for local financial participation shall be waived for all programs except local hospital inpatient and state hospital services. It is the intent of the Legislature that counties under 100,000 population provide as much of the 10 percent match as possible for mental health, drug and alcohol programs within budgetary constraints.

(b) The cost of state hospital services shall be financed on the basis of 85 percent state funds and 15 percent county funds, except that in counties with less than 100,000 population, the cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds.

The State Department of Mental Health is hereby permitted to reallocate any funds which are not matched by counties with the approval of the Joint Legislative Budget Committee using a letter as prescribed in Section 28 of the Budget Act, provided such reallocated funds shall not be counted into the base allocation.

This section shall become operative July 1, 1983.

SEC. 4. Section 5705.2 is added to the Welfare and Institutions Code, to read:

5705.2. Negotiated net amounts or rates may be used as the cost of services only in accordance with the following paragraphs:

(a) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of all or part of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the State Department of Mental

Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For negotiated net amounts contracts that provide for the delivery of 75 percent or more of the total county Short-Doyle annual plan, the contracting organization shall bear the financial responsibility for the local match requirement for the portion of the county program covered by the contract.

(b) Negotiated rates may be used as the cost of services in contracts by providers with counties. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

CHAPTER 1043

An act to amend Sections 266h, 266i, 311.4, and 1203.065 of, and to add Section 266j to, the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 266h of the Penal Code is amended to read.

266h. Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and is punishable by imprisonment in the state prison for two, three, or four years, or, where the person engaged in prostitution is under 14 years of age, is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 2. Section 266i of the Penal Code is amended to read:

266i. Any person who: (a) procures another person for the purpose of prostitution; or (b) by promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages

another person to become a prostitute; or (c) procures for another person a place as inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state; or (d) by promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate; or (e) by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution; or (f) receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution, is guilty of pandering, a felony, and is punishable by imprisonment in the state prison for two, three, or four years, or, where the other person is under 14 years of age, is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 3. Section 266j is added to the Penal Code, to read:

266j. Any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available to another person, a child under the age of 14 for the purpose of any lewd or lascivious act as defined in Section 288, or who causes, induces, or persuades a child under the age of 14 to engage in such an act with another person, is guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years.

SEC. 4. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, is guilty of a misdemeanor.

(b) Every person who, with knowledge that a person is a minor under the age of 16 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 16 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 16 years, or any parent or guardian of a minor under the age of 16 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 16 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years.

(c) Every person who, with knowledge that a person is a minor under the age of 14 years, or who, while in possession of any facts on

the basis of which he or she should reasonably know that the person is a minor under the age of 14 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 14 years, or any parent or guardian of a minor under the age of 14 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 14 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, any lewd or lascivious sexual activity, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

SEC. 5. Section 1203.065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) of Section 261, or Section 264.1, or Section 266h where the person engaged in prostitution is under 14 years of age, or Section 266i where the other person is under 14 years of age, or Section 266j, or subdivision (b) of Section 288, or Section 289, or of committing sodomy or oral copulation in violation of Section 286 or Section 288a by force, violence, duress, menace or threat of great bodily harm, or subdivision (c) of Section 311.4.

(b) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 220 for assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264.1, subdivision (b) of Section 288, or Section 289.

When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(c) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act

creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this act shall achieve their maximum impact, it is necessary that this act shall be effective at the earliest possible date.

CHAPTER 1044

An act to amend Sections 41601, 42237, 56101, 56135, 56194, 56320, 56341, 56345, 56362, 56363, 56365, 56366, 56450, 56451, 56475, 56476, 56505, 56775, 56851, 56863, 56875, 56876, 56877, 56878, 56879, 56880, 56881, 56882, 56883, 56884, and 56885 of, to amend, repeal, and add Section 56220 of, to add Sections 56166.5, 56222, 56364.5, 56366.1, and 56426 to, to add Article 3.5 (commencing with Section 56050) to Chapter 1 of, and Article 5.5 (commencing with Section 56167) to Chapter 2 of Part 30 of, to repeal Sections 1261 and 48226 of, and to repeal and add Article 5 (commencing with Section 56155) of Chapter 2 of Part 30 of, the Education Code, and to amend Section 4011.5 of the Welfare and Institutions Code, relating to special education.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1261 of the Education Code is repealed.

SEC. 2. Section 41601 of the Education Code is amended to read:

41601. For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and the average daily attendance for the county school tuition fund. If the average daily attendance in the district or in schools and classes maintained by the county superintendent of schools for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance reported for the second period report, the

appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 41341.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction and average daily attendance shall be computed in the following manner:

(a) The average daily attendance in the regular elementary, junior high, and high schools, including continuation schools and classes and opportunity schools and classes, maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each period, by the number of days such schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays.

(b) The average daily attendance in summer school and outdoor science and conservation education classes maintained during the period between the last day the regular day schools are in session during the preceding year and the first day the regular day schools are in session during the current year shall be reported on both the first period and second period reports. Such average daily attendance shall be computed by dividing the days of attendance allowed by 175.

(c) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance of the school, shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175. For attendance in special classes and centers pursuant to Section 56364, the average daily attendance shall be reported by the county superintendents, but credited for revenue limit purposes to the district in which the pupil resides.

(d) The days of attendance in classes for adults and regional occupational centers programs shall be reported in the same manner as all other attendance under subdivision (a) or (b). The average daily attendance in such schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85 in the second period by 135 and at annual time by 175.

SEC. 2.5. Section 42237 of the Education Code is amended to read:

42237. (a) For the 1978–79 fiscal year, the county superintendent of schools shall, for each school district in the county:

(1) Utilizing the second principal apportionment units of

average daily attendance for the 1978–79 fiscal year and the adult and summer school units of average daily attendance for the 1977–78 fiscal year, recalculate the 1978–79 funding level pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332, Statutes of 1978 and Chapter 119, Statutes of 1979, excluding the adjustments authorized pursuant to former Sections 42239, 42241.7, 42243.6, 42245, and 46605, and 50 percent of the amount of adjustment authorized by Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979.

(2) Deduct the following from the amount determined in paragraph (1):

(A) The amounts which the district received, but not to exceed the amount expended in the 1978–79 fiscal year, for purposes of child development, developmental centers for handicapped pupils, and meals for needy pupils programs from funds provided pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979.

(B) An amount equal to the 1978–79 school year adult average daily attendance generated in the adult education programs specified in Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) multiplied by the 1978–79 adult revenue limit computed pursuant to either subdivision (f) or (g) and subdivision (i) of Section 43001 of the Education Code reduced by the district's reduction factor calculated pursuant to Section 2 of Chapter 292 of the Statutes of 1978 as amended by Chapter 332, Statutes of 1978, and Chapter 119, Statutes of 1979.

(3) Add to the amount determined in paragraph (2):

(A) The state apportionments earned by the district in fiscal year 1978–79 pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978), excluding that portion allocated for adults in subparagraph (A) of paragraph (4) of subdivision (c).

(B) The balances of funds on June 30, 1977, restricted for meals for needy pupils for districts which levied no tax pursuant to Section 49502 of the Education Code in the 1977–78 fiscal year.

(C) One half of the amount of salary increases granted to classified employees of a school district in the fiscal years 1974–75 to 1979–80, inclusive, by the board of supervisors of a city and county.

(D) Any revenue limit increase authorized pursuant to Section 42244 which was not authorized to be levied prior to the 1979–80 fiscal year.

(4) Divide the amount determined in paragraph (3) by the sum of the 1978–79 second principal apportionment units of average daily attendance in the regular school year and in summer programs for graduating high school seniors. That amount shall be known as the school district's revenue limit per unit of average daily attendance for the 1978–79 fiscal year.

(5) The Superintendent of Public Instruction shall determine the statewide weighted mean revenue limit computed pursuant to paragraph (4) of this subdivision for the following groups of districts.

For the purpose of this paragraph, "ADA" is the district's regular average daily attendance.

(A) Elementary districts with 100 or less units of ADA.

(B) Elementary districts with more than 100 and less than 901 units of ADA.

(C) High school districts with less than 301 units of ADA.

(D) Unified districts with less than 1,501 units of ADA.

(E) Elementary districts with greater than 900 units of ADA.

(F) High school districts with greater than 300 units of ADA.

(G) Unified districts with greater than 1,500 units of ADA.

(b) In the 1979–80 fiscal year, the county superintendent shall adjust each school district's revenue limit computed pursuant to subdivision (a) as follows:

(1) Divide the district's prior year revenue limit into the prior year's statewide weighted mean revenue limit for that type of district and multiply that result by the product of 0.086 and the amount determined in subparagraph (G) of paragraph (5) of subdivision (a).

(2) The amount determined in paragraph (1) shall be added to the district's 1978–79 fiscal year revenue limit computed pursuant to paragraph (4) of subdivision (a). That result shall be the district's revenue limit per unit of average daily attendance for the 1979–80 fiscal year.

(3) For purposes of computing school district revenue limits for the 1980–81 fiscal year pursuant to Section 42238, the amount computed pursuant to paragraph (2) shall be increased by the quotient of 50 percent of the amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code received by the district in the 1979–80 fiscal year divided by the number of units of average daily attendance determined in paragraph (1) of subdivision (c).

(c) The county superintendent shall determine the district's total revenue limit for the 1979–80 fiscal year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (b) by the sum of the second principal apportionment regular average daily attendance, and the product of 0.6 multiplied by the summer average daily attendance for graduating high school seniors. For regional occupational centers and regional occupational programs and adult education programs and classes the fiscal year units of average daily attendance shall be used.

(2) The amount determined pursuant to Sections 42239, 42241.7, 42243.6, 42245, and 46605.

(3) The amounts for meals for needy pupils determined in subparagraph (A) of paragraph (2) of subdivision (a) multiplied by 1 07, and adjusted for pupil participation.

(4) An amount for each unit of adult average daily attendance in the 1979–80 fiscal year for the programs specified in subdivision (b) of Section 41976 as follows

(A) Determine for each district its 1978–79 fiscal year adult revenue limit per unit of average daily attendance computed pursuant to Sections 42244 and 43001.8 and subdivision (f) or (g) of Section 43001 as modified by the appropriate percentage in subdivision (c), (d), or (e) of Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, as amended by Chapter 119 of the Statutes of 1979, plus the prorated amount allocated pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) for adult programs.

(B) For districts with an adult revenue limit as determined in subparagraph (A) which is less than the 1978–79 fiscal year statewide average adult revenue limit computed pursuant to subparagraph (A), the adult revenue limit for the 1979–80 fiscal year shall be the amount determined in subparagraph (A) multiplied by 1.07.

(C) For districts with a revenue limit as determined in subparagraph (A) which is between the statewide average adult revenue limit computed pursuant to subparagraph (A) for the 1978–79 fiscal year and the product of 1.07 times that amount the adult revenue limit for the 1979–80 fiscal year shall be 1.07 times the 1978–79 fiscal year statewide average adult revenue limit.

(D) For districts with a revenue limit as determined in subparagraph (A) which is greater than 1.07 times the statewide average adult revenue limit computed pursuant to subparagraph (A) the amount computed pursuant to subparagraph (A) for the 1979–80 fiscal year shall be the amount determined in subparagraph (A) except that for any units of adult average daily attendance in excess of that reported for the second principal apportionment of the 1978–79 fiscal year, the adult revenue limit shall be 1.07 multiplied by the 1978–79 fiscal year statewide average adult revenue limit.

(E) To the amount computed in subparagraph (B), (C), or (D) shall be added the adjustments, if any, made pursuant to Sections 42243.6, 42245, and 46605.

(d) In no event shall the amount computed pursuant to this section be less than the product of 1.02 times the amount computed pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979, exclusive of funds expended for the purposes of child development programs.

(e) The Superintendent of Public Instruction shall apportion to each school district in the 1979–80 fiscal year the amount determined in this section less the sum of: (1) the district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code; (2) the amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code; (3) the amount if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code; (4) prior year taxes and taxes on the unsecured roll; (5) 50 percent of the amount received pursuant to Section 41603.

SEC. 3. Section 48226 of the Education Code is repealed.

SEC. 4. Article 3.5 (commencing with Section 56050) is added to Chapter 1 of Part 30 of the Education Code, to read:

Article 3.5. Surrogate Parents

56050. (a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in the federal regulations adopted pursuant to Public Law 94-142.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

SEC. 5. Section 56101 of the Education Code is amended to read:

56101. (a) Any district, special education services region, county office, or public education agency as defined in Section 56500 may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to any such provision if such waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142, or to the compliance of a district, special education services region, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any such request when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education services region, or county office with federal mandates for a free, appropriate education for handicapped children.

SEC. 6. Section 56135 of the Education Code is amended to read:

56135. (a) The superintendent shall be responsible for assuring provision of, and supervising, education and related services to individuals with exceptional needs as specifically required pursuant to Public Law 94-142, the Education for All Handicapped Children Act of 1975.

(b) Nothing in this part shall be construed to authorize the superintendent to prescribe health care services.

SEC. 6.5. Article 5 (commencing with Section 56155) is added to Chapter 2 of Part 30 of the Education Code, to read:

Article 5. Licensed Children's Institutions and Foster Family Homes

56155. The provisions of this article shall only apply to individuals with exceptional needs placed in a licensed children's institution or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency.

56155.5. (a) As used in this article, "licensed children's institution" means a residential facility which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. "Licensed children's institution" in addition, includes a large family home and a group home as defined by subdivision (a) of Section 80006 of Title 22 of the California Administrative Code.

(b) As used in this article, "foster family home" means a family residence which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, individuals with exceptional needs. "Foster family home," in addition, includes a small family home as defined by subdivision (a) of Section 80006 of Title 22 of the California Administrative Code.

56156. (a) Each court, regional center for the developmentally disabled, or public agency which engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the district, special education services region, or county office in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a licensed children's institution or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify the individual responsible for representing the interests of the child for educational and related services.

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special education administrator of the district, special education services region, or county office in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The county office shall maintain a current list of licensed children's institutions located within the county and shall notify each district, special education services region, or county office within the county of the names of licensed children's institutions located in the geographical area covered by each local plan. The county office shall notify the director of each licensed children's institution of the appropriate person to contact regarding individuals with exceptional

needs.

56156.5. (a) Each district, special education services region, or county office shall be responsible for providing appropriate education to individuals with exceptional needs residing in licensed children's institutions and foster family homes located in the geographical area covered by the local plan.

(b) Local written agreements shall be developed, pursuant to subdivision (f) of Section 56220, to identify the public education entities that will provide the special education services.

(c) If there is no local agreement, special education services for individuals with exceptional needs residing in licensed children's institutions shall be the responsibility of the county office in the county in which the institution is located, and special education services for individuals with exceptional needs residing in foster family homes shall be the responsibility of the district in which the foster family home is located. This program responsibility shall continue until the time local written agreements are developed pursuant to subdivision (f) of Section 56220.

56156.6. If the district in which the licensed children's institution or foster family home is located is also the district of residence of the parent of the individual with exceptional needs, and if the parent retains legal responsibility for the child's education, Section 56775 shall not apply

56157. (a) In providing appropriate programs to individuals with exceptional needs residing in licensed children's or foster family homes, the district, special education services region, or county office shall first consider services in programs operated by public education agencies for individuals with exceptional needs. If such programs are not appropriate, special education and related services shall be provided by contract with a nonpublic, nonsectarian school.

(b) If special education and related services are provided by contract with a nonpublic, nonsectarian school, or with a licensed children's institution under this article, the terms of such contract shall be developed in accordance with the provisions of Section 56366.

56159. If a district, special education services region, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

56160. (a) The superintendent shall apportion, pursuant to Chapter 7 (commencing with Section 56700), funds directly to each district or county office operating programs under this article.

(b) Reimbursements for nonpublic, nonsectarian school placements shall be made pursuant to Section 56775 to each district or county office contracting for services under this article.

(c) For purposes of the revenue calculations required pursuant to subdivision (a) of Section 56712, the district in which the licensed children's institution or foster family home is located shall be considered the district of residence.

56161. Individuals with exceptional needs served under this article shall not be subject to the service proportions prescribed by Article 7 (commencing with Section 56760) of Chapter 7. However, those pupils and appropriate instructional personnel units required to provide educational services to those pupils, shall be included in the computations prescribed in Sections 56728.5 and 56728.6.

56162. Individuals with exceptional needs placed in a licensed children's institution or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency, prior to the effective date of this article, shall be considered residents of the geographical area of the local plan in which the licensed children's institution is located, for special education and related services pursuant to the provisions of this article.

56163. A licensed children's institution which provides nonsectarian educational programs for individuals with exceptional needs shall be certified by the department as prescribed by subdivision (c) of Section 56366.

56164. This article shall not apply to programs operating in state hospitals and juvenile court schools.

56165. This article shall not apply to individuals with exceptional needs placed in a licensed children's institution pursuant to Section 56365.

56166. The board shall adopt rules and regulations to implement the provisions of this article.

56166.5. This article shall become operative July 1, 1982.

SEC. 6.6. Section 56166.5 is added to the Education Code, to read:

56166.5. This article shall remain in effect only until July 1, 1982, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends that date.

SEC. 6.7. Article 5.5 (commencing with Section 56167) is added to Chapter 2 of Part 30 of the Education Code, to read:

Article 5.5. Public Hospitals, Proprietary Hospitals and Other Residential Medical Facilities

56167. Individuals with exceptional needs who are placed in a public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a medical facility for other than educational purposes are the educational responsibility of the district, special education services region, or county office in which the hospital or facility is located, as determined in local written agreements pursuant to subdivision (e) of Section 56220.

56168. If the hospital or medical facility also operates a nonpublic, nonsectarian school and the individual with exceptional needs is

served by that nonpublic school, the responsibility for assuring appropriate education of the individual shall be that of the district in which the parent resides, pursuant to Sections 56365 and 56366.

56169. (a) The superintendent shall apportion funds pursuant to Chapter 7 (commencing with Section 56700) to the district or county operating programs under this article.

(b) Except where the hospital or medical facility also operates a nonsectarian, nonpublic school, the revenue limit of the district in which the hospital or medical facility is located shall be used for computational purposes.

56169.5. (a) This article shall not apply to individuals with exceptional needs placed in a hospital or medical facility pursuant to Section 56365.

(b) This article shall not apply to programs operating in state hospitals.

SEC. 7. Section 56194 of the Education Code is amended to read:

56194. The community advisory committee shall have such authority and fulfill such responsibilities as are defined for it in the local plan. Such responsibilities shall include, but need not be limited to, all the following:

(a) Advising the policy and administrative entity of the district, special education services region, or county office, regarding the development and review of the local plan. Such entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

(f) Assisting in parent awareness of the importance of regular school attendance.

SEC. 8. Section 56194 of the Education Code is amended to read:

56194. The community advisory committee shall have such authority and fulfill such responsibilities as are defined for it in the local plan. Such responsibilities shall include, but need not be limited to, all the following:

(a) Advising the policy and administrative entity of the district, special education services region, or county office, regarding the development, amendment, and review of the local plan. Such entity shall review and consider comments from the community advisory committee.

(b) Recommending annual priorities to be addressed by the plan.

(c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

(d) Encouraging community involvement in the development

and review of the local plan.

(e) Supporting activities on behalf of individuals with exceptional needs.

(f) Assisting in parent awareness of the importance of regular school attendance.

SEC. 8.1. Section 56220 of the Education Code is amended to read:

56220. In addition to the provisions required to be included in the local plan pursuant to Section 56200, each special education services region that submits a local plan pursuant to subdivision (b) of Section 56170 and each county office that submits a local plan pursuant to subdivision (c) of Section 56170 shall develop written agreements to be entered into by entities participating in the plan. Such agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(c) Regionalized services to local programs, including, but not limited to, all the following:

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies which are funded to serve individuals with exceptional needs.

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2.

(f) This section shall remain in effect only until July 1, 1982, as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 8.2. Section 56220 is added to the Education Code, to read:

56220. In addition to the provisions required to be included in the local plan pursuant to Section 56200, each special education services region that submits a local plan pursuant to subdivision (b) of Section 56170 and each county office that submits a local plan pursuant to

subdivision (c) of Section 56170 shall develop written agreements to be entered into by entities participating in the plan. Such agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(c) Regionalized services to local programs, including, but not limited to, all the following:

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies which are funded to serve individuals with exceptional needs.

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2.

(f) A description of the process for coordinating and providing services to individuals with exceptional needs placed in licensed children's institutions and foster family homes pursuant to Article 5 (commencing with Section 56155) of Chapter 2.

(g) This section shall become operative July 1, 1982.

SEC. 8.3. Section 56222 is added to the Education Code, to read:

56222. The plan for special education shall be developed and updated cooperatively by a committee of representatives of special and regular teachers and administrators selected by the groups they represent and with input from the community advisory committee to ensure adequate and effective participation and communication.

SEC. 9. Section 56320 of the Education Code is amended to read:

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted in accordance with requirements including, but not limited to, all the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with

exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's primary language or other mode of communication, unless the assessment plan indicates reasons why such provision and administration are not clearly feasible.

(2) Have been validated for the specific purpose for which they are used.

(3) Are administered by trained personnel in conformance with the instructions provided by the producer of such tests and other assessment materials.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs.

(f) The pupil is assessed in all areas related to the suspected disability including, where appropriate, health and development, vision, hearing, motor abilities, language function, general ability, academic performance, and social and emotional status. A developmental history is obtained, when appropriate.

SEC. 10. Section 56341 of the Education Code is amended to read:

56341. (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

(b) The individualized education program team shall include, but not be limited to, all the following:

(1) A representative other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(2) The pupil's present teacher. If the pupil does not presently have a teacher, a regular classroom teacher referring the pupil, or a special education teacher qualified to teach a pupil of his or her age.

(3) One or both of the pupil's parents, a representative selected by the parent, or both, pursuant to Public Law 94-142.

(4) When appropriate, the team shall also include:

(A) The individual with exceptional needs.

(B) Other individuals, at the discretion of the parent, district, special education services region, or county office.

(c) If the team is developing, reviewing, or revising the individualized education program of an individual with exceptional needs who has been assessed for the purpose of that individualized education program, the district, special education services region, or county office, shall ensure that a person is present at the meeting who has conducted an assessment of the pupil or who is knowledgeable about the assessment procedures used to assess the pupil and is familiar with the results of the assessment. Such person shall be qualified to interpret the results if the results or recommendations, based on such assessment, are significant to the development of the pupil's individualized education program and subsequent placement.

(d) For pupils with suspected learning disabilities, at least one member of the individualized education program team, other than the pupil's regular teacher, shall be a person who has observed the pupil's educational performance in an appropriate setting. If the child is younger than four years and nine months or is not enrolled in a school, a team member shall observe the child in an environment appropriate for a child of that age.

(e) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations, and program planning.

SEC. 11. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance.

(2) The annual goals, including short-term instructional objectives.

(3) The specific special educational instruction and related services required by the pupil.

(4) The extent to which the pupil will be able to participate in regular educational programs.

(5) The projected date for initiation and the anticipated duration of such programs and services.

(6) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For secondary grade level pupils, specially designed vocational education and career development, with emphasis on vocational training and preparation for remunerative employment, additional vocational training, or additional career development

opportunities, as appropriate.

(2) For secondary grade level pupils, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, in accordance with Section 51225.

(3) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

(4) Extended school year services when needed, as determined by the individualized education program team.

(5) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday.

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education services region, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

(d) Pursuant to subdivision (d) of Section 51215, a pupil's individualized education program shall also include the determination of the individualized education program team as to whether differential proficiency standards shall be developed for the pupil. If differential proficiency standards are to be developed, the individualized education program shall include these standards.

SEC. 12. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher or who has a clincial services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission for Teacher Preparation and Licensing, and who has demonstrated the competencies for a resource specialist, as established by the Commission for Teacher Preparation and Licensing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. The average caseload for resource specialists shall be no more than 24 pupils, and no resource specialist shall have a caseload which exceeds 28 pupils.

(d) Each resource specialist shall be provided with one or more instructional aides.

(e) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(f) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

SEC. 13. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission

for Teacher Preparation and Licensing, and who has demonstrated the competencies for a resource specialist, as established by the Commission for Teacher Preparation and Licensing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. The average caseload for resource specialists shall be no more than 24 pupils, and no resource specialist shall have a caseload which exceeds 28 pupils. For purposes of this subdivision, "caseload" shall include all students for whom the resource specialist performs any of the services described in subdivision (a).

(d) Eighty percent of the resource specialists within a special education services region shall be provided with an instructional aide who is assigned to the resource specialist on a full-time basis.

(e) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(f) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

SEC. 14. Section 56363 of the Education Code is amended to read:

56363. (a) Designated instruction and services as specified in the individualized education program shall be available. Such instruction and services shall be provided by the regular class teacher, the special class teacher, or the resource specialist if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction and services. Designated instruction and services shall meet standards adopted by the board.

(b) These services may include, but are not limited to, the following:

(1) Language and speech development and remediation.

(2) Audiological services.

(3) Orientation and mobility instruction.

(4) Instruction in the home or hospital.

(5) Adapted physical education.

(6) Physical and occupational therapy.

(7) Vision services and therapy.

(8) Specialized driver training instruction.

(9) Counseling and guidance.

(10) Psychological services other than assessment and development of the individualized education program.

(11) Parent counseling and training.

(12) Health and nursing services.

(13) Social worker services.

(14) Specially designed vocational education and career development.

SEC. 15. Section 56364.5 is added to the Education Code, to read:

56364.5. The Commission for Teacher Preparation and Licensing

shall establish standards for the issuance of credentials or permits for persons employed in special centers pursuant to Section 56364.

SEC. 16. Section 56365 of the Education Code is amended to read:

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. Such services shall be provided under contract with the district, special education services region, or county office to provide the appropriate special educational facilities or services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education services region, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) The district, special education services region, or county office shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(d) Before contracting with a nonpublic, nonsectarian school outside of the the State of California, every effort shall be made by the district, special education services region, or county office to utilize public schools, or to locate an appropriate nonpublic, nonsectarian school program within the state.

SEC. 17. Section 56365 of the Education Code is amended to read:

56365. (a) Nonpublic, nonsectarian school services, including services by nonpublic, nonsectarian agencies shall be available. Such services shall be provided under contract with the district, special education services region, or county office to provide the appropriate special educational facilities or services required by the individual with exceptional needs when no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education services region, or county office shall be eligible to receive allowances under Chapter 7 (commencing with Section 56700) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) The district, special education services region, or county office shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(d) Before contracting with a nonpublic, nonsectarian school outside of the the State of California, every effort shall be made by

the district, special education services region, or county office to utilize public schools within the state and outside the state, or to locate an appropriate nonpublic, nonsectarian school program within the state.

(e) Before state funds can be used for special education placements of individuals with exceptional needs outside of the State of California, the district, special education services region, or county office shall submit documentation to the superintendent of the efforts made to locate an appropriate public school placement within the state and outside of the state. The superintendent or his or her designee shall review the educational placement decision to determine if every effort was made by the district, special education services region, or county office to utilize public schools, and determine if an attempt was made to locate an appropriate nonpublic, nonsectarian school program within the state. The superintendent shall notify the district, special education services region, or county office of his or her findings within 10 days.

(f) The superintendent shall annually review the total costs incurred by districts, special education services regions, county offices, and the state resulting from the placement of individuals with exceptional needs outside of the State of California pursuant to subdivision (d).

SEC. 18. Section 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school shall be maintained and continued as an alternative special education service available to districts, special education services regions, and county offices, and parents.

(a) The contract for nonpublic, nonsectarian school services shall be developed in accordance with the following provisions:

(1) The contract shall specify the administrative and financial agreements between the nonpublic, nonsectarian school and the district, special education services region, or county office to provide the services included in the pupil's individualized education program. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) The contract shall be negotiated for the length of time for which nonpublic, nonsectarian school services are specified in the pupil's individualized education program.

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract the parent; nonpublic, nonsectarian school; or district, special education services region, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the contract which do not alter the educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school and the

district, special education services region, or county office.

(3) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(4) The nonpublic, nonsectarian school shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school and the district, special education services region, or county office agree otherwise in the contract.

(b) (1) If the pupil is enrolled in the nonpublic, nonsectarian school with the approval of the district, special education services region, or county office prior to agreement to a contract, the district, special education services region, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the contract has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(c) No contract for special education and related services provided by nonpublic, nonsectarian schools or licensed children's institutions shall be authorized under this part unless such school or institution has been certified as meeting those standards relating to the required special education services and facilities for individuals with exceptional needs. The certification shall result in the school's or institution's receiving approval to educate pupils under this part for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the board. The school or institution shall be charged a reasonable sum for this certification. In addition to those standards adopted by the board, the school or institution shall meet all applicable standards relating to fire, health, sanitation, and building safety.

SEC. 19. Section 56366.1 is added to the Education Code, to read:

56366.1. A district, special education services region, county office, nonpublic, nonsectarian school, nonpublic, nonsectarian agency, or licensed children's institution may petition the superintendent to waive one or more of the requirements under Sections 56365 and 56366. The petition shall state the reasons for the

request, and shall include sufficient documentation to demonstrate that the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a district, special education services region, or county office with Public Law 94-142, as amended, Section 504 of Public Law 93-112, as amended, and federal regulations relating thereto.

SEC. 19.5. Section 56426 is added to the Education Code, to read:

56426. The superintendent shall develop procedures and criteria to enable a district, special education services region, or county office to contract with private nonprofit preschools or child development centers to provide special education and related services to infant and preschool age individuals with exceptional needs. The criteria shall include minimum standards which must be met by the private, nonprofit preschool or center.

SEC. 20. Section 56450 of the Education Code is amended to read:

56450. (a) To the extent that funding is available, the superintendent shall, by July 1, 1981, disseminate to districts, special education service regions, and county offices information relating to exemplary local and regional programs that deliver career and vocational education services to individuals with exceptional needs.

(b) The superintendent shall annually update and disseminate such information.

(c) Such information shall include, but not be limited to, descriptions of effective methods for coordinating career and vocational education services delivered by all the following, but not limited to, secondary schools, regional occupational centers and programs, community colleges, regional centers for the developmentally disabled, sheltered workshops, programs under the Comprehensive Employment and Training Act (P.L. 93-203), as amended, programs under the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and programs under the Vocational Education Act, (P.L. 94-482) as amended.

SEC. 21. Section 56451 of the Education Code is amended to read:

56451. The board shall, through the use of discretionary federal funds, encourage districts, special education services regions, and county offices to develop programs that coordinate career and vocational education services with other educational services for individuals with exceptional needs. Coordination includes, but is not limited to coordination among any of the entities and programs enumerated in subdivision (c) of Section 56450.

SEC. 22. Section 56475 of the Education Code is amended to read:

56475. (a) The superintendent and the directors of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Department of the Youth Authority, and the Employment

Development Department shall develop written interagency agreements which include fiscal responsibilities for the provision of special education and related services to individuals with exceptional needs in the State of California.

(b) The superintendent shall develop interagency agreements with other state and local public agencies, as deemed necessary by the superintendent, to carry out the provisions of state and federal law.

(c) (1) Each interagency agreement shall be submitted by the superintendent to each legislative fiscal committee, education committee, and policy committee, responsible for legislation relating to those individuals with exceptional needs that will be affected by the agreement if it is effective.

(2) An interagency agreement shall not be effective sooner than 30 days after it has been submitted to each of the legislative committees specified in paragraph (2).

SEC. 23. Section 56476 of the Education Code is amended to read:

56476. (a) If any state agency fails to provide services specified in a child's individualized education program, and such agency is required to provide such services pursuant to federal law, state law, interagency agreement, or any combination thereof, such agency and the reasons for lack of provision shall be identified jointly by the superintendent and the appropriate state agency.

(b) Within 15 calendar days of identification of such a problem, a report of such lack of provision of services shall be made to the secretary of the agency having jurisdiction over the state agency involved. If the services are not provided within 60 days, the issue shall be referred to the Director of Finance who shall, after consultation with the appropriate agency, secretary and the superintendent, take whatever action he or she deems appropriate to ensure that the services are provided. Any state agency providing educationally related services to individuals with exceptional needs, pursuant to this chapter, shall obtain prior approval from the Department of Finance before reducing or eliminating such services.

SEC. 24. Section 56505 of the Education Code, as amended by Chapter 149 of the Statutes of 1981, is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. Such hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) Such hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) Such hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree

otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. Such continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction. Any appeal to court by a public education agency or parent shall not operate as an automatic stay of enforcement of the final administrative determination. However, nothing in this section shall be construed to preclude either party to the hearing from seeking a stay of enforcement from any court of competent jurisdiction, and nothing in this section shall be construed to remove the requirement for parental consent for placement pursuant to subdivision (f) of Section 56506.

SEC. 24.5. Section 56505 of the Education Code, as amended by Chapter 149 of the Statutes of 1981, is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. Such hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) The hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. The continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction. Any appeal to court by a public education agency or parent shall not operate as an automatic stay of enforcement of the final administrative determination. However, nothing in this section shall be construed to preclude either party to the hearing from seeking a stay of enforcement from any court of competent jurisdiction, and nothing in this section shall be construed to remove the requirement for parental consent for placement pursuant to subdivision (f) of

Section 56506.

SEC. 25. Section 56775 of the Education Code is amended to read:

56775. For the 1980–81 fiscal year and for each fiscal year thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of providing special education instruction, related services, or both, to pupils in licensed children's institutions, as funded pursuant to this chapter, and (2) the state and federal income received by the district or county superintendent for providing those programs. The sum of the excess cost plus any income from the state or federal government for those purposes shall not exceed the cost of contracts with nonpublic, nonsectarian schools to provide special education and related services for those pupils, as determined by the superintendent.

SEC. 25.5. Section 56775 of the Education Code is amended to read:

56775. For the 1980–81 fiscal year and for each fiscal year thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of contracts with nonpublic, nonsectarian schools to provide special education instruction, related services, or both, to pupils in licensed children's institutions, as funded pursuant to this chapter, and (2) the state and federal income received by the district or county superintendent for providing those programs. The sum of the excess cost plus any income from the state or federal government for those purposes shall not exceed the cost of contracts with nonpublic, nonsectarian schools to provide special education and related services for those pupils, as determined by the superintendent.

SEC. 25.7. Section 56851 of the Education Code is amended to read:

56851. (a) In developing the individualized educational program for an individual residing in a state hospital who is eligible for services under Public Law 94-142, a state hospital shall include on its interdisciplinary team a representative of the district, or special education services region, or county office in which the state hospital is located, and the individual's teacher, depending on whether the state hospital is otherwise working with the district, special education services region, or county office for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a district or special education services region that is required by this section to provide a representative from the district or special education services region does not do so, the county office shall provide a representative.

(b) The state hospital shall reimburse the district, special education services region, or the county office, as the case may be,

for the costs, including salary, of providing the representative.

SEC. 26. Section 56863 of the Education Code is amended to read:

56863. The Superintendent of Public Instruction, with the approval of the State Department of Developmental Services or the State Department of Mental Health, as appropriate, shall notify parents of pupils who reside in state hospitals and are eligible for educational services under Public Law 94-142, of the provisions of this chapter, including their right to initiate a review of pupil placement for educational services.

For the purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Public Law 94-142.

Except as otherwise provided in this section, information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

SEC. 27. Section 56875 of the Education Code is amended to read:

56875. (a) The Legislature hereby finds and declares that numerous federal and state programs make funds available for the provision of education and related services to individuals with exceptional needs. The Legislature further finds and declares that the state has not maximized the use of available federal funds for provision of such services to these children. The Legislature further recognizes the need to simplify procedures for securing all available funds for services to individuals with exceptional needs and for utilizing federal financial resources to the greatest possible extent.

(b) It is the intent of the Legislature to provide local educational agencies with maximum flexibility to secure and utilize all available state and federal funds so as to enable such agencies to meet the needs of individuals with exceptional needs more effectively and efficiently. Furthermore, it is the intent of the Legislature to provide maximum federal funding to local educational agencies for the provision of education and related services to individuals with exceptional needs.

SEC. 28. Section 56876 of the Education Code is amended to read:

56876. On or before April 1, 1981, the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities shall, in conformance with procedures established by the Office of Planning and Research, submit a plan to both the Senate Finance Committee and the Assembly Ways and Means Committee that shall include a timetable for implementation of this chapter, including, but not limited to the following:

(a) A list of provisions of state regulations and laws for which

waivers may be granted in order that local educational agencies may maximize available federal funds to provide education and related services to individuals with exceptional needs without decreasing funds available to other state and local agencies.

(b) A list of provisions of federal law, federal regulations, or both, for which it is recommended that the state seek waiver.

(c) A list of specific related services which shall be provided by the respective departments and their political subdivisions to carry out the mandate of Public Law 94-142 and its implementing regulations.

SEC. 29. Section 56877 of the Education Code is amended to read:

56877. (a) Implementation of the funding procedures established pursuant to this chapter shall commence on July 1, 1981.

(b) The State Department of Education shall, in order to implement the provisions of this chapter, do all of the following:

(1) Provide necessary technical assistance to local educational agencies.

(2) Establish procedures for such agencies to obtain available federal funds.

(3) Apply for necessary waivers of federal statutes and regulations governing federal education programs that provide education and related services to individuals with exceptional needs.

(c) The State Board of Education shall grant necessary waivers of applicable state laws and administrative regulations relating to special education programs to participating local educational agencies.

SEC. 30. Section 56878 of the Education Code is amended to read:

56878. If necessary to simplify procedures for securing all available funds for services to individuals with exceptional needs and for utilizing federal financial resources to the greatest possible extent, the Health and Welfare Agency, at the request of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, or the Employment Development Department; and the Youth and Adult Corrections Agency, at the request of the Department of the Youth Authority, may grant waivers of state laws and regulations for which they have administrative responsibility. Waivers granted pursuant to this section may be only for those laws and regulations identified in the plan submitted to the Legislature pursuant to Section 56876, and only when necessary to implement this part.

SEC. 31. Section 56879 of the Education Code is amended to read:

56879. Based upon the plan submitted pursuant to Section 56876, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the Department of the Youth Authority shall, in order to implement the provisions of this chapter, do the following:

(1) Grant necessary waivers of applicable state laws and administrative regulations under their respective jurisdictions to local educational agencies and other agencies, and issue such other administrative regulations as are necessary.

(2) Apply for necessary waivers of federal statutes and regulations governing federal programs which provide services to individuals with exceptional needs and which are under their respective jurisdictions.

SEC. 32. Section 56880 of the Education Code is amended to read:

56880. (a) The Department of Finance shall evaluate the funding procedures established pursuant to this chapter.

(b) Such evaluation shall examine the implementation, effectiveness, and financial benefits of the funding procedures and shall include, but not be limited to, an examination of all the following:

(1) The availability to individuals with exceptional needs of education and related services provided by public and private agencies.

(2) The amount of federal funds utilized to provide education and related services to individuals with exceptional needs and the increase in the proportion of federal funds utilized by participating local educational agencies to provide such services to individuals with exceptional needs.

(3) The effect of the funding procedures established pursuant to this chapter on the amount of total federal funds received by the state to provide human services.

(c) The scope, content, and methodology of the evaluation shall be submitted for review to the Joint Legislative Budget Committee.

(d) A preliminary evaluation shall be submitted to the Legislature no later than January 1, 1982; an interim evaluation no later than January 1, 1983; and a final evaluation no later than January 1, 1984.

SEC. 33. Section 56881 of the Education Code is amended to read:

56881. (a) The Office of Planning and Research shall establish procedures for development and review of state agency plans for funds available under all federal programs which may provide services to individuals with exceptional needs and which are within the jurisdictions of the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities. Results of the review shall be transmitted to the state agency preparing the plan and to the responsible cabinet level agency to make a determination if the plan shall be changed. Such planning procedures and review shall assure coordination between state agencies and shall assure that applicable plans enable local education agencies to secure maximum available federal funding, without decreasing funds available to other state and local agencies,

under each of the following federal programs:

(1) Education for All Handicapped Children as provided under P.L. 91-230, Education of the Handicapped Act, Title VI, Part B, as amended by P.L. 93-380 and by P.L. 94-142.

(2) Medical Assistance (Medicaid), as provided under the Social Security Act of 1935, Title XIX, as amended.

(3) Early and Periodic Screening, Diagnosis and Treatment as provided under P.L. 74-271, Social Security Act of 1935, Title XIX as amended, Section 1905 (a) (4) (B).

(4) Developmental Disabilities Services as provided under P.L. 91-517, the Developmental Disabilities Services and Construction Act of 1970, as amended by P.L. 94-103 and the Developmental Disabilities Assistance and Bill of Rights Act, as amended by P.L. 95-602, Amendments to the Rehabilitation Act of 1973.

(5) Social Services as provided under P.L. 74-271, Social Security Act of 1935, Title XX, as amended by P.L. 93-647, P.L. 94-401, P.L. 94-566, and P.L. 95-171.

(6) Crippled Children's Services as provided under P.L. 74-271, Social Security Act of 1935, Title V, Section 504, as amended.

(7) Vocational Training and Counseling Services as provided under P.L. 94-482, Vocational Educational Act; P.L. 93-112, as amended by P.L. 93-516, the Rehabilitation Act of 1973; and P.L. 93-203, the Comprehensive Employment and Training Act, as amended.

(8) Maternal and Child Health Services, as provided under P.L. 74-271, Social Security Act of 1935, Title V, Section 503, as amended.

(9) Supplementary Security Income, Disabled Children's Program, as provided under P.L. 74-271, Social Security Act of 1935, Title XVI, Section 1615(b) as amended by P.L. 94-566.

(b) In addition to the programs enumerated in subdivision (a), any other programs under which the following services may be provided to individuals with exceptional needs shall be subject to the review procedure specified in subdivision (a) as conducted by the Office of Planning and Research.

(1) Screening and identification.

(2) Assessment and diagnosis.

(3) Health related services, including, but not limited to, speech pathology and audiological services, physical therapy, occupational therapy, and vision services and therapy.

(4) Psychological counseling.

(5) Mental health services.

(6) Vocationally related services.

(7) Social services.

(8) Transportation services.

(9) Other services necessary to assist individuals with exceptional needs in benefiting from their education.

SEC. 34. Section 56882 of the Education Code is amended to read:

56882. On or before May 1, 1981, the State Board of Education shall, after consultation with the Office of Planning and Research and

all state agencies listed in Section 56876, issue regulations for implementation of the provisions of this chapter, to be used by local educational agencies, in implementing the provisions of this chapter. Such regulations shall identify all other administrative regulations relating to education and related services which shall be waived for local educational agencies. Such regulations shall include, but not be limited to regulations relating to application, accounting, and reporting procedures for programs which may provide education and related services for individuals with exceptional needs.

SEC. 35. Section 56883 of the Education Code is amended to read:

56883. (a) On or before July 1, 1981, the Department of Education shall, after consultation with the Office of Planning and Research and the agencies listed in Section 56876, and based upon the plan required in Section 56876, issue guidelines to local educational agencies, for implementation of the provisions of this chapter.

(b) Such guidelines shall include, but not be limited to, the following:

(1) Identification of sources of funds available under all state and federal programs which may provide education and related services to individuals with exceptional needs and for which local educational agencies and other applicable agencies are eligible.

(2) Identification of all statutes and regulations applicable to programs for individuals with exceptional needs under the jurisdictions of the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the Department of the Youth Authority, which may be waived pursuant to subdivisions (b), (c), and (d) of Section 56877.

SEC. 36. Section 56884 of the Education Code is amended to read:

56884. To assist in implementation of the provisions of this chapter, the Department of Education and state agencies listed in Section 56876 shall, by April 1, 1981, after consultation with representatives of their respective local administering agencies, negotiate and enter into interagency agreements to help promote coordination of services for individuals with exceptional needs. The interagency agreements shall include, but not be limited to, the definition of each agency's roles and responsibilities for serving individuals with exceptional needs.

SEC. 37. Section 56885 of the Education Code is amended to read:

56885. The Department of Finance shall, after consultation with appropriate state agencies ascertain the amounts of funds, if any, that should be transferred between state agencies in order to achieve the purposes of the bill and shall notify the Joint Legislative Budget Committee, the Senate Education Committee, and the Assembly Education Committee of such amounts pursuant to the Budget Act.

Any savings that may occur to any program due to maximized use

of federal funds or services to individuals with exceptional needs as provided in this article shall be utilized to defer projected increased costs to meet full mandates of Public Law 94-142.

SEC. 38. Section 4011.5 of the Welfare and Institutions Code is amended to read:

4011.5. In counties where State Department of Mental Health hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

SEC. 39. It is the intent of the Legislature, if this bill and Assemblly Bill No. 1055 are both chaptered and become effective January 1, 1982, both bills amend Section 56194 of the Education Code, and this bill is chaptered after Assembly Bill No. 1055, that the amendments to Section 56194 proposed by both bills be given effect and incorporated in Section 56194 in the form set forth in Section 8 of this act. Therefore, Section 8 of this act shall become operative only if this bill and Assembly Bill No. 1055 are both chaptered and become effective January 1, 1982, both amend Section 56194, and this bill is chaptered after Assembly Bill No. 1055, in which case Section 7 of this act shall not become operative.

SEC. 40. It is the intent of the Legislature, if this bill and Senate Bill 769 are both chaptered and become effective January 1, 1982, both bills amend Section 56362 of the Education Code, and this bill is chaptered after Senate Bill 769, that the amendments to Section 56362 proposed by both bills be given effect and incorporated in Section 56362 in the form set forth in Section 13 of this act. Therefore, Section 13 of this act shall become operative only if this bill and Senate Bill 769 are both chaptered and become effective January 1, 1982, both amend Section 56362, and this bill is chaptered after Senate Bill 769, in which case Section 12 of this act shall not become operative.

SEC. 41. It is the intent of the Legislature, if this bill and Senate Bill No. 769 are both chaptered and become effective January 1, 1982, both bills amend Section 56365 of the Education Code, and this bill is chaptered after Senate Bill No. 769, that the amendments to Section 56365 proposed by both bills be given effect and incorporated in Section 56365 in the form set forth in Section 17 of this act. Therefore, Section 17 of this act shall become operative only if this bill and Senate Bill No. 769 are both chaptered and become effective January 1, 1982, both amend Section 56365, and this bill is chaptered after Senate Bill No. 769, in which case Section 16 of this act shall not become operative.

SEC. 42. It is the intent of the Legislature, if this bill and Senate Bill 769 are both chaptered and become effective January 1, 1981, both bills amend Section 56505 of the Education Code, as amended by Chapter 149 of the Statutes of 1981, and this bill is chaptered after Senate Bill 769, that the amendments to Section 56505 proposed by

both bills be given effect and incorporated in Section 56505 in the form set forth in Section 24.5 of this act. Therefore, Section 24.5 of this act shall become operative only if this bill and Senate Bill 769 are both chaptered and become effective January 1, 1982, both amend Section 56505, and this bill is chaptered after Senate Bill 769, in which case Section 24 of this act shall not become operative.

SEC. 43. It is the intent of the Legislature, if this bill and Senate Bill 769 are both chaptered and become effective January 1, 1982, both bills amend Section 56775 of the Education Code, and this bill is chaptered after Senate Bill 769, that the amendments to Section 56775 proposed by both bills be given effect and incorporated in Section 56775 in the form set forth in Section 25.5 of this act. Therefore, Section 25.5 of this act shall become operative only if this bill and Senate Bill 769 are both chaptered and become effective Janaury 1, 1982, both amend Section 56775, and this bill is chaptered after Senate Bill 769, in which case Section 25 of this act shall not become operative.

SEC. 44. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 45. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1045

An act to amend Sections 1513.1, 3710, 3711, 4010, 4011, 4020, 4055, and 27333 of the Elections Code, to amend Section 34461 of the Government Code, and to amend Sections 21605, 21606, 21607, 21608, and 34708 of the Water Code, relating to elections.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1513.1 of the Elections Code is amended to read:

1513.1 Precinct boundary changes occurring less than 74 days before an election shall not be effective for purposes of that election. Voters residing within an area affected by a boundary change, occurring within 74 days before an election, shall vote at the ensuing

election in all respects as if no boundary change had occurred. However, any district which holds a general district election on the first Tuesday after the first Monday in November of an odd-numbered year, shall complete any boundary change not less than 120 days prior to the election, in order to comply with the provisions of Section 23526.

SEC. 2. Section 3710 of the Elections Code is amended to read:

3710. When it is legally possible to hold a special election under this article within six months prior to a regular election, the board of supervisors may submit the proposed ordinance at that regular election instead of at a special election.

In all other cases the board of supervisors shall call a special election to be held not less than 88 nor more than 103 days after the date of the presentation of the proposed ordinance to it. However, to avoid holding more than one election within any six months, the date for holding the special election may be fixed later than 103 days after the date of the presentation of the proposed ordinance to the board, but at as early a date as practicable after the expiration of the six months.

Not more than one special election may be held pursuant to this article during any period of six months.

SEC. 3. Section 3711 of the Elections Code is amended to read:

3711. If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the board of supervisors, the ordinance, without alteration, shall be submitted by the board to the voters at the next statewide election occurring not less than 88 days after the date of the order.

SEC. 4. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 88 nor more than 103 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

SEC. 5. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent

of the voters of the city according to the county clerk's official report of registration to the Secretary of State effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of said city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not less than 88 days after the order of the legislative body.

SEC. 6. Section 4020 of the Elections Code is amended to read:

4020. When a special election is to be called under this article, it shall be held not less than 88 nor more than 103 days after the date of the presentation of the proposed ordinance to the legislative body, and shall be held in accordance with the provisions of this code. To avoid holding more than one special election within any six months, the date for holding the special election may be fixed later than 103 days, but at as early a date as practicable after the expiration of six months from the last special election. When it is legally possible to hold a special election under this chapter within six months prior to a regular municipal election, the legislative body may submit the proposed ordinance at the regular election instead of at a special election.

SEC. 7. Section 4055 of the Elections Code is amended to read:

4055. If the legislative body does not entirely repeal the ordinance against which the petition is filed, the legislative body shall submit the ordinance to the voters, either at a regular municipal election occurring not less than 88 days nor more than 103 days after the order of the legislative body or at a special election called for the purpose. To avoid holding more than one special election within any six months, the date for holding the special election may be fixed later than 103 days, but at as early a date as practicable after the expiration of the six months from the last special election. When it is legally possible to hold a special election under this chapter within six months prior to a regular municipal election, the legislative body may submit the proposed ordinance at the regular election instead of at a special election. The ordinance shall not become effective until a majority of the voters voting on the ordinance vote in favor of it. If the legislative body repeals the ordinance or submits the ordinance to the voters and a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal by the legislative body or disapproval by the voters.

SEC. 8. Section 27333 of the Elections Code is amended to read:

27333. If the recall prevails and a majority of those voting on the question of filling the vacancy favor a special election for that purpose, the legislative body shall at its next regular meeting call an election to be held to fill the vacancy not less than 88 nor more than

103 days after the date of the order. If a regular municipal election is to occur not more than 118 nor less than 88 days from the date of canvassing the vote the legislative body may provide for filling the vacancy at such regular municipal election instead of at a special election. If a special election is not favored by a majority of the voters, the legislative body shall at once fill the vacancy by appointment. In either case the person elected or appointed shall hold office for the unexpired term of the former incumbent.

The recalled officer may not be a candidate to succeed himself or herself at a special election held to fill the vacancy created by his or her recall, nor may he or she be appointed by the legislative body to fill the vacancy.

SEC. 8.5. Section 34461 of the Government Code, as added by Chapter 136 of the Statutes of 1981, is amended to read:

34461. If the petition is signed by not less than 15 percent of the registered electors of the city, the legislative body shall, within 20 days after it is presented, order an election at which the proposal, without alteration, shall be submitted to a vote of the voters of the city. The election shall be held at the next regular municipal election, at which all the voters of the city are eligible to vote, occurring not less than 90 days after the order of the legislative body. Amendments proposed by the governing body and amendments proposed by petition of the voters may be submitted at the same election. The governing body of the city or city and county, shall within 15 days after issuing the order calling the election, cause the proposed charter amendments or the proposal for charter repeal, to be published once in the official newspaper of the city or city and county and in each edition thereof, during the day of publication. In case there is no official newspaper, the proposals for charter amendment or repeal shall be published in a newspaper of general circulation within the city or city and county and in all editions thereof, issued during the day of publication. If the governing body causes copies of any proposed charter amendments to be mailed to the voters, the text of the proposed charter amendments may show the difference from existing provisions of law by the use of distinguishing type styles.

SEC. 9. Section 21605 of the Water Code is amended to read:

21605. When it deems it advisable for the best interests of the district and the convenience of its voters, the board may, not less than 120 days before a general district election, change the boundaries of the divisions. The changes shall be made to keep the divisions as nearly equal in area and population as may be practicable. The changes shall be shown on the minutes of the board.

SEC. 10. Section 21606 of the Water Code is amended to read:

21606. When land is excluded from a district after its formation, if the board deems it desirable, but not less than 120 days before any election in the district, it may reestablish the boundaries of the divisions within the district.

SEC. 11. Section 21607 of the Water Code is amended to read:

21607. When land is included within a district after its formation, its board shall, not less than 120 days before any election in the district, reestablish the boundaries of the divisions within the district so as to include the included land therein and so as to make the divisions as nearly equal in size and population as may be practicable.

SEC. 12. Section 21608 of the Water Code is amended to read:

21608. When land is included within a district after its formation and less than 120 days before an election, the voters in the area included shall not be entitled to vote at the election.

SEC. 13. Section 34708 of the Water Code is amended to read:

34708. At any time after four years from the date of the formation of a district, and from time to time thereafter, but not less than 120 days before a general district election, the board may, by resolution, increase the number of directors to serve thereon to 7, 9 or 11, and may designate the first additional members to serve on said enlarged board. The board shall determine the term of office of each of the new directors so appointed, but in no event shall such term designated by the board be for more than four years. The terms of office thus created shall be determined in such a manner as to keep as nearly equal as practicable the number of directors to be elected at each subsequent general district election. Upon the expiration of such term so designated by the board said directorship shall be filled at the next general district election and general district elections held thereafter for the election of officers of the district. The term of office of each director elected at a general district election is four years or until his successor qualifies and takes office.

CHAPTER 1046

An act to amend Section 2269 of the Civil Code, relating to trusts.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 2269 of the Civil Code is amended to read:

2269. (a) Except as provided in subdivision (c), a discretionary power conferred upon a trustee is presumed not to be left to his or her arbitrary discretion, but shall be exercised reasonably.

(b) The exercise of a discretionary power is subject to review by a court of competent jurisdiction.

(c) Except as provided in subdivision (d), where a trust instrument confers absolute, sole, or uncontrolled discretion upon a trustee, the trustee shall act in accordance with fiduciary principles and shall not act in bad faith or in disregard of the purposes of the trust.

(d) Notwithstanding the trustor's use of terms such as "absolute",

"sole", or "uncontrolled", a person who is the beneficiary of the trust, either individually or as trustee or cotrustee, and who holds a power to take or distribute income or principal to or for the benefit of himself or herself pursuant to a standard shall exercise that power reasonably and in accordance with the standard. In any case in which the standard governing the exercise of the power does not clearly indicate that a broader power is intended, such a holder of the power may exercise it in his or her favor only for his or her health, education, support, or maintenance, and the exercise of the power shall be subject to review by a court of competent jurisdiction.

(e) Unless specifically so authorized, a person who holds a power to appoint or distribute income or principal to or for the benefit of others, either individually or in a fiduciary capacity, may not use the power to discharge his or her legal obligations.

SEC. 2. Section 1 of this act shall apply to any trust, after the effective date of this act, whether the trust instrument was executed before or after that date. No inference shall be drawn from the enactment of this section as to heretofore existing law.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1047

An act to amend Sections 18035.5 and 18070 of, to add Sections 18035 and 18035.1 to, and to repeal Section 18035 of, of the Health and Safety Code, relating to mobilehome escrows.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 18035 of the Health and Safety Code, as added by Section 3 of Senate Bill 1193, is repealed.

SEC. 2. Section 18035 is added to the Health and Safety Code, to read:

18035. Every new or used mobilehome dealer, upon the buyer's signing of a purchase order, conditional sales contract, security agreement or other document executed for the sale of a new or used mobilehome subject to registration under this part, and after mutual endorsement of the purchase documents and receipt of deposit required by Section 18035.1, shall establish with an escrow agent an escrow account. The dealer shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to delivery as a deposit, downpayment, or whole or partial

payment for the mobilehome or accessory thereto. Such downpayment, or whole or partial payment shall include an amount designated as a deposit, which may be less than or equal to the total amount placed in escrow, and shall be subject to the provisions of subdivision (c). The parties shall provide for escrow instructions which identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt.

(b) The funds in the escrow account shall be disbursed pursuant to the escrow instructions which shall specify one of the following:

(1) Upon the buyer receiving delivery of the mobilehome on the site and the mobilehome passing inspection pursuant to Section 18613 or after the mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the purchaser, all funds in the escrow shall be disbursed pursuant to the escrow instructions.

(2) Upon the buyer receiving delivery of an installed mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow, other than escrow fees shall be disbursed in accordance with escrow instructions.

(c) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until such time as a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer.

(d) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(e) No mobilehome dealer shall establish with an escrow agent any escrow account in an escrow company in which the mobilehome dealer has more than a 5 percent ownership interest.

(f) The escrow instructions may provide for the proration of any local property tax due or to become due on the mobilehome, and if any such tax, or the license fee imposed pursuant to Section 18078.3, or the registration fee imposed pursuant to Section 18078.1, is delinquent, the instructions may provide for the payment of such taxes or fees, or both, and any applicable penalties.

(g) No agreement shall contain any provision by which the buyer waives his rights under this section, and any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(h) If a portion of the amount in the escrow is for accessories then that portion of the amount shall not be released until the accessories are actually installed.

(i) This section creates a civil cause of action against a buyer or dealer who violates the provisions of this section, and upon prevailing, the plaintiff in such action shall be awarded actual damages plus an amount not in excess of two thousand dollars ($2,000). In addition, attorneys' fees and court costs shall also be awarded a plaintiff who prevails in such action.

SEC. 3. Section 18035.1 is added to the Health and Safety Code, to read:

18035.1. (a) As part of the documents executed for the purchase or sale of a new or used mobilehome subject to registration under this part from a dealer, the dealer and buyer shall sign a receipt for deposit which shall be retained by the dealer for not less than three years. It shall state at least the following:

(1) A statement that the buyer has received a copy of the purchase contract and receipt for deposit.

(2) A statement that all portions of the receipt for deposit have been completed.

(3) Information with respect to the sale of a mobilehome subject to registration under this part by a dealer.

(4) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the deposit may be withheld in escrow in case of a dispute between the buyer and the dealer.

(5) A statement that the amounts of the deposit and downpayment must be agreed upon by the buyer and seller and shall have been entered on the purchase documents and receipt of deposit first at the time of signing.

(6) A copy of Sections 18035 and 18035.1 of the Health and Safety Code.

(7) That any oral promises or commitments that have been made are not binding unless they appear in writing on the sales agreement or other sales document.

(8) That a warranty governed by Section 1797.3 of the Civil Code accompanies the sale of new mobilehomes which provides that the manufacturer and dealer are jointly and individually liable for substantial defects in workmanship and materials and any other relevant warranty information.

(9) The terms and duration of any other warranty, not required by law, offered by the dealer.

(10) That if the buyer has any complaints with respect to sales practices, delivery, warranty, or other matters related to the mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(b) For the sale of mobilehomes not subject to registration by the department, the dealer shall provide a statement of fact containing

the provisions specified in paragraphs (7), (8), (9), and (10) of subdivision (a), as part of the purchase documents.

SEC. 4. Section 18035.5 of the Health and Safety Code, as added by Section 3 of Senate Bill 1193, is amended to read:

18035.5. (a) Any payment made by a buyer of a mobilehome to a seller, pending execution of a conditional sale contract, shall be refunded to the buyer in the event the conditional sale contract is not executed.

(b) In the event of breach by the seller, where the buyer leaves the cash equivalent with the seller as downpayment and that cash equivalent is not returned by the seller to the buyer for any reason, the buyer may recover from the seller either the fair market value as of the date of the contract of the cash equivalent left as a downpayment or its value as stated in the contract or purchase order, whichever is greater. The recovery shall be tendered to the buyer within five business days after the breach.

SEC. 5. Section 18070 of the Health and Safety Code is amended to read:

18070. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued, as provided for by Governor's Reorganization Plan No. 1 of 1980, is not lawfully entitled thereto, or has committed any of the following acts:

(1) Filed an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any material fact in the application for such license.

(2) Made, or knowingly or negligently permitted, any illegal use of any special permits issued to or in favor of such license.

(3) Used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for title of a mobilehome, or otherwise committed a fraud in such application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed title.

(5) Knowingly purchased, sold, or otherwise acquired or disposed of a stolen mobilehome.

(6) Failed to provide and maintain a clear physical division between the type of business licensed, as provided for by Governor's Reorganization Plan No. 1 of 1980, and any other type of business conducted at the established place of business.

(7) Willfully violated any law, or any rule or regulation adopted by the commission or the department, relating to mobilehomes and mobilehome sales.

(8) Failed to comply within a reasonable time with any written order of the department.

(9) Violated any of the terms or provisions of Part 5 (commencing

with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 18020 of this code.

(10) Violated any of the rules and regulations adopted pursuant thereto under the authority of Section 18020.

(11) Submitted a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(12) Caused the state or any person to suffer any loss or damage by reason of any fraud or deceit practiced on them or fraudulent representations made to such person in the sale or purchase of a mobilehome or parts or accessories thereof.

(13) Violated any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(14) Violated any of the terms or provisions of Section 18065 relating to escrow, or Section 18035.1 relating to purchase documents and receipt of deposit, or any rule, regulation, or order issued by the department pursuant thereto.

(15) Failed to meet the terms and conditions of a compromisal settlement agreement or monetary penalty agreement effected as provided for by Governor's Reorganization Plan No. 1 of 1980.

(16) Moved a mobilehome subject to registration pursuant to this part from a mobilehome park or other site of installation to another location without having obtained from the legal owner, if the legal owner is other than the registered owner, consent for such move as prescribed in Section 18076.14.

For the purposes of this subdivision, the term "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined, respectively, in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code.

In addition, the terms "fraud" and "deceit" include, but are not limited to, the following:

(A) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(B) A promise or representation not made honestly and in good faith.

(C) An intentional failure to disclose a material fact.

(D) Any act falling within the provisions of Section 484 of the Penal Code.

(b) Any of the causes provided for by Governor's Reorganization Plan No. 1 of 1980 as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, distributor, distributor branch, or dealer applicant shall be cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided for by Governor's Reorganization Plan No. 1 of 1980, every hearing as provided for in this section shall be

pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto or has violated any of the provisions of this part or of Section 18613 or any rule, regulation, or order issued pursuant thereto.

(e) The department, after notice and hearing, may suspend or revoke the license issued to a mobilehome dealer upon determining that the person to whom the license was issued has committed any of the following acts:

(1) While acting under the authority as provided for by Governor's Reorganization Plan No. 1 of 1980, entered into an exclusive listing agreement that did not include a specified date upon which the agreement was to terminate.

(2) While acting under the authority as provided for by Governor's Reorganization Plan No. 1 of 1980, claimed or took any secret or undisclosed amount of compensation, commission, fee, or profit or fails to divulge to his principal the full amount of such compensation, commission, fee, or profit prior to, or at the time that, a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive financial arrangements agreed upon between the mobilehome dealer and any financial institution with regard to financial arrangements applicable solely to them.

(3) While acting under the authority as provided for by Governor's Reorganization Plan No. 1 of 1980, used any provisions allowing an option to purchase in an agreement authorizing or employing such mobilehome dealer to sell, buy, or exchange mobilehomes for compensation or commission except when such mobilehome dealer, prior to or coincident with the election to exercise such option to purchase, reveals in writing to the employer the full amount of a mobilehome dealer's profit and obtains the written consent of the employer approving the amount of such profit.

CHAPTER 1048

An act to add Section 50905 to the Water Code, relating to water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 50905 is added to the Water Code, to read:

50905. The Edgerly Island Reclamation District may provide for the disposal of sewage, industrial waste, or other waste and. for that purpose, may design, finance, construct, operate, and maintain sewage treatment works.

SEC. 2. The Edgerly Island Reclamation District has unique and serious problems concerning the disposal of sewage, industrial wastes, and other wastes. This special situation is not common to other reclamation districts. The Legislature therefore finds and declares that a special law is necessary with respect to the Edgerly Island Reclamation District, that the provisions of Section 1 of this act are needed to meet the special circumstances within the district, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the Edgerly Reclamation District to provide for the disposal of sewage and other waste at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1049

An act to amend Sections 26827.4 and 26830 of the Government Code, relating to courts.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 26827.4 of the Government Code is amended to read:

26827.4. The fee for filing of a subsequent paper in a proceeding under the Probate Code which requires a court hearing shall be twelve dollars ($12), except for papers for proceedings required by:

(a) Section 591.2 of the Probate Code.

(b) Accountings under Section 1120 of the Probate Code.

(c) Division 4 (commencing with Section 1400) of the Probate Code.

Objections to any papers exempt from the fee imposed by this section shall be subject to the filing fee of twelve dollars ($12). This section does not apply to petitions filed pursuant to subdivision (d)

of Section 26827.

SEC. 2. Section 26830 of the Government Code is amended to read:

26830. The fee for filing any notice of motion, or any other paper requiring a hearing subsequent to the first paper, or any notice of intention to move for a new trial of any civil action or special proceeding is twelve dollars ($12), except that there shall be no fee for filing any of the following:

(a) An amended notice of motion.

(b) An ex parte motion.

(c) A memorandum that a civil case is at issue.

(d) A demurrer to the original proceeding.

(e) A motion to strike when filed concurrently with the demurrer to the original pleading.

(f) A hearing on a petition for emancipation of a minor.

(g) Default hearings.

(h) A show-cause hearing on a petition for an injunction prohibiting harassment.

(i) A show-cause hearing on an application for an order prohibiting domestic violence.

(j) A show-cause hearing on writs of review, mandate, or prohibition.

(k) A show-cause hearing on a petition for a change of name.

(*l*) A hearing to compromise a claim of a minor, an insane or incompetent person.

(m) A stipulation by the parties for a continuance of a hearing.

(n) Order of examination of judgment debtor.

(o) Notice of motion for order determining claim of exemption.

CHAPTER 1050

An act to amend Sections 17052.8 and 23601.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 17052.8 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 40 percent of the cost (including installation charges, monthly lease payments but excluding interest

charges) incurred by the taxpayer of any energy conservation measure on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed fifteen hundred dollars ($1,500). The owner of the premises on which the energy conservation measure is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measure was installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the energy conservation measure is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost (including installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the energy conservation measure.

(4) If an energy conservation measure serves two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the energy conservation system by the number of dwelling units served by the energy conservation measure, and applying the formula described in paragraph (2) to the per dwelling cost.

In the case of taxpayers who qualify for a refund provided for under this subdivision, whose credits exceed their tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Section 17061 and 1855.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this

section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed.

(5) Taxpayers who partially own and partially lease an energy conservation measure from a utility or other lessor shall receive a tax credit equal to 40 percent of the purchased portion of the energy conservation measure (including installation charges, but excluding interest charges) and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the energy conservation tax credit allowance terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500). In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the energy conservation measure (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the energy conservation measure. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(6) The basis amount of any energy conservation measure eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such energy conservation measure.

(7) The credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance provided by a utility or a public entity (other than interest charges).

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which an energy conservation measure is installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part. The tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(e) In the case where the credit allowed under this section

exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for a conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18555.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association

which is a duly recorded holder of legal title.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences and individual units of a condominium, cooperative, mobilehome, or apartment.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exterior to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulating all accessible insulated transverse heating and cooling system ducts and plenums which enter or leave unheated or uncooled areas.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water, reduce heat loss and water evaporation.

(H) Such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, multiglazed windows and doors, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting;

(vi) Insulation for floors and walls.

(I) For premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heating, absorbing or heat reflective glazed windows and door materials, exterior shading devices, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling or glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting.

(vi) Insulation of floors and walls.

Energy conservation measures in the generic categories of subsections (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subsections (G), (H), and (I), shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1983, unless a later enacted statute which is chaptered before December 31, 1983, deletes or extends such date.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may, as an alternative to the credit, elect to take depreciation pursuant to Section 17208.7. Also, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or any prior taxable year as a solar energy system.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) Notwithstanding the provisions of subdivision (d), a credit

shall be allowed for energy conservation measures specified in subsection (h) (6) (G).

SEC. 2. Section 17052.8 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended and renumbered to read:

17052.4. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the energy conservation measures are installed may claim the credit in the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures.

(4) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the

cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

In the case of a taxpayer who qualifies for a refund provided for under this subdivision, whose credits exceed tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17053.5, 17061, and 18551.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures, but does

not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as

defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18555.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential

Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights,

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of

dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J), shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1983.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(8) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was

installed or for any prior taxable year.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (6) of subdivision (h).

SEC. 3. Section 23601.5 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended to read:

23601.5. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 40 percent of the cost (including installation charges and monthly payments but excluding interest charges) incurred by the taxpayer of any energy conservation measures on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500). The owner of the premises on which the energy conservation measure is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the energy conservation tax credit for any or all measures installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the measure is installed may claim the credit, provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measure was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for an energy conservation measure, the original purchaser of the new home on which the measure is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home. A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation measure installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost (including installation charges but excluding interest charges), exceeds six thousand dollars ($6,000), the amount of the credit allowed by this

section shall be 25 percent of the cost of the energy conservation measure.

(4) If an energy conservation measure serves two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the energy conservation measure by the number of dwelling units served by the measure, and applying the formula described in paragraph (2) to the per dwelling cost.

(5) Taxpayers who partially own and partially lease an energy conservation measure from a utility or other lessor shall receive a tax credit equal to 40 percent of the purchased portion of the measure (including installation charges, but excluding interest charges); and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the energy conservation tax credit allowance terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the energy conservation measure (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the utility in acquiring the energy conservation measure. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(6) The basis amount of any energy conservation measure eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such energy conservation measure.

(7) The credit provided in this section shall be reduced by the amount of any nonreimbursable financial assistance provided by a utility or a public entity (other than interest charges).

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement.

The tax credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit; until such credit is used.

The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for a conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises or a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences and individual units of a condominium, cooperative, mobilehome, or apartment.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in the building exterior to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulating all accessible uninsulated transverse heating and cooling system ducts and plenums which enter or leave unheated or uncooled areas.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water, reduce heat loss and water evaporation.

(H) Such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, multiglazed windows and doors, ventilation cooling, exterior shading devices, or movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting;

(vi) Insulation for floors and walls.

(I) For premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heating, absorbing or heat reflective glazed windows and door materials, exterior shading devices, or movable insulation such as shutters or thermal drapes, which

substantially reduce the energy needed for space heating and cooling or glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of natural gas or electricity through interruption, storage and load limiting.

(vi) Insulation of floors and walls.

Energy conservation measures in the generic categories of subsections (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subsections (G), (H), and (I), shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1983, unless a later enacted statute which is chaptered before December 31, 1983, deletes or extends such date.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. Also, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or any prior taxable year as a solar energy system.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) Notwithstanding the provisions of subdivision (b), a credit shall be allowed for energy conservation measures specified in subsection (f) (5) (G).

SEC. 4. Section 23601.5 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended to read.

23601.5. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as

defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit, provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measures were installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit in the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the year in which the energy conservation measures were installed, may in any subsequent year claim energy conservation measures installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measure.

(4) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease

payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law.

The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public

(e) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled

air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings before there is an operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural

light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J), shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1983.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the

governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the income year in which the energy conservation measure was installed or any prior income year.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (5) of subdivision (f).

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 784 are both chaptered and become effective on or before January 1, 1982, both bills amend Sections 17052.8 and 23601.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 784, that Sections 17052.8 and 23601.5 of the Revenue and Taxation Code, as amended by Sections 1 and 3 of Assembly Bill 784, be further amended on the effective date of this act in the form set forth in Sections 2 and 4 of this act to incorporate the changes in Sections 1 and 3 proposed by this bill. Therefore, if this bill and Assembly Bill 784 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 784 is chaptered before this bill and amends Sections 17052.8 and 23601.5, Sections 2 and 4 of this act shall become operative on the effective date of this act and Sections 1 and 3 of this act shall not become operative.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1051

An act to amend Section 12001 of, and to add Section 12031.1 to, the Penal Code, relating to weapons

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 12001 of the Penal Code is amended to read:

12001. (a) "Pistol," "revolver," and "firearm capable of being concealed upon the person" as used in this chapter shall apply to and include any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 12 inches in length. "Pistol," "revolver," and "firearm capable of being concealed upon the person" as used in Sections 12021, 12072, and 12073 include the frame or receiver of any such weapon.

(b) For the purpose of Sections 12025 and 12031 the term "firearm" shall also include any rocket, rocket propelled projectile launcher or similar device containing any explosive or incendiary material whether or not such device is designed for emergency or distress signaling purposes.

SEC. 2. Section 12031.1 is added to the Penal Code, to read·

12031.1. Nothing in Section 12031 shall prevent any person from storing aboard any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile launcher, or similar device designed primarily for emergency or distress signaling purposes, or from possessing such a device while in a permitted hunting area or traveling to or from such area and carrying a valid California permit or license to hunt.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1052

An act to amend Section 18126 of the Government Code, and to amend Section 4652 of, and to add Section 4650.5 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 18126 of the Government Code is amended to read:

18126. (a) If an illness or injury causes temporary disability, the employee shall be placed on industrial disability leave on the fourth

calendar day after the injured employee leaves work as a result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he leaves work or is hospitalized as a result of the injury.

(b) Notwithstanding subdivision (a), in the case of state civil service employees, employees of the Regents of the University of California, and employees of the Board of Trustees of the California State University and Colleges, the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

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

SEC. 2. Section 4650.5 is added to the Labor Code, to read:

4650.5. Notwithstanding Section 4650, in the case of state civil service employees, employees of the Regents of the University of California, and employees of the Board of Trustees of the California State University and Colleges, the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

SEC. 3. Section 4652 of the Labor Code is amended to read:

4652. No disability payment is recoverable for the disability suffered during the first three days after the employee leaves work as a result of the injury, except as otherwise provided in Sections 4650 and 4650.5.

CHAPTER 1053

An act to amend Sections 2104 and 2107 of, and to repeal Section 30313 of, the Streets and Highways Code, and to repeal Sections 1 and 2 of Chapter 1845 of the Statutes of 1955, relating to transportation.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 2104 of the Streets and Highways Code, as proposed to be amended by Section 17 of Senate Bill No. 215 of the 1981–82 Regular Session of the Legislature, is further amended to read:

2104. A sum equal to the net revenue derived from 1.625 cents ($0.01625) per gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and five hundred thousand dollars ($500,000) annually, and an additional forty-one million dollars ($41,000,000) during the 1982–83 fiscal year, shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or two million dollars ($2,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last Friday of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last Friday of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by forty-two dollars ($42); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

(g) This section shall become operative on July 1, 1982, only if the motor vehicle fuel license tax is to be imposed pursuant to subdivision (b) of Section 7351 of the Revenue and Taxation Code and, in that case, shall remain in effect only until July 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends that date.

SEC. 2. Section 2104 of the Streets and Highways Code, as proposed to be added by Section 18 of Senate Bill No. 215 of the

1981–82 Regular Session of the Legislature, is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents ($0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and 1.80 cents ($0.018) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of that division), shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or three million dollars ($3,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last Friday of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last Friday of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars ($60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d)

(g) This section shall become operative on July 1, 1983, only if the motor vehicle fuel license tax is imposed pursuant to subdivision (b) of Section 7351 of the Revenue and Taxation Code.

SEC. 3. Section 2107 of the Streets and Highways Code, as proposed to be amended by Section 20 of Senate Bill No. 215 of the 1981–82 Regular Session of the Legislature, is further amended to read:

2107. A sum equal to 72.5 percent of one cent ($0.00725) per

gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code) shall be apportioned monthly, and an additional fifty-nine million dollars ($59,000,000) shall be apportioned during the 1982–83 fiscal year, to the cities and cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

From that sum, the Controller shall allocate annually to each city which has filed a report containing the information prescribed by subdivision (c) of Section 2152, and which had expenditures in excess of five thousand dollars ($5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars ($5,000) during that fiscal year.

The balance of that sum from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

For the purpose of this section, the population in each city is that determined by the last preceding federal census or a subsequent census validated by the Population Research Unit of the Department of Finance. In the case of a city incorporated subsequent to the last census, or in the case of inhabited unincorporated territory being annexed to a city subsequent to the last census, the Controller shall ascertain the population of the city, or of the annexed territory, by multiplying the number of registered electors therein by three or, at the election of the city, the population of annexed territory may be ascertained pursuant to Section 2107.2. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last census, the Controller shall ascertain the population of the annexed territory, by the use of any federal decennial or special census or an estimate pursuant to Section 2107.2 by which the population of the annexed territory was counted, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three, two years after the completion of annexation proceedings or at such earlier time as the legislative body may request.

This section shall become operative on July 1, 1982, only if the motor vehicle fuel license tax is to be imposed pursuant to subdivision (b) of Section 7351 of the Revenue and Taxation Code and, in that case, shall remain in effect only until July 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends that date.

SEC. 4. Section 2107 of the Streets and Highways Code, as proposed to be added by Section 21 of Senate Bill No. 215 of the 1981–82 Regular Session of the Legislature, is amended to read:

2107. A sum equal to the net revenues derived from a per gallon tax of 1.315 cents ($0.01315) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the

Revenue and Taxation Code), and 2.59 cents ($0.0259) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of that division), shall be apportioned monthly to the cities and cities and counties of this state from the Highway Users Tax Account in the Transportation Tax Fund as provided in this section.

From that sum, the Controller shall allocate annually to each city which has filed a report containing the information prescribed by subdivision (c) of Section 2152, and which had expenditures in excess of five thousand dollars ($5,000) during the preceding fiscal year for snow removal, an amount equal to one-half of the amount of its expenditures for snow removal in excess of five thousand dollars ($5,000) during that fiscal year.

The balance of that sum from the Highway Users Tax Account shall be allocated to each city, including city and county, in the proportion that the total population of the city bears to the total population of all the cities in this state.

For the purpose of this section, the population in each city is that determined by the last preceding federal census or a subsequent census validated by the Population Research Unit of the Department of Finance. In the case of a city incorporated subsequent to the last census, or in the case of inhabited unincorporated territory being annexed to a city subsequent to the last census, the Controller shall ascertain the population of the city, or of the annexed territory, by multiplying the number of registered electors therein by three or, at the election of the city, the population of annexed territory may be ascertained pursuant to Section 2107.2. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last census, the Controller shall ascertain the population of the annexed territory, by the use of any federal decennial or special census or an estimate pursuant to Section 2107.2 by which the population of the annexed territory was counted, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three, two years after the completion of annexation proceedings or at such earlier time as the legislative body may request.

This section shall become operative on July 1, 1983, only if the motor vehicle fuel license tax is imposed pursuant to subdivision (b) of Section 7351 of the Revenue and Taxation Code.

SEC. 5. Section 30313 of the Streets and Highways Code is repealed.

SEC. 6. Section 1 of Chapter 1845 of the Statutes of 1955 is repealed.

SEC. 7 Section 2 of Chapter 1845 of the Statutes of 1955 is repealed.

SEC. 8. Notwithstanding Item 389.5 of Chapter 2 of the Statutes of 1966 of the Second Extraordinary Session (Budget Act of 1966), no repayment to the Revenue Fund of the San Francisco-Oakland Bay Bridge is required from the revenue bonds of any toll bridge or from any other source for money expended from the fund pursuant to

Item 389.5.

SEC. 9. There is hereby transferred from the State Highway Account in the State Transportation Fund to the unappropriated surplus of the General Fund an amount sufficient to reimburse the General Fund for all money expended pursuant to the appropriation made by Section 2 of Chapter 1845 of the Statutes of 1955.

SEC. 10. Sections 1 to 4, inclusive, of this act shall become operative only if Senate Bill No. 215 of the 1981–82 Regular Session of the Legislature is chaptered to amend, repeal, and add Sections 2104 and 2107 of the Streets and Highways Code, regardless of whether this act is chaptered before or after Senate Bill No. 215.

CHAPTER 1054

An act to add Sections 1026.4 1370.5, and 1370.6 to the Penal Code, and to amend Sections 6330 and 7326 of, and to repeal Section 7330 of, the Welfare and Institutions Code, relating to criminal offenders.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 1026.4 is added to the Penal Code, to read:

1026.4. (a) Every person committed to a state hospital or other public or private mental health facility pursuant to the provisions of Section 1026, who escapes from or who escapes while being conveyed to or from the state hospital or facility, is punishable by imprisonment in the county jail not to exceed one year or in a state prison not to exceed one year and one day. The term of imprisonment imposed pursuant to this section shall be served consecutively to any other sentence or commitment.

(b) The medical director or person in charge of a state hospital or other public or private mental health facility to which a person has been committed pursuant to the provisions of Section 1026 shall promptly notify the chief of police of the city in which the hospital or facility is located, or the sheriff of the county if the hospital or facility is located in an unincorporated area, of the escape of the person, and shall request the assistance of the chief of police or sheriff in apprehending the person, and shall within 48 hours of the escape of the person orally notify the court that made the commitment, the prosecutor in the case, and the Department of Justice of the escape.

SEC. 2. Section 1370.5 is added to the Penal Code, to read:

1370.5. (a) Every person committed to a state hospital or other public or private mental health facility pursuant to the provisions of Section 1370 or 1370.1, who escapes from or who escapes while being conveyed to or from a state hospital or facility, is punishable by imprisonment in the county jail not to exceed one year or in the state

prison not to exceed one year and one day. The term of imprisonment imposed pursuant to this section shall be served consecutively to any other sentence or commitment.

(b) The medical director or person in charge of a state hospital or other public or private mental health facility to which a person has been committed pursuant to the provisions of Section 1370 or 1370.1 shall promptly notify the chief of police of the city in which the hospital or facility is located, or the sheriff of the county if the hospital or facility is located in an unincorporated area, of the escape of the person, and shall request the assistance of the chief of police or sheriff in apprehending the person, and shall within 48 hours of the escape of the person orally notify the court that made the commitment, the prosecutor in the case, and the Department of Justice of the escape.

SEC. 3. Section 6330 of the Welfare and Institutions Code is amended to read:

6330. (a) Every person committed to a state hospital or other public or private mental health facility as a mentally disordered sex offender, who escapes from or who escapes while being conveyed to or from such state hospital or other public or private mental health facility, is punishable by imprisonment in the state prison; or in the county jail not to exceed one year. The term imposed pursuant to this section shall be served consecutively to any other sentence or commitment.

(b) The medical director or person in charge of a state hospital or other public or private mental health facility to which a person has been committed as a mentally disordered sex offender shall promptly notify the chief of police of the city in which the hospital or facility is located, or the sheriff of the county if the hospital or facility is located in an unincorporated area, of the escape of the person, and shall request the assistance of the chief of police or sheriff in apprehending the person, and shall, within 48 hours of the escape of the person, orally notify the court that made the commitment, the prosecutor in the case, and the Department of Justice of the escape.

SEC. 4. Section 4536 is added to the Penal Code, to read:

4536. (a) Every person committed to a state hospital or other public or private mental health facility as a mentally disordered sex offender, who escapes from or who escapes while being conveyed to or from such state hospital or other public or private mental health facility, is punishable by imprisonment in the state prison or in the county jail not to exceed one year. The term imposed pursuant to this section shall be served consecutively to any other sentence or commitment.

(b) The medical director or person in charge of a state hospital or other public or private mental health facility to which a person has been committed as a mentally disordered sex offender shall promptly notify the chief of police of the city in which the hospital or facility is located, or the sheriff of the county if the hospital or facility is located in an unincorporated area, of the escape of the person, and shall request the assistance of the chief of police or sheriff

in apprehending the person, and shall, within 48 hours of the escape of the person, orally notify the court that made the commitment, the prosecutor in the case, and the Department of Justice of the escape.

SEC. 5. Section 7326 of the Welfare and Institutions Code is amended to read:

7326. Any person who willfully assists any judicially committed or remanded patient of a state hospital or other public or private mental health facility to escape, to attempt to escape therefrom, or to resist being returned from a leave of absence shall be punished by imprisonment in the state prison, a fine of not more than five thousand dollars ($5,000), or both such imprisonment and fine; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine.

SEC. 6. Section 7330 of the Welfare and Institutions Code is repealed.

SEC. 7. The provisions of Section 3 of this act shall not be effective if any bill that repeals Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of the Welfare and Institutions Code is passed by the Legislature and signed into law on or before January 1, 1982. The provisions of Section 4 of this act shall only become operative if a bill that repeals Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of the Welfare and Institutions Code is passed by the Legislature and signed into law on or before January 1, 1982.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1055

An act to amend Sections 99220, 99231, 99232, 99233.5, 99233.7, 99234, 99267, 99268.8, and 99279.5 of, to amend, repeal, and add Section 99405 of, and to add Sections 99261.5 and 99269 to, the Public Utilities Code, to add Section 1463.19 to the Penal Code, and to amend Section 21113 of, and to add Section 21655.7 to, the Vehicle Code, relating to transportation.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 99220 of the Public Utilities Code is amended to read:

99220. The Legislature finds and declares as follows:

(a) Public transportation is an essential component of the balanced transportation system which must be maintained and developed so as to permit the efficient and orderly movement of people and goods in the urban areas of the state. Because public transportation systems provide an essential public service, it is desirable that such systems be designed and operated in such a manner as to encourage maximum utilization of the efficiencies of the service for the benefit of the total transportation system of the state and all the people of the state, including the elderly, the handicapped, the youth, and the citizens of limited means of the ability to freely utilize the systems.

(b) The fostering, continuance, and development of public transportation systems are a matter of state concern. Excessive reliance on the private automobile for transportation has caused air pollution and traffic congestion in California's urban areas, and such pollution and congestion are not confined to single incorporated areas but affect entire regions. Furthermore, public transportation systems which are not designed so as to be usable by handicapped persons foster increased welfare costs and the waste of human resources. Thus, the Legislature has elected to deal with the multiple problems caused by lack of adequate public transportation on a regional basis through the counties, with coordination of the programs being the responsibility of the state pursuant to contract with county governments.

(c) While providing county assistance to a particular transportation system may not be of primary interest and benefit to each and every taxpayer in a county, providing an integrated and coordinated system to meet the public transportation needs of an entire county will benefit the county as a whole. It is the purpose of this chapter to provide for such systems in those counties where they are needed.

(d) The local transportation funds authorized by Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code are made possible by the imposition of the state's sales and use taxes on motor vehicle fuel, which allows for a reduction in state taxes without a corresponding loss in revenue. By authorizing counties to increase their sales and use taxes, an additional source of revenue has been made available for public transportation within such counties. Applicants for a disbursement from a local transportation fund shall only be eligible for an allocation from the fund of the county in which such transportation is provided.

SEC. 2. Section 99231 of the Public Utilities Code is amended to read:

99231. All operators and city or county governments with

responsibility for providing municipal services to a given area collectively may file claims for only such moneys as represents that area's apportionment.

The term "apportionment" has reference to that proportion of the total annual revenue anticipated to be received in the fund that the population of the area bears to the total population of the county.

The term "area" means:

(a) With reference to a transit district, the entire area stated in its enabling legislation or franchise, excluding cities therein which have retained the right to join the district at a later time.

(b) With reference to a transit development board, the entire area stated in its enabling legislation, including the municipalities therein which operated bus systems prior to the creation of the board and subsequently conveyed such systems to the board.

(c) With reference to a county government, the unincorporated area of the county.

(d) With reference to a city government, the corporate area of the city.

(e) With reference to the City and County of San Francisco and the Counties of Alameda and Contra Costa, the unincorporated area thereof (and with reference to a city in those counties, the corporate area of the city) which is outside the area of the Alameda-Contra Costa Transit District and which is not receiving adequate local public transportation services, as determined by the Metropolitan Transportation Commission pursuant to subdivision (b) of Section 99207.

(f) Where a transit district, a transit development board, or a county or city, provides public transportation services beyond its boundaries, its area, for purposes of this section, shall also include:

(1) All of that area within one-half mile of any route which extends beyond its boundaries.

(2) All of the corporate area of a city to which it provides such services pursuant to contract or prior express authority of the secretary.

The transportation planning agency may rely, in its determination of populations, on estimates which are used by the State Controller for distributing money to cities under Section 2107 of the Streets and Highways Code and to counties under Section 11005 of the Revenue and Taxation Code, and may contract with the Department of Finance or other appropriate state agency for an annual determination of such population estimates as may be necessary.

(g) With reference to the County of Riverside, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities and the County of Riverside. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1981, as determined by the Riverside County Transportation Commission.

SEC. 3. Section 99232 of the Public Utilities Code is amended to read:

99232. For counties with a population of 500,000 or more, as determined by the 1970 federal decennial census, but excluding counties with more than 4,500 miles of maintained county roads as of 1970, the amount representing the apportionments of the areas of all operators shall be available solely for claims for Section 99234 purposes and for Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) purposes, and any of those moneys not allocated in any year shall be available for those claims in subsequent years.

SEC. 4. Section 99233.5 of the Public Utilities Code is amended to read:

99233.5. (a) One percent of the remaining money in the fund for the areas under the jurisdiction of the transit development boards created pursuant to Division 11 (commencing with Section 120000) and Division 11.5 (commencing with Section 125000) shall be allocated for transportation planning pursuant to Sections 120300 and 125301 to the council of governments that is the transportation planning agency for those areas.

(b) (1) Up to 10 percent of the remaining money for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated to the transit development board to carry out its administrative and planning powers, duties, and functions and its construction and acquisition programs.

(2) Thereafter, the remaining money for allocation in that area shall be allocated by the transportation planning agency to claimants as directed by the transit development board.

(c) An agency, board, or commission shall receive the same percent of funds for the 1978–79 and 1979–80 fiscal years under Section 99233.2 and this section that it received under Section 99233.2 and this section in the 1977–78 fiscal year.

SEC. 4.5. Section 99233.7 of the Public Utilities Code is amended to read:

99233.7. Up to 5 percent of the remaining money in the fund shall be made available to cities, counties, and operators for claims filed pursuant to Article 4.5 (commencing with Section 99275) in those areas where claims may not be filed for those purposes specified in Article 8 (commencing with Section 99400), and may be made available to consolidated transportation service agencies, unless the transportation planning agency, or a county transportation commission created pursuant to Division 12 (commencing with Section 130000), having jurisdiction finds, after considering the claims pursuant to subdivision (c) of Section 99275.5, that such allocations of money could be used to better advantage for the purposes stated in Article 4 (commencing with Section 99260) in the development of a balanced transportation system.

The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionment to a city or county for purposes of Sections 99233 8 and 99233.9.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 5. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles shall be filed in the same manner as are claims filed for the purposes of subdivision (a) of Section 99400.

(b) The money shall be allocated for the construction of those facilities pursuant to a priority list of such facilities prepared by the transportation planning agency for the area within its jurisdiction.

(c) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(d) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited to, new bikeways serving major transportation corridors, secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.

(e) The transportation planning agency shall review its allocations made pursuant to Section 99233.3 within 30 days after receiving a request for a review from any city or county in the area within the jurisdiction of the transportation planning agency.

SEC. 5.5. Section 99234 of the Public Utilities Code is amended to read:

99234. (a) Claims for facilities provided for the exclusive use of pedestrians and bicycles shall be filed in the same manner as are claims filed for the purposes of subdivision (a) of Section 99400.

(b) The money shall be allocated for the construction, including related engineering expenses, of those facilities pursuant to a priority list of those facilities prepared by the transportation planning agency for the area within its jurisdiction.

(c) The money may be allocated without respect to Section 99231 and shall not be included in determining the apportionments to a city or county for purposes of Sections 99233.7 to 99233.9, inclusive.

(d) Facilities provided for the use of bicycles may include projects that serve the needs of commuting bicyclists, including, but not limited to, new bikeways serving major transportation corridors, secure bicycle parking at employment centers, park and ride lots, and transit terminals where other funds are unavailable.

(e) The transportation planning agency shall review its allocations made pursuant to Section 99233.3 within 30 days after receiving a request for a review from any city or county in the area within the jurisdiction of the transportation planning agency.

SEC. 6. Section 99261.5 is added to the Public Utilities Code, to read:

99261.5. The San Diego Metropolitan Transit Development Board shall adopt rules and regulations for its area of jurisdiction.

The transportation planning agency may include in its rules and

regulations any rule and regulation of the transit development board.

SEC. 7. Section 99267 of the Public Utilities Code is amended to read:

99267. (a) At least 15 percent of funds received under this article shall be used by an operator for capital expenditures.

(b) Such capital expenditures shall consist of acquisition of land and other real property, current acquisition or replacement of transportation vehicles or conveyances (including those usable by handicapped persons), the vehicle cost portion of a vehicle lease, and acquisition, construction, enlargement, or repair of property and facilities incidental to or necessary or convenient in connection with the foregoing, depreciation, and payment of principal and interest on its bonded indebtedness, equipment trust certificates, or other indebtedness, including any amounts in the accomplishment of a defeasance under any outstanding revenue bond indenture.

(c) The requirement specified in subdivision (a) shall not apply (1) to an operator in each fiscal year that it receives financial assistance from local sources, exclusive of fares, in an amount equal to or greater than the amount it would have been required to expend pursuant to subdivision (a) or (2) to money allocated to a transit district for a claim filed pursuant to Section 99260.5.

SEC. 8. Section 99269 is added to the Public Utilities Code, to read:

99269. (a) Notwithstanding any other provision of this article, all operators providing service within the area under the jurisdiction of the San Diego Metropolitan Transit Development Board and filing claims pursuant to Section 99260 shall be considered a single operator. In order for all those operators to be eligible for funds under this article, an areawide ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, shall be determined on the basis of the total operating cost and total fare revenues of all the operators, which ratio shall not be less than the areawide ratio for the 1978–79 fiscal year.

(b) In calculating the areawide ratio for the 1978–79 fiscal year, only the fare revenues and the operating costs of those operators that are in compliance with Section 99268, 99268.1, 99268.2, or 99268.3, whichever section was applicable to the operator during the 1978–79 fiscal year, are to be used.

(c) During the period of the first two years of operation, a new operator subject to this section shall claim each year no more than 75 percent of its total operating cost for that year.

SEC. 9. Section 99268.8 of the Public Utilities Code is amended to read:

99268.8. Section 99268.3, 99268.4, 99268.5, or 99268.9, as the case may be, and Section 99268.1 shall not apply to an extension of public transportation services during its first two years of implementation. As used in this section, "extension of public transportation services" shall include additions of geographical areas or route miles, or improvements in service frequency or hours of service greater than

25 percent of the route total, or the addition of new days of service, and for transit service claimants shall also include the addition of a new type of service, such as van, taxi, or bus.

Within 90 days after the end of the first year of implementation, the operator shall submit to the transportation planning agency, the county transportation commission, or the San Diego Metropolitan Transit Development Board having jurisdiction over it a report on the extension of public transportation services, including, but not limited to, the area served, the revenues generated, and the cost to provide such services.

SEC. 9.1. Section 99279.5 of the Public Utilities Code is amended to read:

99279.5. This article shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 9.2. Section 99405 of the Public Utilities Code is amended to read:

99405. (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of such facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

(c) The 50-percent limitation shall not apply to the allocation to a city or county for services under contract pursuant to subdivision (c) of Section 99400. The city or county shall be subject to Section 99268.3, 99268.4, 99268.5, or 99268.9, as the case may be, and shall be deemed an operator for purposes of those sections.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000.

(e) The 50-percent limitation shall not apply to funds allocated under this article for local street and road purposes.

(f) This section shall remain in effect only until July 1, 1984, and as of that date is repealed, unless a later enacted statute which is chaptered on or before July 1, 1984, deletes or extends that date.

SEC. 9.4. Section 99405 is added to the Public Utilities Code, to read:

99405. (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the

50-percent limitation, may allocate up to the amount so budgeted, if the construction of such facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

(c) The 50-percent limitation shall not apply to the allocation to a city or county for services under contract pursuant to subdivision (c) of Section 99400. The city or county shall be subject to Section 99268.3, 99268.4, 99268.5, or 99268.9, as the case may be, and shall be deemed an operator for purposes of those sections.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000.

(e) This section shall become operative on July 1, 1984.

SEC. 10. Section 1463.19 is added to the Penal Code, to read:

1463.19. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred first, once a month, to the San Diego Metropolitan Transit Development Board an amount equal to 85 percent of all fines and forfeitures collected during the preceding month upon the conviction of, or upon the forfeitures of bail by, any person arrested or notified by a member of the security force of the transit development board and charged with a violation of an ordinance, rule, or regulation of the transit development board adopted pursuant to Section 120450 of the Public Utilities Code or a violation of parking or other traffic regulations adopted by the transit development board pursuant to Article 3 (commencing with Section 21100) of Chapter 1 of Division 11 of the Vehicle Code, and an amount equal to the remaining 15 percent shall be transferred into the general fund of the county.

The San Diego Metropolitan Transit Development Board and the county in which property is located which is under the possession or control of the transit development board may, by mutual agreement, adjust the percentages of fines and forfeitures to be received by the transit development board and county respectively. In the absence of an agreement, the percentages fixed by this section shall prevail.

SEC. 11. Section 21113 of the Vehicle Code is amended to read:

21113. (a) No person shall drive any vehicle or animal, nor operate any bicycle or motorized bicycle, nor ride or propel any skateboard or roller skates, nor shall any person stop, park, or leave standing any vehicle or animal, or bicycle or motorized bicycle, whether attended or unattended, upon the driveways, paths, parking facilities, or the grounds of any public school, state university, state college, unit of the state park system, county park, municipal airport, rapid transit district, transit development board, or any property under the direct control of the legislative body of a municipality, or any state, county, or hospital district institution or building, or any educational institution exempted in whole or in part from taxation, or any harbor district formed pursuant to Part 3 (commencing with Section 6000) of Division 8 of the Harbors and Navigation Code,

except with the permission of, and upon and subject to any condition or regulation which may be imposed by the legislative body of the municipality, or the governing board or officer of the public school, state university, state college, county park, municipal airport, rapid transit district, transit development board, or state, county, or hospital district institution or building, or educational institution, or harbor district, or the Director of Parks and Recreation regarding units of the state park system.

(b) Every governing board, legislative body, or officer shall erect or place appropriate signs giving notice of any special conditions or regulations that are imposed under this section and every board, legislative body, or officer shall also prepare and keep available at the principal administrative office of the board, legislative body, or officer, for examination by all interested persons, a written statement of all those special conditions and regulations adopted under this section.

(c) When any governing board, legislative body, or officer permits public traffic upon the driveways, paths, parking facilities, or grounds under their control then, except for those conditions imposed or regulations enacted by the governing board, legislative body, or officer applicable to the traffic, all the provisions of this code relating to traffic upon the highways shall be applicable to the traffic upon the driveways, paths, parking facilities, or grounds.

(d) With respect to the permitted use of vehicles or animals on property under the direct control of the legislative body of a municipality, no change in the use of vehicles or animals on such property, which had been permitted on January 1, 1976, shall be effective unless and until the legislative body, at a meeting open to the general public, determines that the use of vehicles or animals on such property should be prohibited or regulated.

SEC. 12. Section 21655.7 is added to the Vehicle Code, to read:

21655.7. A local authority, with respect to any highway under its jurisdiction, may authorize or permit a portion of the highway to be used exclusively for a public mass transit guideway.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because of all of the following:

(a) This act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

(b) The Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

(c) The only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 14. It is the intent of the Legislature, if this bill and Senate Bill 445 are both chaptered and become effective January 1, 1982, both bills amend Section 99234 of the Public Utilities Code, and this bill is chaptered after Senate Bill 445, that the amendments to Section 99234 of the Public Utilities Code proposed by both bills be given effect and incorporated in Section 99234 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Senate Bill 445 are both chaptered and become effective January 1, 1982, both amend Section 99234 of the Public Utilities Code, and this bill is chaptered after Senate Bill 445, in which case Section 5 of this act shall not become operative.

CHAPTER 1056

An act to add Section 311.3 to the Penal Code, relating to pornography.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 311.3 is added to the Penal Code, to read:

311.3. (a) A person is guilty of sexual exploitation of a child when he or she knowingly develop, duplicate, print, or exchange any film, photograph, video tape, negative, or slide in which a person under the age of 14 years engaged in an act of sexual conduct.

(b) As used in this section "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation, for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer

(6) Defecation or urination for the purpose of sexual stimulation of the viewer.

(c) Subdivision (a) shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(d) Every person who violates subdivision (a) is punishable by a fine of not more than two thousand dollars ($2,000) or by

imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. If such person has been previously convicted of a violation of subdivision (a) or any section of this chapter, he or she is punishable by imprisonment in the state prison.

(e) The provisions of this section shall not apply to an employee of a commercial film developer who is acting within the scope of his employment and in accordance with the instructions of his employer, provided that the employee has no financial interest in the commercial developer by which he is employed.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1057

An act to amend Section 19612 of, and to add and repeal Section 19549.8 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 19549.8 is added to the Business and Professions Code, to read:

19549.8. Notwithstanding Section 19414.5, the board may allocate racing weeks consisting of less than five racing days to an association conducting racing meetings pursuant to Section 19549.6 or 19549.7 if the association and the organization representing the horsemen agree to the allocation.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 2. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a harness or quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
$550,000 or less	2.5 percent of handle
$550,001 to $750,000	$13,750 plus 5.5 percent of the handle

	in excess of $550,001
$750,001 and more	$24,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of the daily exotic parimutuel handle.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19610, 19491, and 19491.5, after distribution of the applicable license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses.

(c) Every harness association which conducted its racing meeting in a single continuous period prior to January 1, 1979, or any transferee or successor or subsequent transferee or successor of the business or assets of such association, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$1,000,000 or less	1.5 percent of handle
$1,000,001 and more	$15,000 plus 10.7 percent of the handle in excess of $1,000,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of its daily conventional parimutuel handle and 3.79 percent of its daily exotic parimutuel handle.

(d) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(e) Every quarter horse association which conducted its racing meeting in the northern zone prior to January 1, 1979, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$550,000 or less	1.5 percent of handle
$550,001 to $750,000	$8,250 plus 2.75 percent of the handle in excess of $550,001
$750,001 and more	$13,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of its daily exotic parimutuel handle.

(f) Every association which conducted a quarter horse racing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts such a meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that such association's average daily handle in the 1981 year, during the period from the commencement of such meeting to December 25, and for a like period of five meetings thereafter, falls below its 1980 average daily handle during the same period, the amount of the applicable license fee as set forth in subdivision (a) shall be reduced by 2 percent.

(g) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone pursuant to subdivision (e), the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

CHAPTER 1058

An act to repeal and add Section 1242.7 of the Business and Professions Code, relating to hemodialysis technicians.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1242.7 of the Business and Professions Code is repealed.

SEC. 2. Section 1242.7 is added to the Business and Professions Code, to read:

1242.7. (a) The State Department of Health Services shall, within six months after the effective date of this section, adopt rules and regulations prescribing minimum training standards for persons employed as hemodialysis technicians.

(b) Each dialysis clinic or dialysis unit within a licensed clinic or hospital, as defined respectively in Sections 1204 and 1250 of the Health and Safety Code, or any person operating or using dialysis equipment, other than a dialysis patient, shall have available to the department for review and approval, its training program and test for hemodialysis technicians. The test shall be administered by

personnel performing the training at each dialysis clinic or dialysis unit and shall include written, oral and practical examinations designed to accurately test the proficiency of personnel in training on the type of dialyzer and equipment utilized at the dialysis clinic or dialysis unit. Those dialysis clinics or dialysis units without an approved training program and test shall not be permitted to train personnel until they submit and receive approval for a training program and test by the department. In the case of persons employed as hemodialysis technicians on the effective date of this section, the test shall be taken and passed within one year of the effective date of this section or their employment shall be terminated. Any person employed as a hemodialysis technician on the effective date of this section may perform venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient as defined by regulations of the department during that one-year period.

(c) Personnel in training shall be directly supervised by a licensed physician and surgeon or by a licensed registered nurse at all times prior to passing the test.

(d) Each dialysis unit shall make available to the department the names of individuals employed by them as dialysis technicians and evidence that those persons have completed the approved training and successfully passed the approved test. Evidence of completion of the training program and passage of the prescribed test shall include the particular type of dialyzer and equipment upon which the individual was trained and tested and shall be a part of the individual's personnel records.

(e) The department may revoke or suspend the license of any dialysis clinic or unit or any licensed clinic or hospital for any violation of any provision of this section.

(f) For the purposes of this section, "hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis. The treatment of patients includes performing venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient, as defined by regulations of the department.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1059

An act to amend Section 14490 of the Welfare and Institutions Code, and to amend Section 1 of Chapter 700 of the Statutes of 1978, relating to health pilot projects

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1 Section 14490 of the Welfare and Institutions Code is amended to read:

14490. In providing benefits under this chapter and Chapter 7 (commencing with Section 14000), the director shall aggressively seek the development of alternative forms of financing and delivering health care services. In carrying out the intent of this article, the director shall contract with institutional providers, counties, or other organizations to establish pilot programs which demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each pilot program shall be for a specified duration not to exceed four years and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

Upon a finding by the director that a pilot program contributes substantially to the availability of high quality health services and that such services are cost effective, the director shall enter into a three-year contract to renew such program.

Where the director recommends implementation of a pilot program on a permanent basis but finds that he or she is not able to implement on a permanent basis such program immediately upon conclusion of the program's term, he or she may extend the duration of the pilot program until such evaluation or permanent implementation can be accomplished. Any such extension shall be for a term not in excess of one year, but may be renewed for additional one-year terms, provided that the director has completed an evaluation to include findings that would qualify an extension.

SEC. 2. Section 1 of Chapter 700 of the Statutes of 1978, as amended by Chapter 1160 of the Statutes of 1980, is amended to read·

Section 1. Under its pilot programs, the State Director of Health Services was required to establish a pilot program to compare patient treatment profiles and prior authorization as controls of overutilization. The Legislature finds that additional time is required to complete the evaluation of that pilot program. Such established pilot program shall continue in Fresno County and such other areas as determined by the State Director of Health Services in carrying out the purpose of this section. The State Director of Health Services shall report to the Legislature on or before June 30, 1982, the results of the evaluation of this program

Providers of durable medical equipment who participate in the pilot program shall not supply durable medical equipment outside the geographic area of the program, unless the provider obtains prior authorization in the same manner as is required for nonparticipating providers located outside the geographic area of the program.

This section shall remain in effect only until June 30, 1985, and as of such date is repealed.

CHAPTER 1060

An act to add Section 1182.5 to the Labor Code, relating to wages, hours, and working conditions.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1182.5 is added to the Labor Code, to read.

1182.5. (a) The Legislature finds that the time permitted the Industrial Welfare Commission to consider daily overtime compensation petitions that are to be given priority attention by the commission pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated delays in the review and possible modification of applicable commission orders for preexisting workweek arrangements, as defined in subdivision (b). The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these unanticipated delays by the enactment of special commission review procedures that augment, and do not limit in any way, the rights and privileges of parties before the Industrial Welfare Commission under this chapter.

(b) For purposes of this section only, a "preexisting workweek arrangement" is defined as, and limited to, a workweek arrangement that existed before November 1980, and had to be modified or abandoned by an employer because the workweek arrangement did not qualify for any exemption provided by the Industrial Welfare Commission from its daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable commission order.

(c) An employer who has had in operation an established preexisting workweek arrangement may file a verified petition with the commission for review and modification of an applicable order and, upon filing this petition, shall simultaneously file a copy with the Labor Commissioner. Upon receipt of the petition by the Labor Commissioner a stay of enforcement of the applicable commission order as it would affect the workweek arrangement shall take effect. The Labor Commissioner may reject a petition that, on its face, cannot qualify as a preexisting workweek arrangement. Within three

months of commencement of the stay the Labor Commissioner shall certify the preexisting workweek arrangement to the commission if, upon examination, the Labor Commissioner finds that all of the following conditions are met by the workweek arrangement:

(1) It was established by the petitioning employer and was in operation prior to November 1980.

(2) It had to be abandoned or modified by the employer because of noncompliance with the applicable order of the commission

(3) It was established on a nondiscriminatory basis with the support of affected employees and it continues to have the support of two-thirds of the employees in the covered work group

(4) It complied with all applicable standards of the commission, other than daily overtime requirements

(5) It is found, after consultation with the Director of Industrial Relations when appropriate, not to be adverse to the health and welfare of affected employees.

In the course of examining a preexisting workweek arrangement and following certification, the Labor Commissioner shall not divert any of the resources of the Division of Labor Standards Enforcement for the purpose of investigating, prosecuting, or otherwise acting upon any alleged violations of the daily overtime provisions of an applicable commission order during any period in 1980 in which a court-issued stay of enforcement was in effect for these provisions; provided, the workweek arrangement involved was in operation during that period in good faith reliance by the employer upon the court-issued stay of enforcement and with the approval of two-thirds of the employer's affected employees.

(d) In the course of examining a petition for certification to the commission, the Labor Commissioner shall have access to all pertinent records of the petitioning employer and shall have the authority to converse with affected employees of the employer without the presence of management. Until the commission takes action on a petition, the Labor Commissioner shall retain the authority to withdraw a certification to the commission for cause.

(e) Upon receipt by the commission of the Labor Commissioner's certification of a preexisting workweek arrangement, the stay of enforcement shall continue as hereinafter provided beyond the three-month period for certification until modified or rescinded by the commission. The modification or rescission shall not be made without an appropriate hearing and findings regarding the applicable order. If the commission undertakes review of the applicable order, the stay of enforcement shall continue through the review process and until any resulting modification of the applicable order, in which case, the modified order shall become applicable to the preexisting workweek arrangement

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the

provisions of this act are severable.

CHAPTER 1061

An act to add and repeal Article 18 (commencing with Section 8400) of Chapter 2 of Part 6 of the Education Code, relating to child care and development.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Article 18 (commencing with Section 8400) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 18. Administrative Review

8400. It has come to the attention of the Legislature that:

(a) Existing law does not provide for an administrative appeal procedure to review and resolve disputes between the State Department of Education and the over 750 local contracting agencies which contract with the department to provide child care services to low-income families in California.

(b) All disputes are currently resolved in the already overburdened California courts resulting in a time-consuming and costly process for both the contract agency and the department. Extensive funds have been expended by the State Department of Education for those purposes.

(c) The presence of public and private agencies, small as well as large, in the subsidized child care delivery system provides client families with a range of desirable services, and cost-effective service mechanisms.

(d) The presence of an efficient administrative appeal procedure will ensure program stability and encourage retention in the delivery system of a range of service-providing agencies.

8401. It is the intent of the Legislature to authorize an appeal process for the resolution of disputes between the State Department of Education and local agencies which contract with the Department of Education pursuant to Section 8262 to provide child care and development services or to furnish property, facilities, personnel, supplies, equipment and administrative services.

8402. The State Department of Education shall provide an independent appeal procedure to each applicant or local contracting agency providing child care and development services pursuant to Section 8262. Prior to filing an appeal petition, the local contracting agency shall have submitted all previously required standard monthly reporting forms to the State Department of Education. The

appeal procedure shall be conducted by the Office of Administrative Hearings and shall be provided upon petition of the local contracting agency in any of the following circumstances:

(a) Termination or suspension of a local contracting agency's contract.

(b) Denial of more than 4 percent or twenty-five thousand dollars ($25,000), whichever is less, of a local contracting agency's contracted payment for services schedule.

(c) Demand for remittance of an overpayment of more than 4 percent or twenty-five thousand dollars ($25,000), whichever is less, of a local contracting agency's annual contract.

8403. All hearings shall be conducted according to the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1, of Division 3 of Title 2 of the Government Code), except as otherwise directed in this article.

8404 The Office of Administrative Hearings shall, by June 30, 1982, adopt regulations governing the hearings, which shall include all of the following:

(a) Deadlines for filing petitions, commencing hearings and rendering decisions.

(b) Notice to affected parties.

(c) The manner for maintaining appropriate provision for electronic recording and transcription, if necessary.

(d) Hearings shall be conducted at the offices of the Office of Administrative Hearings in Sacramento or Los Angeles. However, hearings in Los Angeles shall be available only to local contracting agencies with the State Department of Education whose annual contracts total less than two hundred thousand dollars ($200,000)

(e) Any other issues deemed appropriate by the Office of Administrative Hearings.

8405. The determination of the hearing examiner shall be the final administrative determination to be afforded the local contracting agency.

8406 All actions by the State Department of Education, as defined in subdivisions (a) to (c), inclusive, of Section 8402 shall be preceded by a written notice of action to the local contracting agency which shall include the following:

(a) A statement of the specific reasons for the action.

(b) A description of the local contracting agency's rights and responsibilities concerning the appeal procedure described herein.

8407. Termination of existing funding shall not occur without good cause and without notice as described in Section 8406 at least 90 days prior to termination.

8408. Actions as defined in subdivisions (a) to (c), inclusive, of Section 8402 shall remain in effect during the appeal process. However, local contracting agencies may continue to operate under the contract during an appeal of termination, unless the action is based on imminent danger to the health or welfare of children. If the local agency contract is being terminated for this reason, the reason

shall be specified by the department in its notice of termination.

8409. All contracts entered into by the State Department of Education pursuant to Section 8262 shall contain a complete description of the appeal procedures provided in this article.

8410. This article shall remain in effect only until June 30, 1985, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1985, deletes or extends that date.

SEC. 2 The State Department of Education shall report to the Legislature by July 1, 1983, on the efficiency and effectiveness of the hearing process authorized by this act in resolving claims against the department This report shall include a summary of actions taken pursuant to subdivisions (b) and (c) of Section 8402 of the Education Code which did not meet the criteria for an independent hearing.

SEC. 3. It is the intent of the Legislature that funding for the costs of implementing this act by the Department of Education and the Office of Administrative Hearings shall be provided through the regular budget process.

CHAPTER 1062

An act to amend Sections 13516, 13836, and 13837 of the Penal Code, relating to crimes

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 13516 of the Penal Code is amended to read:

13516. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of such crimes.

(b) The course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1977, include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance on or after such date at any such course which does not comply with the requirements of this subdivision.

(c) The commission shall prepare and implement a course for the training of specialists in the investigation of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases Officers assigned as investigation specialists for these crimes shall successfully complete their training within six months of the date the assignment was made.

(d) It is the intent of the Legislature in the enactment of this section to encourage the establishment of sex crime investigation

units in police agencies throughout the state, which units shall include, but not be limited to, investigating crimes involving the sexual exploitation and sexual abuse of children.

SEC. 2. Section 13836 of the Penal Code is amended to read.

13836. The Office of Criminal Justice Planning shall establish an advisory committee which shall develop a course of training for district attorneys in the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases and shall approve grants awarded pursuant to Section 13837 The courses shall include training in the unique emotional trauma experienced by victims of these crimes.

It is the intent of the Legislature in the enactment of this chapter to encourage the establishment of sex crime prosecution units, which shall include, but not be limited to, child sexual exploitation and child sexual abuse cases, in district attorneys' offices throughout the state.

SEC. 3. Section 13837 of the Penal Code is amended to read:

13837. The Office of Criminal Justice Planning shall provide grants to proposed and existing local rape, child sexual exploitation, and child sexual abuse victim counseling centers. The centers shall maintain a 24-hour telephone counseling service for sex crime victims, appropriate in-person counseling and referred service during normal business hours, and maintain other standards or services which shall be determined to be appropriate by the advisory committee established pursuant to Section 13836 as grant conditions. The advisory committee shall identify the criteria to be utilized in awarding the grants provided by this chapter before any funds are allocated.

In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources which may be used to augment any state funds appropriated for purposes of this chapter. Each center receiving funds pursuant to this chapter shall make every attempt to qualify for any available federal funding.

State funds provided to establish centers shall be utilized when possible, as determined by the advisory committee, to expand the program and shall not be expended to reduce fiscal support from other public or private sources. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the administering agency. In granting funds, the advisory committee shall give priority to centers which are operated in close proximity to medical treatment facilities.

SEC. 4. It is the intention of the Legislature that the costs incurred as a result of the enactment of the provisions of this act shall not be funded by General Fund moneys.

CHAPTER 1063

An act to amend Section 5600.2 of the Business and Professions Code, relating to architecture, and making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 5600.2 of the Business and Professions Code is amended to read:

5600.2. (a) Except as otherwise provided in this chapter, a certificate which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last preceding regular renewal date. If a certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the expiration date provided in this chapter which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

(b) Except as otherwise provided in this chapter, a registration which has expired may be renewed at any time after its expiration on filing an application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last preceding regular renewal date. If a registration is renewed more than 30 days after its expiration, the registration holder, as a condition precedent to renewal, shall also pay the delinquency fee provided by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the registration shall continue in effect through the expiration date provided in this chapter which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

A certificate which was not renewed at the time and in the manner provided under the law in effect before October 1, 1961, shall, for the purposes of this article, be considered to have expired on the date that the renewal fee became delinquent. The provisions of this article as amended by the Legislature at its 1961 Regular Session govern the renewal, and the fees payable therefor, of certificates issued before such amendments became operative, as well as certificates issued thereafter

SEC. 2. Notwithstanding the provisos applicable to Items 984-001-001 to 984-001-988, inclusive, of the Budget Act of 1981, the sum of two hundred forty-three thousand four hundred sixteen dollars ($243,416) is hereby appropriated from the California State Board of Architectural Examiners Fund to the California State Board of Architectural Examiners, in augmentation of Item 113-004-706 of the Budget Act of 1981 to meet contingencies and emergencies in carrying out the provisions of Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code for the remainder of the 1981–82 fiscal year.

CHAPTER 1064

An act to amend Sections 288 and 1203.065 of, and to add Sections 667.51 and 1203.066 to, the Penal Code, relating to sex offenders

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 288 of the Penal Code is amended to read:

288. (a) Any person who shall willfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years.

(b) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or threat of great bodily harm, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, six or eight years.

(c) In any arrest or prosecution under this section the peace officer, the district attorney, and the court shall consider the needs of the child victim and shall do whatever is necessary and constitutionally permissible to prevent psychological harm to the child victim.

SEC. 2 Section 667.51 is added to the Penal Code, to read:

667 51 (a) Any person who is found guilty of violating Section 288 shall receive a five-year enhancement for each prior conviction of an offense listed in subdivision (b) provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Section 261, 264.1, 285, 286, 288, 288a, or 289

(c) A violation of Section 288 by a person who has served two or more prior prison terms as defined in Section 667.5 for a violation of an offense listed in subdivision (b) is punishable as a felony by imprisonment in the state prison for 15 years to life. For purposes of this subdivision a conviction for a violation of an offense listed in subdivision (b) in which the person was committed to a state hospital shall be the equivalent of a sentence to state prison. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time.

SEC. 3. Section 1203 065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) of Section 261, or Section 264.1 or 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm

(b) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 220 for assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264.1, subdivision (b) of Section 288, or Section 289.

When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(c) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 3.5 Section 1203.065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for. any person convicted of violating subdivision (2) of Section 261, or Section 264.1, or Section 266h where the person engaged in prostitution is under 14 years of age or Section 266i where the other person is under 14 years of age, or Section 266j, or 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm or subdivision (c) of Section 311.4.

(b) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person convicted of a violation of Section 220 for assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264.1, subdivision (b) of Section 288, or Section 289.

When probation is granted, the court shall specify on the record

and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(c) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 4. Section 1203.066 is added to the Penal Code, to read:

1203.066. (a) Notwithstanding the provisions of Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken pursuant to Section 1385 for any of the following persons:

(1) A person convicted of violating Section 288 when the act is committed by the use of force, violence, duress, menace or threat of bodily harm.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288.

(3) A person convicted of a violation of Section 288 and who was a stranger to the child victim or made friends with the child victim for the purpose of committing an act in violation of Section 288, unless the defendant honestly and reasonably believed the victim was 14 years old or older.

(4) A person who used a weapon during the commission of a violation of Section 288.

(5) A person convicted of committing a violation of Section 288 and who has had a prior conviction of Section 261, 264.1, 267, 285, 288, or 289, of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or threat of great bodily harm, of assaulting another with intent to commit a crime specified in this paragraph in violation of Section 220, or a violation of Section 266

(6) A person convicted of kidnapping the child victim in violation of either Section 207 or 209 and who kidnapped the victim for the purpose of committing a violation of Section 288

(7) A person who is convicted of committing a violation of Section 288 on more than one victim at the same time or in the same course of conduct.

(8) A person who in violating Section 288 has substantial sexual conduct with a victim under the age of 11 years.

(9) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the victim. Position of authority includes, but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer

(b) "Substantial sexual conduct" means penetration of the vagina

or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), and (9) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the household.

(2) Imprisonment of the defendant is not in the best interest of the child.

(3) Rehabilitation of the defendant is feasible in a recognized treatment program designed to deal with child molestation, and if the defendant is to remain in the household, a program that is specifically designed to deal with molestation within the family.

(4) There is no threat of physical harm to the child victim if there is no imprisonment. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

(d) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 5. This act shall be known and may be cited as the Roberti-Imbrecht-Rains-Goggin Child Sexual Abuse Prevention Act.

SEC. 5.5. It is the intent of the Legislature, if this bill and Senate Bill 776 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 1203.065 of the Penal Code, and this bill is chaptered after Senate Bill 776, that Section 1203.065 of the Penal Code, as amended by Section 5 of Senate Bill 776, be further amended on the effective date of this act in the form set forth in Section 3.5 of this act to incorporate the changes in Section 1203.065 proposed by this bill. Therefore, if this bill and Senate Bill 776 are both chaptered and become effective on or before January 1, 1982, and Senate Bill 776 is chaptered before this bill and amends Section 1203.065, Section 3.5 of this act shall become operative on the effective date of this act and Section 3 of this act shall not become operative.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that, the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1065

An act to amend Section 12031 of the Penal Code, relating to firearms.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph and the date when the endorsement is to be reviewed again.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in

each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators, private patrol operators, and alarm company operators who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course

of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers and uniformed alarm agents employed by an alarm company operator while on duty. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and uniformed employees of private investigators licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate, grave danger and that the carrying of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate"

means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

SEC. 2. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

Every person convicted under this section who has previously been convicted of an offense involving the use of a firearm shall serve a minimum three-month period in the county jail, or, if granted probation, or the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph and

the date when the endorsement is to be reviewed again.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators, private patrol operators, and alarm company operators who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers and uniformed alarm agents employed by an alarm company operator while on duty. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and uniformed employees of private investigators licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded

firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 846 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 12031 of the Penal Code, and this bill is chaptered after Assembly Bill 846, that Section 12031 of the Penal Code, as amended by Section 9 of Assembly Bill 846, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 12031 proposed by this bill. Therefore, if this bill and Assembly Bill 846 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 846 is chaptered before this bill and amends Section 12031, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative

SEC. 4 No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1066

An act to amend Section 30241 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 30241 of the Public Resources Code is amended to read:

30241. The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses and where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of prime agricultural lands.

SEC. 2. (a) Notwithstanding the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code, no coastal development permit shall be required for the conversion of an existing hotel, motel, or similar visitor-serving facility to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professions Code, if any such conversion fulfills all of the requirements of subdivision (b).

(b) Any conversion subject to the provisions of subdivision (a) shall meet all of the following:

(1) The conversion shall have been the subject of an application

for a coastal development permit which was filed between January 1, 1980, and September 1, 1981.

(2) The application for a coastal development permit for the conversion is either pending or has been denied pursuant to the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code; or in cases where a coastal development permit for a conversion was issued, the applicant shall not have substantially proceeded with such conversion prior to September 1, 1981.

(3) The person currently proposing the conversion shall demonstrate that arrangements have been made, either by the seller or by the buyer out of escrow, for the payment of 1 percent of the purchase price of each individual time-share project, use, or estate into the State Treasury to the credit of the State Parks and Recreation Fund.

All money thus credited shall be available for expenditure, when appropriated by the Legislature, by the Department of Parks and Recreation for the construction of, and conversion of existing structures to, hostel facilities within the coastal zone pursuant to the Collier-Keene State Hostel Facilities Act (Article 4 (commencing with Section 5050) of Chapter 1 of Division 5 of the Public Resources Code).

(c) Upon request of the person currently proposing a conversion, the executive director of the California Coastal Commission shall determine whether the proposed conversion meets the requirements of subdivision (b). The determination shall be made in writing, and if the requirements of subdivision (b) have not been met, the determination shall indicate which such requirements were unmet. The executive director's determination shall be made within 30 days of receipt of a request therefor.

(d) The provisions of this section shall apply only to those persons who, prior to February 1, 1982, submit to the executive director of the California Coastal Commission a request for the determination required by subdivision (c).

SEC. 3. The Legislature, through appropriate committees of each respective house, shall review the issues and concerns associated with the conversion of hotels, motels, and similar visitor-serving facilities, located within the coastal zone to time-share projects, estates, or uses as defined in Section 11003.5 of the Business and Professions Code. This legislative review shall identify those issues and concerns which impinge upon, or are relevant to, the policies and goals of Division 20 (commencing with Section 30000) of the Public Resources Code. The Legislature, at its second year of the 1981–82 Regular Session, shall enact amendments to Division 20 (commencing with Section 30000) of the Public Resources Code which are appropriate to resolve any issues or problems identified pursuant to this section.

CHAPTER 1067

An act to add Section 437.119 to the Health and Safety Code, relating to health planning.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 437.119 is added to the Health and Safety Code, to read:

437.119. (a) The office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects where the applicant has shown and the director has found that the project is for a pediatric freestanding outpatient hemodialysis unit operated under an associational agreement with a university medical school renal transplant and dialysis program and will be used exclusively for the provision of outpatient dialysis services to children, and is undertaken by a provider of dialysis services which meet the requirements for participation in the federal Medicare End-Stage Renal Disease Program. Any unit given an exemption under this subdivision shall not use the facility for any purpose other than the provision of outpatient dialysis services to children unless a certificate of need is obtained pursuant to Part 1.5 (commencing with Section 437) of Division 1.

Dialysis services provided in facilities authorized by this paragraph shall not be reimbursed by funds appropriated for the kidney diseases-chronic uremia program established pursuant to Article 7 7 (commencing with Section 417) of Chapter 2 of Part 1 of Division 1.

(b) Except as otherwise provided in subdivision (a), a certificate of exemption issued pursuant to this section or Section 1268 shall for all purposes have the same effect as a certificate of need issued pursuant to this part

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CHAPTER 1068

An act to add and repeal Section 99268.10 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1 Section 99268.10 is added to the Public Utilities Code, to read.

99268.10 Commencing with claims for the 1980–81 fiscal year, an

operator in any county with more than 4,500 miles of maintained county roads as of 1970 may, notwithstanding Sections 99268.1 to 99268.4, inclusive, reduce its ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, by the proportion of its revenues from elderly and handicapped passengers to its total revenues, but may not reduce the ratio to less than one-tenth.

This section shall remain in effect only until June 30, 1982, and is repealed on that date, unless a later enacted statute, which is chaptered before June 30, 1982, deletes or extends that date.

CHAPTER 1069

An act to amend Sections 70141.9 and 74131 of the Government Code, relating to courts.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 70141.9 of the Government Code is amended to read:

70141.9. In any county with a population exceeding 450,000 and not exceeding 500,000, as determined by the 1970 federal census, the superior court, subject to prior approval by the board of supervisors, may appoint four commissioners. The superior court may provide that the commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code. The superior court may also authorize the commissioners to perform the duties of a juvenile court referee appointed pursuant to Section 247 of the Welfare and Institutions Code. Any commissioner authorized to perform the duties set forth above shall receive a salary equal to 75 percent of the salary of a judge of the superior court. The salary shall be automatically increased periodically at the time and in the manner specified by Section 68203. Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

SEC. 2. Section 74131 of the Government Code is amended to read:

74131. There shall be six judges in the Riverside Judicial District, which shall include the City of Riverside. There shall be five judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe. There shall be two judges in the Corona Judicial District, which shall include the City of Corona. There shall be two judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont and Banning.

There shall be two judges in the Three Lakes Judicial District.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 4. Section 2 of this act shall become operative January 1, 1983.

CHAPTER 1070

An act to amend Section 537e of the Penal Code, relating to computer parts.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 537e of the Penal Code is amended to read:

537e. (a) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a radio, piano, phonograph, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, a safe or vacuum cleaner, dictaphone, watch, watch movement, watch case, or any mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, or any integrated chip or panel, printed circuit, or any other part of a computer, from which the manufacturer's nameplate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is guilty of a misdemeanor. If the value of any integrated chip from which the nameplate, serial number, or other distinguishing number or identification mark is removed, defaced, covered, altered, or destroyed exceeds four hundred dollars ($400), the offense is a felony punishable by imprisonment in the county jail not to exceed one year or in the state prison.

(b) When property described in subdivision (a) comes into the custody of a peace officer it shall become subject to the provision of Chapter 12 (commencing with Section 1407), Title 10 of Part 2, relating to the disposal of stolen or embezzled property. Property subject to this section shall be considered stolen or embezzled property for the purposes of that chapter, and prior to being disposed of, shall have an identification mark imbedded or engraved in, or permanently affixed to it.

(c) This section does not apply to those cases or instances where any of the changes or alterations enumerated in subdivision (a) have been customarily made or done as an established practice in the

ordinary and regular conduct of business, by the original manufacturer, or by his duly appointed direct representative, or under specific authorization from the original manufacturer

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1071

An act to add Section 14257 to the Government Code, relating to public works.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 14257 is added to the Government Code, to read:

14257. Where the nature of the work is historic restoration for the state park system, as determined jointly by the director and the Director of Parks and Recreation, the department may authorize the carrying out of the project directly by the Department of Parks and Recreation.

If the estimated total cost of any construction project or work carried out under this section exceeds twenty-five thousand dollars ($25,000), the Department of Parks and Recreation shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. However, the director may authorize the Department of Parks and Recreation to carry out work in excess of twenty-five thousand dollars ($25,000) under the provisions of this section by day labor if the director determines, in consultation with the Director of Parks and Recreation, that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state. The Department of Parks and Recreation shall establish, by regulation, criteria to be considered by the Department of Parks and Recreation in requesting authorization from the director to perform all or part of a project by day labor.

CHAPTER 1072

An act to add Section 3961 to the Fish and Game Code, and to amend Section 31401 of, and to add Section 31402 to, the Food and Agricultural Code, relating to dogs.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 3961 is added to the Fish and Game Code, to read:

3961. Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or his or her employee, may seize or dispatch the dog if it is found on his or her land or premises without the permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has. previously threatened any of these species.

No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched pursuant to this article.

The owner of a dog shall be notified within 72 hours of the seizure or dispatching of that dog under this section if it had the identification tag or license tag which is required pursuant to Section 30951 of the Food and Agricultural Code.

SEC. 2. Section 31401 of the Food and Agricultural Code is amended to read:

31401. Except as provided in Section 31402, violation of any provision of this division is an infraction punishable by a fine of not more than fifty dollars ($50) for a first offense, and by a fine of not more than one hundred dollars ($100) for a second or subsequent offense

SEC. 3. Section 31402 is added to the Food and Agricultural Code, to read:

31402. Violation of any provision of this division that results in death or serious injury to livestock or poultry is a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than six months or by both the fine and imprisonment.

As used in this section, "serious injury" means injury of a degree

of severity that the injured animal must be destroyed or injury that results in the fair market value of the animal being reduced to a level at which it may not be profitably sold.

SEC 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1073

An act to amend Sections 4254 and 4255 of, and to add Sections 4258, 4259, and 4260 to, the Public Resources Code, relating to fire prevention.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 4254 of the Public Resources Code is amended to read:

4254. Notice of the designation of each hazardous fire area designated pursuant to Section 4252 shall be given by the posting of notices at intervals of not greater than one mile along the exterior boundaries of the area or along roads and trails passing through the area.

SEC. 2. Section 4255 of the Public Resources Code is amended to read·

4255. (a) Except as provided in this section, a person shall not smoke or build a campfire or other open fire within a hazardous fire area.

(b) The board may designate by regulation campgrounds or campsites within hazardous fire areas where smoking and the building of campfires are allowed. However, no campground or campsite shall be designated without the consent of the owner, or his authorized agent, of the land upon which it is located.

SEC. 3. Section 4258 is added to the Public Resources Code, to read:

4258 Whenever the director determines that a fire hazard exists in any area within a state responsibility area due to the presence of flammable material or cover, the director, by regulation, may designate that area as a hazardous fire area for the purpose of prohibiting the use or possession of fireworks therein. The hazardous fire area shall include only those areas that are critical and hazardous

due to the threat of wildfire to life, property, and natural resources posed by the fireworks. The hazardous fire area shall not include areas that are the responsibility of a county which is contracting for fire protection to the director.

The regulation may designate areas where specified types of fireworks, not otherwise prohibited, are allowed for industrial, commercial, or agricultural use, for ceremonies, or for emergency signaling.

SEC. 4. Section 4259 is added to the Public Resources Code, to read:

4259. (a) The use or possession of fireworks is prohibited within any hazardous fire area designated pursuant to Section 4252 or 4258. However, the use of fireworks within any hazardous fire area may be allowed, if the use is determined by the director not to present a fire hazard.

(b) Notwithstanding subdivision (a), fireworks may be possessed in a vehicle on any public highway traversing a hazardous fire area when not otherwise prohibited.

SEC. 4.5. Section 4260 is added to the Public Resources Code, to read:

4260. No regulation adopted pursuant to this article shall prohibit or curtail the complete possession and use of any area by the owner of the area or the owner's agent, except that the use or possession of fireworks shall not be allowed in a hazardous fire area designated pursuant to Section 4258, other than as designated for their use or possession pursuant to that section.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1074

An act to amend Sections 1760.5 and 1797.101 of, to add Section 1797.109 to, and to repeal Section 219 of, the Health and Safety Code, relating to emergency medical services.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1 Section 219 of the Health and Safety Code is repealed.

SEC. 2. Section 1760.5 of the Health and Safety Code is amended to read·

1760.5. No owner of a publicly or privately owned ambulance shall permit the operation of the ambulance in emergency service unless the attendant on duty therein or, if there is no attendant on duty therein, the operator, possesses evidence of that specialized training as is reasonably necessary to ensure that the attendant or operator is competent to care for sick or injured persons who may be transported by the ambulance, as set forth in the emergency medical training and educational standards for ambulance personnel established by the Emergency Medical Service Authority pursuant to Section 1797.170. This section shall not be applicable in any state of emergency declared pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), when it is necessary to fully utilize all available ambulances in an area and it is not possible to have the ambulance operated or attended by persons with the qualifications required by this section.

SEC. 3. Section 1797.101 of the Health and Safety Code is amended to read:

1797.101. The Emergency Medical Service Authority shall be headed by the Director of the Emergency Medical Service Authority who shall be appointed by the Governor upon nomination by the Secretary of the Health and Welfare Agency. The director shall be a physician and surgeon licensed in California pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and who has substantial experience in the practice of emergency medicine.

SEC. 4. Section 1797.109 is added to the Health and Safety Code, to read:

1797.109. (a) The director may develop, or prescribe standards for and approve, an emergency medical technician training and testing program for the Department of the California Highway Patrol, Department of Forestry, and other public safety agency personnel, upon the request of, and as deemed appropriate by, the director for the particular agency.

(b) The director may, with the concurrence of the Department of the California Highway Patrol, designate the California Highway Patrol Academy as a site where the training and testing may be offered.

(c) The director may prescribe that each person, upon successful completion of the training course and upon passing a written and a practical examination, be certified as an emergency medical technician of an appropriate classification. A suitable identification card may be issued to each certified person to designate that person's emergency medical skill level.

(d) The director may prescribe standards for refresher training to

be given to persons trained and certified under this section.

(e) The Department of the California Highway Patrol shall, subject to the availability of federal funds, provide for the initial training of its uniformed personnel in the rendering of emergency medical technician services to the public in specified areas of the state as designated by the Commissioner of the California Highway Patrol.

CHAPTER 1075

An act to amend Sections 1801.5, 1802.2, 1802.8, 1802.9, 1802 11, 1802.12, 1803.3, 1805.1, 1805.6, 1805.8, 1807.2, 1807.3, 2981, 2982, 2982.3, 2982.5, 2982.8, 2983, 2983.1, and 2984.2 of, and to add Section 2981.9 to, the Civil Code, and to amend the heading of Chapter 4 (commencing with Section 500) of Division 1 of, and Section 500 of, and to add Article 4 (commencing with Section 550) and Article 5 (commencing with Section 560) to Chapter 4 of Division 1 of, the Financial Code, relating to financial transactions.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1801.5 of the Civil Code is amended to read:

1801 5. Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a retail installment contract or other document under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (b) of Section 1803.3 are satisfied. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract or other document of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

SEC. 1.5. Section 1802.2 of the Civil Code is amended to read:

1802 2. "Services" means work, labor and services, for other than a commercial or business use, including services furnished in connection with the sale or repair of goods as defined in Section 1802.1 or furnished in connection with the repair of motor vehicles (except for service contracts as defined by subdivision (p) of Section 2981 which are sold in conjunction with the sale of a vehicle required to be registered under the Vehicle Code) or in connection with the improvement of real property or the providing of insurance, but does not include the services of physicians or dentists, nor services for

which the tariffs, rates, charges, costs or expenses, including in each instance the deferred payment price, are required by law to be filed with and approved by the federal government or any official, department, division, commission or agency of the United States.

SEC. 2. Section 1802.8 of the Civil Code is amended to read:

1802.8. "Cash price" means the cash price stated in a retail installment contract for which the seller would sell or furnish to the buyer and the buyer would buy or obtain from the seller the goods or services which are the subject matter of a retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash price shall include any taxes and cash prices for accessories and services, if any, included in a retail installment sale.

SEC. 3. Section 1802.9 of the Civil Code is amended to read:

1802.9. " Total sale price" means the total of the cash price of the goods or services, the amounts, if any, included for insurance, official fees, and the finance charge.

SEC. 4. Section 1802.11 of the Civil Code is amended to read:

1802.11. (a) "Amount financed" means the amount required to be disclosed pursuant to paragraph (7) of subdivision (c) of Section 1803.3.

(b) "Unpaid balance" means the cash price of the goods or services which are the subject matter of the retail installment sale, plus the amounts, if any, included in a retail installment sale for insurance and official fees, minus the amount of the buyer's downpayment in money or goods.

SEC. 5. Section 1802.12 of the Civil Code is amended to read:

1802.12. "Total of payments" means the amount required to be disclosed pursuant to subdivision (h) of Section 226.18 of Regulation Z. The term includes any portion of the downpayment deferred until not later than the second otherwise scheduled payment and which is not subject to a finance charge.

SEC. 6. Section 1803 3 of the Civil Code is amended to read:

1803.3 Except as provided in Article 8 (commencing with Section 1808.1) of this chapter, a contract shall contain the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods or services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail sufficient to identify them in a separate writing.

(b) Every contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (c) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. No particular terminology is required to disclose the

items set forth in subdivision (c) except as therein expressly provided. Except as otherwise provided by this subdivision (b), these disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(c) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of taxes imposed on the sale.

(B) Taxes imposed on the sale.

(C) The total of the above.

(2) An itemization of the amount to be paid to any public officer for official fees.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) A subtotal representing the sum of the foregoing items.

(5) The amount of the buyer's downpayment, which downpayment shall not include any administrative finance charge charged, received, or collected by the seller pursuant to subdivision (c) of Section 1805.1 and as shown as item (6), itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(6) The amount of any administrative finance charge, labeled "prepaid finance charge."

(7) The difference between item (4) and the sum of items (5) and (6), labeled "amount financed."

(d) If the payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(e) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the

sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (c) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

SEC 7. Section 1805 1 of the Civil Code, as added by Section 4 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of·

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect, or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803 3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or

(4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

SEC. 7.2. Section 1805.1 of the Civil Code, as amended by Section 2 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract for the sale of household furniture, furnishings, or appliances by a seller whose gross sales during the immediately preceding 12-month period have not exceeded ten million dollars ($10,000,000), eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional-month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed

two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 7.4 Section 1805.1 of the Civil Code, as added by Section 4 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10), or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed

two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on October 1, 1982.

SEC. 8. Section 1805.6 of the Civil Code is amended to read:

1805.6. (a) Notwithstanding the provisions of any contract to the contrary, except as provided in subdivision (b) or (c), no retail seller shall assess any finance charge for goods purchased under a retail installment contract until the goods are in the buyer's possession.

(b) A finance charge may be assessed for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) In the case of a home improvement contract as defined in Section 7151.2 of the Business and Professions Code, a finance charge may be assessed from the approximate date of commencement of the work as set forth in the home improvement contract.

SEC. 9. Section 1805.8 of the Civil Code is amended to read:

1805.8 The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the goods, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to item (b) of Section 1803.3

SEC. 10. Section 1807 2 of the Civil Code is amended to read:

1807.2. The holder of a retail installment contract or contracts may, upon agreement in writing with the buyer, refinance the remaining amount owing on the contract or contracts by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge (1) shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to such refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under Section 1806.3 if he or she had prepaid in full his or her obligations under the contract or contracts, but in computing such refund credit there shall not be allowed the minimum earned finance charge as authorized by such section, (2) may not exceed the rate of finance charge provided under Article 5 (commencing with Section 1805.1), and (3) may not include an administrative finance charge to the extent such charge is permissible under Article 5 (commencing with Section 1805.1). Such agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or contracts of premiums for continuing in force, until the maturity of the contract or contracts as refinanced, any insurance coverages provided for therein, subject to the provisions of Section 1803.5. The refinancing agreement shall set forth:

(a) The amount of the existing outstanding balance to be refinanced, which consists of the remaining amount owing to be refinanced.

(b) The amount of any refund credit.

(c) The difference between items (a) and (b), which is the net outstanding balance to be refinanced.

(d) Any additional cost of insurance and of official fees to the buyer

(e) The sum of items (c) and (d), which is the amount financed.

(f) The finance charge (1) as expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars.

(g) The number amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer Where there is a consolidation of two or more contracts then the provisions of Sections 1808 1 and 1808.2 shall apply If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (f) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

SEC. 11. Section 1807.3 of the Civil Code is amended to read:

1807 3. (a) If any payment, other than a deferred downpayment, under a contract or refinancing agreement is more than twice the amount of an otherwise regularly scheduled equal payment, the

contract or refinancing agreement shall contain the following provision:

"The payment schedule contained in this contract requires that you make a balloon payment of
$_____ which is a payment
(Amount of balloon payment)
more than double the amount of the regular payments You have an absolute right to obtain a new payment schedule if you default in the payment of any balloon payment."

(b) If the buyer defaults in the payment of any balloon payment, he or she shall be given an absolute right to obtain a new payment schedule. Unless agreed to by the buyer, the periodic payments under the new schedule shall not be substantially greater than the average of the preceding installments

SEC. 12. Section 2981 of the Civil Code is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer and either (A) the title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition, or (B) a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition, or

(2) Any contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and shall include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications,

improvements, document preparation fees, or a service contract.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract. The term shall also include the amount of any portion of the downpayment the payment of which is deferred until not later than the due date of the second otherwise scheduled payment, if the amount of the deferred downpayment is not subject to a finance charge. The term does not include any administrative finance charge charged, received or collected by the seller as provided in this chapter.

(g) "Amount financed" means the amount required to be disclosed pursuant to paragraph (8) of subdivision (a) of Section 2982.

(h) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law, and the amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889 56 of the Business and Professions Code.

(i) "Finance charge" has the meaning set forth for that term in Section 226.4 of Regulation Z. The term shall not include delinquency charges or collection costs and fees as provided by subdivision (k) of Section 2982, extension or deferral agreement charges as provided by Section 2982.3, or amounts for insurance, repairs to or preservation of the motor vehicle, or preservation of the security interest therein advanced by the holder under the terms of the contract.

(j) "Total of payments" means the amount required to be disclosed pursuant to subdivision (h) of Section 226 18 of Regulation Z. The term includes any portion of the downpayment which is deferred until not later than the second otherwise scheduled payment and which is not subject to a finance charge. The term shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise.

(k) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes or a mobilehome, as defined in Section 18008 of the Health and Safety Code which is sold on or after July 1, 1981.

(l) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional

sale contract. The purchase order shall conform to the disclosure requirements of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivision (m) of Section 2982 shall be applicable thereto

(m) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(n) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(o) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment

(p) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair, or both, of the motor vehicle described in the conditional sale contract.

SEC. 13. Section 2981.9 is added to the Civil Code, to read:

2981 9. Every conditional sale contract subject to this chapter shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his or her authorized representative and by the seller or its authorized representative An exact copy of the contract or purchase order shall be furnished to the buyer by the seller at the time the buyer and the seller have signed it No motor vehicle shall be delivered pursuant to a contract subject to this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal

and any credit statement which the seller has required or requested the buyer to sign and which he or she has signed during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed.

SEC. 14. Section 2982 of the Civil Code, as amended by Section 6 of Chapter 243 of the Statutes of 1981, is amended to read:

2982.

Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) Taxes imposed on the sale.

(D) The amount charged for a service contract.

(E) The total cash price, which is the sum of subparagraphs (A) to (D), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge

(4) The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge"

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as therein expressly provided.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983 2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer. (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice, in at least 8-point bold type if the contract is printed, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) The dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225),

1 ⅙ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900), ⅚ of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed one thousand six hundred fifty dollars ($1,650), and 13/24 of 1 percent on that portion of the unpaid balance which exceeds one thousand six hundred fifty dollars ($1,650), or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982 8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in

default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4) The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after

repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisified. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that such fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

SEC. 15 Section 2982.3 of the Civil Code is amended to read.

2982.3. (a) The holder of a conditional sale contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto.

(b) Where the contract includes a finance charge determined on the precomputed basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to 1 percent per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the date when such extended or deferred installment or installments, or part thereof, would have been payable in the absence of such extension or deferral to the date when such installment or installments, or part thereof, are made payable under the agreement of extension or deferment; except that a minimum charge of one dollar ($1) for the period of extension or deferral may be made in any case where the extension or deferral agreement charge, when computed at such rate, amounts to less than one dollar ($1).

(c) Where the contract includes a finance charge determined on the simple-interest basis, the holder may charge and contract for the

payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but the charge for the extension or deferral agreement may not exceed the lesser of twenty-five dollars ($25) or 10 percent of the then outstanding principal balance of the contract. Such charge shall be in addition to any finance charges which accrue because such extended or deferred payments are received at a time other than as originally scheduled.

SEC. 16. Section 2982.5 of the Civil Code is amended to read:

2982.5. (a) Nothing contained in this chapter shall be deemed to affect a loan, or the security therefor, between a purchaser of a motor vehicle and a supervised financial organization, other than the seller of the motor vehicle, all or a portion of which loan is used in connection with the purchase of a motor vehicle. As used herein "supervised financial organization" means a person organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans and subject to supervision by an official or agency of this state or the United States.

(b) Nothing in this chapter shall be deemed to prohibit the seller's assisting the buyer in obtaining a loan upon any security from any third party to be used as a part or all of the downpayment or any other payment on a conditional sale contract or purchase order; provided that the conditional sale contract sets forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each such installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender and notice to the buyer in at least eight-point type that he is obligated for the installment payments on both the conditional sale contract and the loan. The seller shall not provide any security or other guarantee of payment on such loan, nor shall such seller receive any commission or other remuneration for assisting the buyer to obtain such loan. If the buyer obligates himself to purchase, or receives possession of, the motor vehicle prior to securing such loan, and if the buyer upon appropriate application for such loan is unable to secure such loan, on the conditions stated in the conditional sale contract, such conditional sale contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(c) The proceeds of any such loan payable to the seller after the date of the contract but prior to the due date of the second payment otherwise scheduled thereunder shall not be subject to a finance charge and the amount thereof shall be disclosed pursuant to subparagraph (B) of paragraph (7) of subdivision (a) of Section 2982.

SEC. 17. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any

amounts advanced by the holder to procure such insurance may be the subject of finance charges from the date of advance as provided in subdivision (d). Such amounts shall be secured as provided in the contract and permitted by Section 2984.2 if the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract. The option offered under this subparagraph shall not apply to any industrial loan company licensed pursuant to Division 7 (commencing with Section 18000) of the Financial Code.

(4) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to either paragraph (2) or (3).

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments

(c) If subsequent to the execution of the contract the holder advances amounts for repairs to or preservation of the motor vehicle or preservation of the holder's security interest therein and such advances are occasioned by the buyer's default under the contract, such advances may be the subject of finance charges from the date of advance as provided in subdivision (d) and shall be secured as provided in the contract and permitted by Section 2984 2

(d) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to Section 2982

SEC. 18. Section 2983 of the Civil Code is amended to read:

2983. If the seller, except as the result of an accidental or bona fide error in computation, violates any provision of Section 2981.9 or of subdivision (a), (j), or (k) of Section 2982, the conditional sale contract shall not be enforceable, except by a bona fide purchaser, assignee or pledgee for value or until after the violation is corrected as provided in Section 2984, and if the violation is not corrected the buyer may recover from the seller the total amount paid, pursuant

to the terms of the contract, by the buyer to the seller or his assignee. The amount recoverable for property traded in as all or part of the downpayment shall be equal to the agreed cash value of such property as the value appears on the conditional sale contract or the fair market value of such property as of the time the contract is made, whichever is greater.

SEC. 19 Section 2983.1 of the Civil Code is amended to read:

2983.1. If the seller or holder of a conditional sale contract, except as the result of an accidental or bona fide error of computation, violates any provision of subdivision (*l*) of Section 2982, the buyer may recover from such person three times the amount of any finance charge paid to that person.

If a holder acquires a conditional sale contract without actual knowledge of the violation by the seller of Section 2981.9 or of subdivision (a), (j), or (k) of Section 2982, the contract shall be valid and enforceable by such holder except (unless the violation is corrected as provided in Section 2984) the buyer is excused from payment of the unpaid finance charge.

If a holder acquires a conditional sale contract with knowledge of such violation of Section 2981.9 or of subdivision (a), (j), or (k) of Section 2982, the conditional sale contract shall not be enforceable except by a bona fide purchaser, assignee or pledgee for value or unless the violation is corrected as provided in Section 2984, and if the violation is not corrected the buyer may recover from the person to whom payment was made the amounts specified in Section 2983.

When a conditional sale contract is not enforceable under Section 2983 or 2983.1, the buyer may elect to retain the motor vehicle and continue the contract in force or may, with reasonable diligence, elect to rescind the contract and return the motor vehicle. The value of the motor vehicle so returned shall be credited as restitution by the buyer without any decrease which results from the passage of time in the cash price of the motor vehicle as such price appears on the conditional sale contract.

SEC. 20 Section 2984.2 of the Civil Code is amended to read:

2984.2. (a) No conditional sale contract, and no agreement between a seller and a buyer made in connection with a conditional sale contract, may provide for the inclusion of title to or a lien upon any property other than:

(1) The motor vehicle which is the subject matter of the sale, or accessories, accessions, replacements or proceeds thereof;

(2) The proceeds of any insurance policies covering the motor vehicle which are required by the seller or the returned premiums of any such policies if the premiums for such policies are included in the amount financed;

(3) The proceeds of any credit insurance policies which the buyer purchases in connection with the motor vehicle conditional sale contract or the returned premiums of any such policies if the premiums for such policies are included in the amount financed; or

(4) The proceeds and returned price of any service contract if the

cost of such contract is included in the amount financed.

(b) Subdivision (a) shall not apply to any agreement which meets the requirements of subdivision (b) of Section 2982.5 and otherwise complies with this chapter, nor, with respect to a mobilehome sold prior to July 1, 1981, to any agreement whereby a security interest is taken in real property on which the mobilehome is installed on a foundation system pursuant to Section 18551 of the Health and Safety Code.

(c) A provision in violation of this section shall be void.

SEC. 21. The heading of Chapter 4 (commencing with Section 500) of Division 1 of the Financial Code is amended to read:

CHAPTER 4. BRANCH OFFICES, OTHER PLACES OF BUSINESS, AND AUTOMATED TELLER MACHINES

SEC. 22. Section 500 of the Financial Code is amended to read:

500. (a) In this article, "branch office" means any branch office other than an automated teller machine branch office as defined in Section 550.

(b) When authorized by the superintendent as provided in this chapter, a bank or trust company, with the approval of its board, may establish and maintain one or more branch offices within the state.

SEC. 23. Article 4 (commencing with Section 550) is added to Chapter 4 of Division 1 of the Financial Code, to read:

Article 4. Automated Teller Machine Branch Offices

550. In this article, unless the context otherwise requires:

(a) "Automated teller machine" means any electronic information processing device used by a financial institution and its customers for the primary purpose of executing transactions solely between the financial institution and its customers which transactions are not incidental to sales between the customer and a business entity other than a financial institution. "Automated teller machine" does not include devices used solely to facilitate check guarantee or check authorization

(b) "Automated teller machine branch office" means a branch office which consists exclusively of one or more automated teller machines. However, an automated teller machine branch office of a bank may include (1) a night depository facility and (2) personnel of the bank, provided that such personnel do not accept deposits, pay checks, or make loans.

(c) "Bank" means (1) a bank organized under the laws of this state or (2) a foreign (other nation) bank as defined in Section 1700 which is licensed under Article 3 (commencing with Section 1750) of Chapter 13.5 to maintain one or more retail branch offices as defined in Section 1700

551. When authorized by the superintendent as provided in this article, a bank may establish and operate one or more automated

teller machine branch offices in the state.

552. An application for authority to establish and operate one or more automated teller machine branch offices shall be accompanied by a fee of two hundred and fifty dollars ($250), and shall contain the following information:

(a) The location of each automated teller machine branch office.

(b) A description of the type of functions which each automated teller machine branch office will perform.

(c) The institutions who will initially be sharing each automated teller machine branch office.

(d) The total fixed asset bank investment in each automated teller machine branch office.

The application shall also contain such additional information as the superintendent may prescribe regarding the financial condition of the applicant bank, and the sharing, functions, and location of each automated teller machine branch office.

553. If the superintendent finds, with respect to an application by a bank for authority to establish and operate one or more automated teller machine branch offices, that the financial condition of the bank is satisfactory, the superintendent shall approve the application. If the superintendent finds otherwise, the superintendent shall deny the application.

554. In case an application by a bank for authority to establish and operate one or more automated teller machine branch offices is not denied or approved by the superintendent within 45 days after the application is filed with the superintendent, or, if the bank consents to an extension of the period within which the superintendent may act, within the extended period, the application shall be deemed to be approved by the superintendent as of the first day after the period of 45 days or the extended period, as the case may be.

For purposes of this section, an application for approval to establish and operate one or more automated teller machine branch offices shall be deemed to be filed with the superintendent at the time when the complete application, including any amendments or supplements, containing all the information in the form required by the superintendent, is received by the superintendent.

555. The approval of an application for authority to establish and operate one or more automated teller machine branch offices shall be revoked by operation of law with respect to any automated teller machine branch office which the applicant does not establish and operate within one year after the date of approval by the superintendent. However, for good cause on written application made before the approval is revoked and accompanied by a fee of fifty dollars ($50), the superintendent may extend the approval for additional periods not in excess of one year.

556 Whenever an application by a bank for approval to establish and operate one or more automated teller machine branch offices has been approved by the superintendent and all conditions precedent to the issuance of a certificate of authority authorizing the

bank to establish and operate automated teller machine branch offices have been fulfilled, the superintendent shall issue the certificate of authority.

557. Not less than 30 days prior to changing the location of an automated teller machine branch office from one location to another in the same vicinity, a bank shall provide the superintendent with written notice of the change in location.

558. Not less than 30 days prior to discontinuing the operation of an automated teller machine branch office, a bank shall provide the superintendent with written notice of the discontinuance.

559. Subject to applicable laws and regulations, a bank is permitted but not required to share its automated teller machine branch offices with one or more other banks (as defined in Section 102), savings and loan associations, and credit unions, or such other persons as the superintendent may approve.

SEC. 24. Article 5 (commencing with Section 560) is added to Chapter 4 of Division 1 of the Financial Code, to read:

Article 5. Automated Teller Machine Networks

560. In this article, unless the context otherwise requires:

(a) "Automated teller machine" has the meaning set forth in subdivision (a) of Section 550.

(b) "Bank" has the meaning set forth in subdivision (c) of Section 550.

561. A bank may use automated teller machines established or operated by another person, provided that the bank complies with the following requirements:

(a) In case the person is not (1) a bank or (2) a national banking association headquartered in this state or (3) a foreign (other nation) bank (as defined in Section 1700) which maintains a federal retail branch office (as defined in Section 1700) in this state, the bank shall, before commencing such use, file with the superintendent satisfactory assurances that the performance of the services by the person will be subject to examination by the superintendent to the same extent as if the services were being performed by the bank itself.

(b) In any case the bank shall, not less than 30 days before commencing such use, file with the superintendent a notice which shall contain the following information.

(1) The name and primary address of the person establishing or operating the automated teller machines.

(2) A description of the type of functions which the automated teller machines will perform.

The notice shall also contain such additional information as the superintendent may prescribe regarding the financial condition of the notifying bank, and the functions and locations of the automated teller machines.

SEC 24.5 It is the intent of the Legislature, if this bill and

Assembly Bill No. 898 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 1805.1 of the Civil Code, and this bill is chaptered after Assembly Bill No. 898, that Section 1805.1 of the Civil Code, as amended by Sections 1 and 2 of Assembly Bill No. 898, be further amended on April 1, 1982, and October 1, 1982, respectively, in the forms set forth in Sections 7.2 and 7.4 of this act to incorporate the changes in Section 1805.1 proposed by this bill. Therefore, if this bill and Assembly Bill No. 898 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill No. 898 is chaptered before this bill and amends Section 1805.1, Section 7.2 of this act shall become operative on April 1, 1982, Section 7.4 of this act shall become operative on October 1, 1982, and Section 7 of this act shall not become operative.

SEC. 25. (a) It is the intent of the Legislature that Sections 21 to 24, inclusive, of this act shall become operative January 1, 1982, that Sections 1 to 7.2, inclusive, and Sections 8 to 20, inclusive, of this act shall become operative on April 1, 1982, and that Section 7.4 shall become operative on October 1, 1982.

(b) It is also the intent of the Legislature that compliance with Sections 1 to 7.2, inclusive, and Sections 8 to 20, inclusive, of this act be permissive between January 1, 1982, and April 1, 1982, and mandatory on and after April 1, 1982. In other words, anyone who complies with the provisions of Sections 1 to 7.2, inclusive, and Sections 8 to 20, inclusive, of this act between January 1, 1982, and April 1, 1982, shall be deemed to be in lawful compliance with the applicable provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code) and the Rees-Levering Motor Vehicle Sales and Finance Act (Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code).

SEC. 26. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1076

An act to amend Section 1203 of the Penal Code, and to amend Section 828 of the Welfare and Institutions Code, relating to crimes.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 1203 of the Penal Code is amended to read.

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community. Except as otherwise provided in this code, persons placed on probation by the court shall be under the supervision of the probation officer.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case If the court

determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him to answer or controvert it For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this

state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly manufactures phencyclidine. Should the court grant probation, it shall specify the reason or reasons for such order. On appeal by the people from such a grant of probation, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (a) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 2. Section 1203 of the Penal Code is amended to read:

1203 (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order

of conditional and revocable release in the community. Except as otherwise provided in this code, persons placed on probation by the court shall be under the supervision of the probation officer.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in his or her report his or her determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in the report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered the report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall

immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him or her which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he or she had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of the foregoing crimes and was armed with such weapon at either of the times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he or she has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of the foregoing crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(i) Unless he or she had a lawful right to carry a deadly weapon

at the time of the perpetration of the previous crime or his arrest for the previous crime, he or she was armed with a weapon at either of the times.

(ii) He or she used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the previous crime.

(iii) He or she willfully inflicted great bodily injury or torture in the perpetration of the previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly manufactures phencyclidine. Should the court grant probation, it shall specify the reason or reasons for the order. On appeal by the people from such a grant of probation, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of the reasons.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition

(g) If a person is not eligible for probation, the judge may, in his or her discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such a referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings.

(h) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 3. Section 828 of the Welfare and Institutions Code is amended to read:

828. Except as provided in Sections 389 and 781 of this code or 1203.45 of the Penal Code, any information gathered by a law enforcement agency relating to the taking of a minor into custody may be disclosed to another law enforcement agency, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. When the disposition of a taking into custody is available, it must be included with any information disclosed.

A court shall consider any information relating to the taking of a minor into custody, if the information is not contained in a record which has been sealed, for purposes of determining whether

adjudications of commission of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 of the Penal Code or to deny probation.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 398 are both chaptered and become effective January 1, 1982, both bills amend Section 1203 of the Penal Code, and this bill is chaptered after Assembly Bill 398, that the amendments to Section 1203 proposed by both bills be given effect and incorporated in Section 1203 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 398 are both chaptered and become effective January 1, 1982, both amend Section 1203, and this bill is chaptered after Assembly Bill 398, in which case Section 1 of this act shall not become operative.

CHAPTER 1077

An act to add Article 3 3 (commencing with Section 11321) to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Article 3.3 (commencing with Section 11321) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.3. Supported Work Program

11321. The Legislature finds and declares:

(a) In spite of the fact that most families which receive aid payments under the Aid to Families with Dependent Children (AFDC) program receive aid payments for a limited period of time, a small, but significant number of families have received aid for many years.

(b) Employment and training programs for Aid to Families with Dependent Children recipients provide most of their services to recipients who have received assistance for the shortest period of time and who are the most employable and have the fewest barriers to employment

(c) A recent national research demonstration project has shown that a significant number of long-term recipients, if provided employment experience in a supported work program become employed in unsubsidized jobs

(d) It is the Legislature's intent to provide supported work to

long-term AFDC recipients in California so that they can become self-sufficient and thereby reduce the cost of the AFDC program to the taxpayers

11321.5. To the extent permitted by federal law, the State Department of Social Services shall secure the necessary federal waivers so that aid payments to a recipient can be utilized as part of the wages paid to a recipient in a supported work program. If these waivers are not approved, the department shall divert any savings in AFDC payment resulting from employment in the supported work program to be utilized as part of the wages of the recipient.

In order to reduce the administrative cost of determining the actual monthly welfare savings to be diverted to the supported work program, the department may estimate such welfare savings.

11322. The State Department of Social Services shall develop profiles of recipients with the highest probability of becoming long-term AFDC recipients.

11322.5. Until the profiles are developed, long-term AFDC recipients who are eligible to participate in supported work shall have the following characteristics.

(a) Little or no recent work experience.

(b) At least 30 months receipt of aid during the previous 36 months.

(c) No children under six years old.

Priority shall be given to older parents who have never worked or who have received aid for the longest period of time unless they are disabled.

11323. The department shall promulgate appropriate guidelines which require county welfare departments to refer recipients who meet the criteria of Section 11324 and who volunteer to participate in supported work to the Employment Development Department. For the purposes of this article, the provisions of Section 5301 of the Unemployment Insurance Code and Section 11308 of this code shall not apply.

11323.1. Supported work projects are projects which have all of the following characteristics:

(a) Crew work.

(b) Intensive supervision.

(c) Graduated performance and wage systems.

(d) Teaching of entry level work habits and productivity standards.

(e) Contracts with entities for services provided or goods produced by the participants.

The supported work projects shall be designed to enable participants to secure unsubsidized employment as soon as possible. The maximum length of time an individual may participate in the program is 12 months.

11323.5. The Employment Development Department shall solicit proposals from public and private nonprofit entities to provide supported work. The Employment Development Department shall

award performance contracts to these entities.

The Employment Development Department shall require that each contract awarded under this article shall satisfy all of the following conditions and standards:

(a) Appropriate standards for health, safety, and other conditions applicable to the performance of work, including workers' compensation coverage.

(b) Reasonable conditions of work, taking into account the geographic region, and the residence and proficiency of the participants.

(c) Applicable minimum wage standard.

The Employment Development Department shall further require that the rights of all persons to equal employment opportunities shall be protected

The public or private nonprofit entity shall furnish information, reports, records, and access to its premises to the Employment Development Department, and shall comply with reasonable provisions for periodic audit by the Employment Development Department to insure fiscal integrity and compliance with the conditions of the contract and provisions of this article, as the Employment Development Department shall require.

11323.7. The Employment Development Department and the supported work program shall provide intensive job placement and related employment services to project participants to facilitate entry into unsubsidized employment.

11324 The Employment Development Department in cooperation with the department and with the consultation of the Department of Finance shall cause the projects under this article to be evaluated and shall report to the Governor and the Legislature on the progress of the projects on March 1, 1983, and every March thereafter. The reports shall include, but not be limited to:

(a) The description of the projects undertaken.

(b) The contracts and the associated expenditures for each project.

(c) The number and characteristics of the persons employed in supported work

(d) The number of recipients with successful terminations.

(e) The estimate of net expenditure reductions reasonably attributable to the operation of programs under this article.

11324.5. The Employment Development Department shall seek federal and other funds to finance the projects. Subsequent funding for the program may be provided for in the Budget Act.

SEC. 2. Commencing with fiscal year 1984–85, the Governor's Budget shall report net expenditure reductions reasonably attributable to the operation of this program and shall recommend a portion or all of these savings to be reinvested to further the intent of this act and to enhance the employability services to long-term Aid to Families with Dependent Children program recipients.

SEC. 3. This act shall only become operative if the provisions of

AB 799 provide for funds necessary to carry out the purposes of this act, and if AB 799 is chaptered during the 1981–82 Regular Session of the Legislature.

CHAPTER 1078

An act to amend Section 11325 of, and to add Article 3.7 (commencing with Section 11340) to Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to aid to families with dependent children.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 11325 of the Welfare and Institutions Code is amended to read:

11325. The Legislature recognizes that most employable persons who receive public assistance would prefer to be self-supporting if offered the opportunity to do so.

The Legislature further recognizes that the general public lacks confidence in the existing public assistance system because rather than eliminating dependency, the system often seems to encourage it by not providing sufficient incentives for work.

The Legislature further recognizes that public assistance programs should be reserved for those persons who are in need because of their inability to work productively due to circumstances beyond their control.

Therefore, it is the intent of the Legislature to pursue a more intensive approach to solving the employment problems of those persons who are in need of assistance because, although they are able to work, they lack the training or experience required by employers or they lack the ability to find and retain suitable permanent employment.

Toward the achievement of this end, the Legislature intends that the provisions of this article serve to implement an integrated Employment Preparation Program to be administered by the Employment Development Department with the full cooperation of the State Department of Social Services, city and county employment and training agencies, and county welfare departments. The goal of the Employment Preparation Program is to prevent and reduce welfare dependency by assisting AFDC applicants and recipients to find jobs as quickly as possible. To attain this goal, the Employment Development Department shall utilize such services and techniques as:

(a) Providing immediate job services.

(b) Imparting self-help job search skills at the earliest possible

time.

(c) Assisting in direct placement and self-placement of AFDC applicants and recipients into permanent private sector and unsubsidized employment. Recipients who do not succeed in obtaining employment through the Employment Preparation Program may be eligible for participation in the California Welfare Employment Skills Training Act established pursuant to Article 3.7 (commencing with Section 11340), subject to the eligibility criteria set forth in that article and to the availability of sufficient funding

(d) Developing effective linkages among all state and local employment and training agencies, especially those operating Comprehensive Employment and Training Act (CETA) programs, to ensure that AFDC applicants and recipients have maximum work and training opportunities.

SEC. 2. Article 3.7 (commencing with Section 11340) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.7. California Welfare Employment Skills Training Act

11340. It is the intent of the Legislature that training programs funded under this article should not duplicate any apprenticeship training program registered with the Division of Apprenticeship Standards where the apprenticeship program is currently meeting local employer demands for skilled employees in any particular skill area.

11341. There is hereby established a program of comprehensive training and job placement for long-term and potentially long-term AFDC recipients who lack those marketable skills demanded by California business and industry, and who have failed to obtain employment through participation in the Employment Preparation Program, Work Incentive Program (WIN) intensive employment search services, or training programs operated by Comprehensive Employment and Training Act (CETA) prime sponsors. This program shall be known as the California Welfare Employment Skills Training Act.

It is the intent of the Legislature that establishment of this program shall do all of the following:

(a) Help these persons to become more productive members of society.

(b) Reduce the number of months that unskilled persons will remain recipients of AFDC, and thereby reduce the rise in welfare costs to the people of California

(c) Meet the needs of local business and industry for well-trained personnel.

This program shall be administered by the Employment Development Department. The director shall promulgate regulations setting forth criteria and procedures for awarding and execution of contracts.

11342. For the purposes of this article, the following definitions shall apply:

(a) An "eligible entity" means an entity that meets all of the following criteria:

(1) Enrolls participants for job training without administering or without reference to preenrollment qualifying testing

(2) Provides remedial education and job-related language training concurrently with skill training as needed and appropriate

(3) Has a record of at least 50 percent of all participants who have left the program for any reason being placed in or obtaining permanent unsubsidized employment within a year of terminating the program.

(b) "Permanent" employment means employment that is neither temporary nor seasonal, and in which, at the time of hiring, both the employer and the employee have reasonable expectations that the job will not terminate.

(c) A "long-term AFDC recipient" is a person who meets all of the following conditions:

(1) Is currently receiving AFDC

(2) Has received AFDC for any 30 out of the previous 36 months.

(3) Is currently unemployed.

(4) Has not been employed within the previous six months.

(5) Is eligible to participate in the WIN program, and satisfies either of the following conditions:

(A) Has received WIN intensive employment search services and has not been successful in obtaining a job.

(B) Has not received WIN intensive employment search services because of the lack of availability of these programs in the area or because the recipient was not referred to one or more of these programs due to a determination that the person would not be likely to succeed in obtaining employment with these services.

(d) A "potentially long-term AFDC recipient" means a person who meets all of the following conditions:

(1) Is currently receiving AFDC.

(2) Has received AFDC for any 12 out of the previous 18 months.

(3) Is currently unemployed.

(4) Has not been employed within the previous six months

(5) Is eligible to participate in the WIN program, and satisfies either of the following conditions·

(A) Has received WIN intensive employment search services and has not been successful in obtaining a job.

(B) Has not received WIN intensive employment search services because of a lack of availability of these programs in the area or because the recipient was not referred to one or more of these programs due to a determination that the person would not be likely to succeed in obtaining employment with these services.

(5) Satisfies one of the following additional conditions·

(A) Has few or no marketable job skills.

(B) Has limited or no fluency in the English language.

(C) Is an economic refugee from another nation as defined by federal statute or regulations.

(e) "Department" means the Employment Development Department.

11343. In order to ensure that effective services are provided, program contracts shall be entered into by the department only with eligible entities that are willing to enter into performance contracts in which the entity is reimbursed for training costs, in accordance with the formula expressed below. Advance progress payments not to exceed 25 percent of the annual contract amount will be permitted to cover initial startup training costs, to be paid in monthly installments.

Reimbursement for each placement shall not exceed the last reported statewide average annual grant for an AFDC family of three with no outside income. Subject to this condition, reimbursement shall be computed at 1.1 times the actual costs of training those clients who obtain or are placed into employment that lasts at least 90 days.

11344. Contracts shall be awarded through a competitive bidding process to eligible entities that meet all the criteria specified in subdivision (a). In addition, preference in awarding of contracts shall be given to qualifying entities that provide one or more of the services listed in subdivision (b).

(a) To qualify for a contract, an eligible entity must provide all of the following:

(1) Program emphasis on meeting needs identified by private sector employers in the area to be served.

(2) Identification of the occupation or occupations for which participants are to be trained, a description of the training and services that participants are to receive, information on the proposed cost per placement lasting at least 90 days and on the proposed average entry wage of participants after training, and a budget.

(3) Enrollment of participants without administering or referring to preenrollment qualifying testing.

(4) Remedial education and job related language training concurrently with skill training as needed and appropriate. The entity may provide such education and training either directly or through an arrangement with other providers of the services.

(5) Placement followup services.

(6) Evaluation of the employment placement rate and the entry wages of participants previously trained in programs operated by the bidder.

(b) Preference shall be given to eligible entities that, in addition to meeting all the criteria specified in subdivision (a), offer one or more of the following:

(1) Variable-length, individualized training based on the participant's ability to progress.

(2) Open-entry, open-exit training.

(3) Integration with other employment and training programs or

supportive service providers.

(c) Contract funds may be used for supportive services to enable participants to participate in programs funded under this chapter

Allowable supportive service costs shall include, but not be limited to, child care for dependent children and transportation of participants between the principal place of residence and the training site. Contractors shall coordinate with existing providers of child care, transportation, and other supportive services to ensure that those services are available when appropriate.

11345. It is the intent of the Legislature that implementation and expansion of this program be contingent on the availability of sufficient funding and the program's demonstrated cost effectiveness.

(a) The department shall seek federal and other funds to implement the provisions of this article.

(b) In consultation with the department, the State Department of Social Services shall seek those federal waivers as may be necessary to provide funding for this program from savings resulting from AFDC grant termination or reduction which may occur due to participation in this program All these savings shall be used for the purpose of financing this program.

(c) Funding for the program may be provided for in the Budget Act subject to the availability of funds.

11346. The department, in consultation with the State Department of Social Services, shall report to the Legislature not later than February 1, 1985. The report shall include, but not be limited to, all of the following:

(a) An evaluation of the training and placement activities of the program.

(b) An evaluation of followup data on program clients.

(c) An assessment of the cost effectiveness of the program.

(d) Recommendations for amending, repealing, or expanding this article.

The contractor shall provide all information specified within the contract and shall also make available to the department other records necessary to measure the cost effectiveness of the program.

The department, in consultation with the State Department of Social Services, shall develop an evaluation design and submit this outline with a budget for the evaluation to the Legislature by November 30, 1982.

CHAPTER 1079

An act to amend Section 1916.10 of, to add Sections 1916.7 and 1916.12 to, and Chapter 5 (commencing with Section 1918) to Title 4 of Part 4 of Division 3 of, and to repeal Section 1916.10 of, the Civil Code, to amend Sections 1227 and 5074 of, and to amend and repeal

Sections 1227.1 and 7150.1 of, the Financial Code, and to amend Section 12640.025 of the Insurance Code, relating to loans.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1916.7 is added to the Civil Code, to read·

1916.7. (a) Sections 1916.5, 1916.6, 1916.8, and 1916.9 of the Civil Code, and any other provision of law restricting or setting forth requirements for changes in the rate of interest on loans, shall not be applicable to loans made pursuant to this section.

(b) A mortgage loan made pursuant to the provisions of this section is an adjustable-payment, adjustable-rate loan, on the security of real property occupied or intended to be occupied by the borrower containing four or fewer residential units and incorporating terms substantially as follows:

(1) The term of the loan shall be not less than 29 years, repayable in monthly installments amortized over a period of not less than 30 years.

(2) Monthly payments may be adjusted to reflect changes in the variable interest rate of the loan Changes in interest and monthly payment shall not occur more often than twice during any annual period and at least six months shall elapse between any two changes. The rate of interest and monthly payments shall not change during the first semiannual period. The amount of any increase in monthly payment shall not exceed 7.5 percent annually.

(3) Monthly payments may also be established on a graduated basis within the parameters of a loan originated pursuant to the provisions of this section. A graduated payment adjustable mortgage loan shall meet all the requirements of this section and shall set forth in the note, at the time of origination, limitations on the rate of increase in the scheduled payments due both to graduation and to changes in the interest rate.

(4) Whenever any monthly installment is less than the amount of interest accrued during the month with respect to which the installment is payable, the borrower shall have the option to select one, or any combination of, the following:

(A) Notwithstanding paragraph (2) of subdivision (b), increase the monthly installment in an amount which at least covers the increase in interest.

(B) Have the difference added to the principal of the loan as of the due date of the installment and thereafter shall bear interest as part of the principal. In no instance shall the difference which is added to the principal be an amount which causes the resulting loan-to-value ratio to exceed the loan-to-value ratio at the time of loan origination.

(C) Extend the term of the loan up to, but not exceeding, 40 years

(5) Changes in the rate of interest on the loan shall reflect the movement, in reference to the date of the original loan, of a periodically published index selected by the lender which may be either of the following·

(A) The contract interest rate on the purchase of previously occupied homes in the most recent monthly national average mortgage rate index for all major lenders published periodically by the Federal Home Loan Bank Board.

(B) The weighted average cost of funds for California Associations of the Eleventh District Savings and Loan Associations as published periodically by the Federal Home Loan Bank of San Francisco.

(6) Any change in the interest rate shall not exceed the limit, specified by the lender in the loan contract, for rate increases in any semiannual period and shall not exceed the limit, specified by the lender in the loan contract, for rate increases greater than the base index rate

(7) Notwithstanding any change in the interest rate indicated by a movement of the index, increases in the interest rate shall be optional with the lender, while decreases are mandatory. Such decreases, upon the option of the borrower, shall be used (1) to pay off any negative amortization accrued when the interest rate was increased, or (2) to decrease the monthly payment as reflected in the decrease in the interest rate.

(8) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge at any time, and no fee or other charge may be required by the lender of the borrower as a result of any change in the interest rate or the exercise of any option or election extended to the borrower pursuant to this section.

(9) The borrower, after initiation of the loan, shall not be subsequently required to demonstrate his or her qualification for the loan, except that this paragraph shall not limit any remedy available to the lender by law for default or other breach of contract.

(10) In the event the remaining principal due on a loan made pursuant to this section will not be paid off during the current term, within 90 days of expiration of the term a borrower may elect in writing to repay the remaining balance in full or in substantially equal installments of principal and interest over an additional period not to exceed 10 years, during which period the interest rate shall remain fixed.

(c) An applicant for a loan originated pursuant to the provisions of this section must be given, at the time he or she requests an application, a disclosure notice in the following form.

NOTICE TO BORROWER

IMPORTANT INFORMATION ABOUT THE
ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE LOAN

PLEASE READ CAREFULLY

(at least 10-point bold type)

You have received an application form for an adjustable-payment, adjustable-rate mortgage loan. This loan may differ from other mortgages with which you are familiar.

I. GENERAL DESCRIPTION OF ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE LOAN

The adjustable-payment, adjustable-rate mortgage loan is a flexible loan instrument. This means that the interest, monthly payment and/or the length of the loan may be changed during the course of the loan contract.

The first flexible feature of this loan is the interest rate. The interest rate on the loan may be changed by the lender every six months. Changes in the interest rate must reflect the movement of an index that is selected by the lender. Changes in the interest rate may result in increases or decreases in your monthly payment, in the outstanding principal loan balance, in the loan term, or in all three.

The lender is required by law to limit the amount that the interest can change at any one time or over the life of the loan. The law does not specify what these limits are. That is a matter you should negotiate with the lender.

You may also want to make inquiries concerning the lending terms offered by other lenders on adjustable-payment, adjustable-rate mortgage loans to compare the terms and conditions

Another flexible feature of the adjustable-payment, adjustable-rate mortgage loan is the monthly payment. The amount of the monthly payment may be increased or decreased by the lender every six months to reflect the changes in the interest rate. State law prohibits the lender from increasing your monthly payment by more than 7.5 percent per year. There may be circumstances, however, in which you, the borrower, may want to increase the amount of your monthly payment beyond the 7.5 percent limit. This option would be available to you whenever changes in the interest rate threaten to increase the outstanding principal loan balance on the loan.

A third flexible feature of the adjustable-payment, adjustable-rate mortgage loan is that the outstanding principal loan balance (the total amount you owe) may be increased from time to time. This situation, called "negative amortization," can occur when rising interest rates make the monthly payment too small to cover the interest due on the loan. The difference between the monthly payment and the actual amount due in interest is added to the outstanding loan balance.

Under the terms of this mortgage, you as a borrower would always have the option of either incurring additions to the amount you owe on the loan or voluntarily increasing your monthly payments beyond the 7 5 percent annual limit to an amount needed to pay off the rising interest costs

Continual increases in the outstanding loan balance may cause a situation in which the loan balance is not entirely paid off at the end of the 30-year loan term. If this occurs, you may elect in writing to repay the outstanding principal all at once, or with a series of fixed payments at a fixed rate of interest for up to 10 years.

The final flexible feature of the adjustable-payment, adjustable-rate mortgage loan is that you may lengthen the loan term from 30 to up to 40 years. Extending the loan term will lower your monthly payment slightly less than they would have been had the loan term not been extended.

II. INDEX

Adjustments to the interest rate of an adjustable-payment, adjustable-rate mortgage loan must correspond directly to the movement of an index which is selected, but not controlled, by the lender. Any adjustments to the interest rate are subject to limitations provided in the loan contract.

If the index moves down, the lender must reduce the interest rate by at least the decrease in the index. If the index moves up, the lender has the right to increase the interest rate by that amount. Although making such an increase is optional by the lender, you should be aware that the lender has this right and may be contractually obligated to exercise it.

The index used is [Name and description of index to be used for applicant's loan, initial index value (if known) and date of initial index value, a source or sources where the index may be readily obtained by the borrower, and the high and low index rates during the previous calendar year].

III. KEY PROVISIONS OF [Name of Institution]

ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE MORTGAGE LOAN

The following information is a summary of the basic terms on the mortgage loan being offered to you. This summary is intended for reference purposes only. Important information relating specifically to your loan will be contained in the loan agreement

[Provide a summary of basic terms of the loan, including the loan term, the frequency of rate changes, the frequency of payment changes, the maximum rate change at any one time, the maximum rate change over the life of the loan, the maximum annual payment change, and whether additions to the principal loan balance are possible, in the following format:]

LOAN TERM

FREQUENCY OF RATE CHANGES

FREQUENCY OF PAYMENT CHANGES

IV. HOW YOUR ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE MORTGAGE LOAN WOULD WORK

A. INITIAL INTEREST RATE

The initial interest rate offered by [Name of Institution] on your adjustable-payment, adjustable-rate mortgage loan will be established and disclosed to you on [commitment date, etc.] based on market conditions at that time.

[Insert a short description of each of the key provisions of the loan to be offered to the borrower, using headings where appropriate]

B. NOTICE OF PAYMENT ADJUSTMENTS

[Name of Institution] will send you notice of an adjustment to the payment amount at least 60 days before it becomes effective [Describe what information the notice will contain.]

C. PREPAYMENT PENALTY

You may prepay your adjustable-payment, adjustable-rate mortgage in whole or in part without penalty at any time during the term of the loan.

D FEES

You will be charged fees by [Name of Institution] and by other persons in connection with the origination of your loan. The association will give you an estimate of these fees after receiving your loan application. However, you will not be charged any costs of fees in connection with any regularly scheduled adjustment to the interest rate, the payment, the outstanding principal loan balance, or the loan term

V. EXAMPLE OF OPERATION OF YOUR ADJUSTABLE-PAYMENT, ADJUSTABLE-RATE MORTGAGE LOAN

[Set out an example of the operation of the mortgage loan, including the use of a table. In at least one of the examples, create a situation showing how negative amortization could occur.]

(d) At least 60 days prior to the due date of a monthly installment to be revised due to a change in the interest rate, notice shall be mailed to the borrower of the following:

(1) The base index.

(2) The most recently published index at the date of the change in the rate

(3) The interest rate in effect as a result of the change

(4) The amount of the unpaid principal balance.

(5) If the interest scheduled to be paid on the due date exceeds the amount of the installment, a statement to that effect, including the amount of excess and extent of borrower options as described in paragraph (4) of subdivision (b)

(6) The amount of the revised monthly installment.

(7) The borrower's right to prepayment under paragraph (8) of subdivision (b).

(8) The address and telephone number of the office of the lender to which inquiries may be made.

(e) As used in this section:

(1) "Base index" means the last published index at the date of the note.

(2) "Base index rate" means the interest rate initially applicable to the loan as specified in the note.

(3) "Graduated Payment Adjustable Mortgage Loan" means a loan on which the monthly payments begin at a level lower than that necessary to pay off the remaining principal balance over an amortization period of not less than 30 years During a period the length of which is fixed at loan origination (the "graduation period"), the scheduled payments gradually rise to a level sufficient to pay off the remaining principal balance over the stipulated amortization period. Limitations on the rate of increase in the scheduled payments due both to graduation and to changes in the interest rate are also fixed at loan origination.

(4) "Note" means the note or other loan contract evidencing an adjustable-payment, adjustable-rate mortgage loan.

SEC 2 Section 1916.10 of the Civil Code is amended to read

1916 10. (a) Subject to the provisions of subdivision (b), any lender that makes "federally related mortgage loans," as defined in the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C 2602, P.L. 94-205, 89 Stat 1157, as amended on January 2, 1976), may make loans bearing other than a fixed-rate of interest upon the security of real property, if the loans have been made pursuant to and in conformance with regulations adopted under Section 1227.1 or 7150.1 of the Financial Code.

(b) The Secretary of the Business, Transportation and Housing Agency or the secretary's designee shall by regulation determine whether lenders described in subdivision (a) may make loans authorized under either Section 1227.1 or Section 7150.1 of the Financial Code, or under both of these sections

This determination shall only be made as to lenders not specifically authorized by Sections 1227 1 and 7150 1 to make loans bearing other than a fixed-rate of interest, unless a nonbank subsidiary of a bank holding company, otherwise eligible under this section, elects to make loans pursuant to this section in which event the determination shall apply to the subsidiary while the election is in effect.

(c) Sections 1916 5, 1916.6, and 1916 8 of the Civil Code and any other provision of law restricting or setting forth requirements for changes in the rate of interest on loans shall not be applicable to loans made pursuant to this section.

(d) This section shall remain in effect until December 31, 1983, and on such date is repealed

SEC 3 Section 1916.12 is added to the Civil Code, to read·

1916.12. (a) The Legislature finds that the economic environment of financial institutions has become increasingly volatile as a result of regulatory revisions enacted by the United States Congress and federal agencies such as, but not necessarily limited to, the Comptroller of the Currency, the Federal Home Loan Bank Board, Federal Reserve Board, and the Depository Institutions Deregulation Committee. The Legislature further finds that deposit rate ceilings are being phased out while the cost of and competition for funds have escalated. It is the purpose of this section to maintain the quality of competition between state-licensed and federally regulated financial institutions in the field of mortgage lending, as well as promote the convenience, advantage and best interests of California residents in their pursuit of adequate and available housing. In order to remain competitive and provide the optimum housing environment for the citizens of California, state institutions require the ability to respond in a timely manner to changes in mortgage lending parameters initiated at the federal level. Local regulatory guidelines must promote continued parity between the state and federal levels in order to avoid creation of discriminatory burdens upon state institutions and to protect interests held by California citizens. It is the intent of the Legislature to eliminate past and prevent future inequities between state and federal financial institutions doing business in the State of California by creating a sensitive and responsive mortgage parity procedure

(b) The Secretary of the Business, Transportation and Housing Agency, or the secretary's designee as defined by subdivision (c) of Section 1918.5 of the Civil Code, shall have the authority to prescribe rules and regulations extending to lenders who make loans upon the security of residential real property any right, power, privilege or duty relating to mortgage instruments that is equivalent to authority extended to federally-regulated financial institutions by federal statute or regulation

(c) In order to grant equivalent mortgage lending authority to state financial institutions to that which has been extended to federal financial institutions, the secretary or the secretary's designee shall adopt such regulations within 60 days of the effective date of the statute or regulation extending the comparable right, power, privilege or duty to federally regulated financial institutions.

(d) The provisions of Sections 1916.5, 1916.6, 1916.7, 1916.8, 1916.9, and Chapter 5 (commencing with Section 1918) of the Civil Code, and any other provisions of law relating to the requirements for changes in the rate of interest on loans, shall not be applicable to loans made pursuant to the provisions of this section and regulations promulgated thereunder

(e) Any regulations adopted pursuant to this section shall expire on January 1 of the second succeeding year following the end of the calendar year in which the regulation was promulgated. Subsequent amendments to these regulations cannot extend this expiration date

(f) This section shall become operative on December 31, 1983.

SEC. 4. Chapter 5 (commencing with Section 1918) is added to Title 4 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 4. MORTGAGE LOANS

1918. (a) The Legislature finds and declares that in order to respond to rapidly fluctuating economic conditions, preserve the stability of loan portfolios which have been threatened by the phasing out of interest rate ceilings and differentials on deposits, and facilitate the flow of mortgage capital to California consumers, it is necessary to place into law procedures which will permit timely reaction to, as well as treatment of, the explosive tendencies of capital markets. The Legislature further finds and declares:

(1) There is a critical shortage in this state of funds for the finance of home purchase and home construction

(2) Existing mortgage instruments do not take into consideration the divergent needs and the financial capabilities of different classes of borrowers, nor do they provide existing lenders with income sufficient to pay the increasing costs of money.

(3) California must utilize new sources of housing funds and develop new lending instruments that will attract additional funds from the national secondary mortgage market.

(4) Borrowers must be guaranteed full disclosure in mortgage instruments and notified in a timely fashion of substantive changes in, but not limited to, interest rate, payment and authorization.

(5) Sensitivity to this change in lending and saving environments by the Legislature must be reflected in actions which are incisive, innovative and protective of the health, welfare and peace of the people of this state. It is absolutely essential that the most responsive and secure mortgage lending environment possible be established in the State of California, one that protects the vital interests of California residents in obtaining housing, while recognizing and attempting to ameliorate the volatile environment within which financial institutions that have historically provided the overwhelming majority of mortgage loan funds must operate To this end the Legislature finds that delegating to the Secretary of the Business, Transportation and Housing Agency the administrative mechanism for promulgating such a system, within the framework and guidelines stated herein, is the most reasoned approach to resolving this crisis. Through the provisions of Section 1916.7 of the Civil Code, as well as the content of this chapter, it is the intent of the Legislature to provide short- and long-term solutions to the problems surrounding mortgage lending in the State of California, in order to establish a permanently vital foundation for a healthy housing market

(6) This chapter shall apply to all instruments executed pursuant to authority vested hereunder for loans made upon the security of residential real property occupied or intended to be occupied by the borrower, the principal improvements upon which consist of a

dwelling or dwellings for not more than four families. This chapter shall become effective on January 1, 1983.

1918.5. As used in this chapter:

(a) "Evidence of debt" means a note or negotiable instrument.

(b) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

(c) "Secretary's designee" means the director of a department within the agency that licenses or regulates the institutions, organizations or persons engaged in a business related to or affecting compliance with this chapter.

(d) "Security document" means a mortgage contract, deed of trust, real estate sales contract, or any note or negotiable instrument issued in connection therewith, when its purpose is to finance the purchase or construction of real property occupied or intended to be occupied by the borrower, containing four or fewer residential units or on which four or fewer residential units are to be constructed

1919. (a) The secretary or the secretary's designee is hereby conferred with the authority to prescribe rules and regulations that will permit all lenders, upon the security of residential real property, to make loans and advance credit thereon to a borrower pursuant to the provisions of these regulations and this chapter.

(b) The secretary or the secretary's designee shall issue rules, regulations, guidelines or orders as are necessary to interpret, enforce or affirmatively further the provisions of this part.

(c) Sections 1916.5, 1916.6, 1916.7, 1916.8, 1916.9, and 1916.10 of this code, Section 7150.1 of the Financial Code, and any other provisions of law restricting or setting forth requirements for changes in the rate of interest on loans shall not be applicable to loans made pursuant to the provisions of this chapter and regulations promulgated thereunder.

(d) Any rules or regulations adopted pursuant to this section shall expire on January 1 of the fourth succeeding year following the end of the calendar year in which the regulation was promulgated. Subsequent amendments to these rules or regulations cannot extend this expiration date.

1920. Any mortgage instrument which is made pursuant to the provisions of this chapter shall meet the following requirements:

(a) Standards for the adjustment of interest rates or monthly payments shall consider factors which can reasonably be deemed to affect the ability of borrowers to meet their mortgage obligations.

(b) No change in interest provided for in any provision for a variable interest rate contained in a security document, or evidence of debt issued in connection therewith, shall be valid unless the provision is set forth in the security document, and in any evidence of debt issued in connection therewith, and the document or documents contain the following provisions:

(1) A statement attached to the security document and to any evidence of debt issued in connection therewith printed or written in a size equal to at least 10-point bold type, consisting of language

authorized by the secretary or the secretary's designee notifying the borrower that the mortgage may provide for changes in interest, principal loan balance, payment, or the loan term.

(2) Before the due date of the first monthly installment following each change in the interest rate, notice shall be mailed to the borrower of the following.

(A) The base index.

(B) The most recently published index at the date of the change in the rate.

(C) The interest rate in effect as a result of the change.

(D) Any change in the monthly installment.

(E) The amount of the unpaid principal balance.

(F) If the interest scheduled to be paid on the due date exceeds the amount of the installment, a statement to that effect and the amount of the excess, and the address and telephone number of the office of the lender to which inquiries may be made.

(c) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge at any time, and no fee or other charge may be required by the lender of the borrower as a result of any change in the interest rate, the payment, the outstanding principal loan balance, or the loan term.

(d) Changes in the rate of interest on the loan shall reflect the movement of an index, which shall be authorized by the secretary or the secretary's designee.

(e) To the extent that any monthly installment is less than the amount of interest accrued during the month with respect to which the installment is payable, the borrower shall be notified of such instance in a form and manner prescribed by the secretary or the secretary's designee. Such notice shall include, but not be limited to, the amount of interest exceeding the monthly installment, and any borrower options under these circumstances.

(f) The lender shall provide to the borrower, prior to the execution by the borrower of any mortgage payment instrument authorized pursuant to this chapter, full and complete disclosure, as specified by the secretary or the secretary's designee, of the nature and effect of the mortgage payment instrument, and all costs or savings attributed to the mortgage instrument.

(g) The secretary or the secretary's designee shall submit to the Legislature two years after the effective date of any mortgage instrument authorized pursuant to this section a report on the number of mortgages issued. The report shall also include the impact of the instrument on minorities, women, young families, and persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code.

SEC. 5. Section 1227 of the Financial Code is amended to read:

1227. A commercial bank may lend on the security of a first lien on real property or a first lien on a leasehold under a lease which does not expire, or which has been extended or renewed so that it does not expire, for at least 10 years beyond the maturity date of the loan,

if:

(a) The term of the loan does not exceed 10 years and the amount does not exceed 60 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal; or

(b) The term of the loan does not exceed 30 years, is repayable in substantially equal installments not less often than monthly (or such variation therefrom as may be authorized under a loan executed pursuant to Section 1916.5 or 1916.8 of the Civil Code), with payments commencing not later than 60 days from the date of the loan or, in the case of a construction loan, commencing not later than one year from the date of the loan, and the amount does not exceed 90 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal, provided, however, such loan may exceed 90 percent of the sound market value of the property or leasehold if that portion of the loan which is in excess of such 90 percent is guaranteed or insured by a qualified private insurer as determined by the superintendent; or

(c) The loan is made pursuant to and in conformance with regulations adopted under Section 1227.1 of the Financial Code or Section 1916.12 of the Civil Code; or

(d) The loan is on a farm or productive agricultural lands, the term does not exceed 30 years, is repayable in substantially equal installments not less often than annually, and the amount does not exceed 90 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal; or

(e) The term of the loan does not exceed six months and the amount does not exceed 85 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal; or

(f) The term of the loan does not exceed 60 months, the amount does not exceed 85 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal, and the loan is for the purpose of financing building operations under a plan providing for payment of the loan or providing for refinancing by loans otherwise permitted by this chapter.

A commercial bank may make a loan without regard to the above restrictions when necessary to facilitate the sale of real property owned by the bank.

SEC 6 Section 1227.1 of the Financial Code is amended to read:

1227.1 (a) The Legislature finds that the operating environment of banks has become increasingly erratic as a result of

inflation, volatile market interest rates, and the phasing out of interest rate ceilings. In response to this change in environment and to promote the convenience, advantage, and best interests of California residents while maintaining an equivalent level of competition between state-chartered and national banks, the Legislature further finds and declares that:

(1) There is a critical shortage in this state of affordably priced funds for the financing of home purchase and home construction.

(2) Commercial banks have been a major source of loans for these purposes and in the past have derived a significant portion of their loan funds from savings deposits and from the sale of home loans in national secondary mortgage markets.

(3) The ability of banks to attract savings deposits and to sell loans has been adversely affected by inflation and volatile interest rates and the failure of bank loan portfolios to generate sufficient income to pay the increased costs of funds.

(4) The Comptroller of the Currency has adopted regulations (12 CFR Part 29) establishing broad parameters for residential mortgage loans which national banks may make. Interest rates for these loans may be adjusted from time-to-time to reflect changing interest rate conditions. It is contemplated that these regulations, which may be amended from time-to-time, will form the basis for guidelines that governmental and private secondary market loan purchase agencies will develop regarding the purchase of home loans from banks and subsidiaries of bank holding companies doing business in California.

(5) In order to enable state-chartered banks and subsidiaries of bank holding companies to operate on a parity basis with national banks and to enable and encourage them to make home loans in this state as well as sell them in the secondary market, it is the purpose of this section to grant an exemption from Sections 1916.5, 1916.6, and 1916.8 of the Civil Code, and any other provisions of law restricting or setting forth requirements for changes in the rate of interest, for loans conforming to the federal regulations or conformin , to the eligibility standards of governmental loan purchase agencies.

(6) It is also the purpose of this section to establish a procedure under the direction and control of the Legislature whereby state-chartered banks and subsidiaries of bank holding companies are not placed at a competitive disadvantage in mortgage markets with respect to national banks doing business in California. This procedure, as set forth in subdivision (b), shall be implemented by the Superintendent of Banks in a manner which is intended to effect compliance with the provisions of this section, and with the discretion necessary to carry out this mandate within the parameters established by other provisions of California law not specifically preempted by subdivision (g).

(b) The Superintendent of Banks shall by regulation, to the extent permitted by the laws of California, authorize state-chartered banks and subsidiaries of bank holding companies to make or consummate loans bearing other than a fixed rate of interest upon the security of

real property, if national banks doing business in California are authorized by federal law or regulation to make such loans.

(c) When adopting regulations pursuant to this section, the superintendent shall insure that the borrower receives all disclosures which are necessary to adequately inform the borrower as to the type and terms of the loan which is offered. Provisions for such disclosure shall include, but shall not be limited to, a summary and a short explanation of the key terms in, and an example of the operation of, the type of loan offered. In addition, prepayment provisions outlining the borrower's rights and responsibilities shall be provided to the borrower. State-chartered banks and subsidiaries of bank holding companies shall make all required disclosure information available to applicants for loans at the time the applicant requests the application.

(d) Regulations authorized by this section shall be adopted by the superintendent within 30 days of the effective date of the federal law, regulation, or guideline with which conformity is intended. Regulations adopted pursuant to this section shall be amended or repealed within 30 days of the effective date of any amendment or repeal of the federal law, regulation or guideline with which conformity was intended at the time the regulation was adopted

(e) Any regulations adopted pursuant to this section which are adopted on or before December 31, 1982, shall expire three years after their effective date. Subsequent amendments to these regulations cannot extend this expiration date.

(f) Any regulations adopted pursuant to this section which are adopted on or after January 1, 1983, shall expire on January 1 of the second succeeding year following the end of the calendar year in which the regulation was promulgated Subsequent amendments to these regulations cannot extend this expiration date.

(g) Sections 1916.5, 1916.6, and 1916.8 of the Civil Code and any other provision of law restricting or setting forth requirements for changes in the rate of interest on loans shall not be applicable to loans made pursuant to and in conformance with regulations adopted by the superintendent as authorized by this section

(h) This section shall remain in effect until December 31, 1983, and on such date is repealed.

SEC. 7. Section 5074 of the Financial Code is amended to read:

5074. An amortized loan is a loan which provides for payments to be made of interest and on the principal in monthly installments. The installments as to the combined principal and interest shall be at least of a sufficient amount so that the smallest installment provided in the note evidencing the loan, other than the last installment, if continued at such monthly intervals would result in paying the entire principal within the maximum legal term for the particular loan. The first installment which includes principal on each amortized loan must fall due within the time limits specified in Section 7151

For the purposes of this division the following are amortized loans.

(a) A loan made to finance the construction of real property if it

meets the requirements set forth or if such loan provides for payment in full on or before 36 months have elapsed from the date of the loan.

(b) A loan which conforms to the provisions of Sections 1916.5, 1916.6, 1916.7 or 1916.8 of the Civil Code whether or not the provisions of such sections are applicable to the loan.

(c) A loan made under the authority of Section 1916.10 or 1916.12 of the Civil Code or Section 7150.1 of the Financial Code.

SEC. 8. Section 7150.1 of the Financial Code is amended to read:

7150.1 (a) The Legislature recognizes that the operating environment of savings and loan associations has become increasingly erratic as a result of inflation, volatile market interest rates and phasing out of interest rate ceilings, and differentials on deposits In response to this change in environment and to promote the convenience, advantage, and best interests of California residents while maintaining an equivalent level of competition between state-licensed and federally chartered savings and loan associations, the Legislature further finds and declares that:

(1) There is a critical shortage in this state of affordably priced funds for the finance of home purchase and home construction.

(2) Savings and loan associations have been the primary source of loans for such purpose and in the past have derived their loan funds from savings deposits and from the sale of home loans in national secondary mortgage markets.

(3) The ability of such associations to attract savings deposits and to sell loans has been adversely affected by inflation and volatile interest rates and the failure of association loan portfolios to generate sufficient income to pay the increased costs of funds.

(4) Standardization of variable rate mortgage instruments is critical in order to make them more easily understood by, and useful to, California consumers. This consistency will increase attractiveness and corresponding saleability of these mortgages on the secondary market, which is crucial to the generation of new funds as traditional sources, such as passbook and other types of savings accounts, become increasingly unreliable.

(5) The Federal Home Loan Bank Board has adopted regulations (12 CFR Sections 545.6-4 and 545.6-4a) establishing broad parameters for residential mortgage loans which federal savings and loan associations may make. Interest rates for these loans may be adjusted from time-to-time to reflect changing interest rate conditions. It is contemplated that these regulations, which may be amended from time-to-time, will form the basis for guidelines that governmental and private secondary market loan purchase agencies will develop regarding the purchase of home loans from savings and loan associations doing business in California.

(6) In order to enable state-licensed savings and loan associations to operate on a parity basis with federal associations and to enable and encourage them to make home loans in this state as well as sell them in the secondary market, it is the purpose of this section to

grant an exemption from Sections 1916.5, 1916.6, and 1916.8 of the Civil Code, and any other provisions of law restricting or setting forth requirements for changes in the rate of interest, for loans conforming to the federal regulations or conforming to the eligibility standards of governmental loan purchase agencies.

(7) It is also the purpose of this section to establish a procedure under the direction and control of the Legislature whereby state-licensed savings and loan associations are not placed at a competitive disadvantage in mortgage markets with respect to federally regulated savings and loan associations doing business in California. This procedure, as set forth in subdivision (b), shall be implemented by the Savings and Loan Commissioner in a manner which is intended to effect compliance with the provisions of this section, and with the discretion necessary to carry out this mandate within the parameters established by other provisions of California law not specifically preempted by subdivision (g).

(b) The commissioner shall by regulation. to the extent permitted by the laws of California, authorize domestic associations to make loans bearing other than a fixed rate of interest upon the security of real property, if federal savings and loan associations doing business in California are authorized by federal law or regulation to make such loans.

(c) When adopting regulations pursuant to this section, the commissioner shall insure that the borrower receives all disclosures which are necessary to adequately inform the borrower as to the type and terms of the loan which is offered. Provisions for such disclosure shall include, but shall not be limited to, a summary and a short explanation of the key terms in, and example of the operation of, the type of loan offered. In addition, prepayment provisions outlining the borrower's rights and responsibilities shall be provided to the borrower. Domestic associations shall make all required disclosure information available to applicants for loans at the time the applicant requests the application.

(d) Regulations authorized by this section shall be adopted by the commissioner within 30 days of the effective date of the federal law, regulation or guideline with which conformity is intended. Regulations adopted pursuant to this section shall be amended or repealed within 30 days of the effective date of any amendment or repeal of the federal law, regulation or guideline with which conformity was intended at the time the regulation was adopted.

(e) Any regulations adopted pursuant to this section which are adopted on or before December 31, 1982, shall expire three years after their effective date. Subsequent amendments to these regulations cannot extend this expiration date.

(f) Any regulations adopted pursuant to this section which are adopted on or after January 1, 1983, shall expire on January 1 of the second succeeding year following the end of the calendar year in which the regulation was promulgated. Subsequent amendments to these regulations cannot extend this expiration date

(g) Sections 1916.5, 1916 6 and 1916.8 of the Civil Code and any other provision of law restricting or setting forth requirements for changes in the rate of interest on loans shall not be applicable to loans made pursuant to and in conformance with regulations adopted by the commissioner as authorized by this section.

(h) This section shall remain in effect until December 31, 1983, and on such date is repealed

SEC. 9. Section 12640.025 of the Insurance Code is amended to read:

12640.025. Notwithstanding the other loan or security requirements or definitions under subdivision (b) of Section 12640.02, a mortgage guaranty insurer shall be permitted to insure any type of loan which a bank, savings and loan association, mortgage banker, credit union, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make, or would be authorized to make disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

A loan insured by a mortgage guaranty insurer shall not exceed 95 percent of the fair market value of the real estate. However, if the loan is secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate in conjunction with a pledge or lien on personal property in the form of cash, or equivalent, or is a loan of a type authorized by Section 1227.1, 1237, 7150.1, or 7153.9 of the Financial Code, or Sections 1916.7, 1916.8, 1916 9, 1916.10, 1916.12, or Chapter 5 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of the Civil Code, the loan insured shall not exceed 100 percent of the fair market value of the real estate. Moreover, if the loan is of a type authorized by Section 1239 or 7153.10 of the Financial Code, the loan may exceed 95 percent of the fair market value of the real estate so long as it does not exceed the limits of the amount, percent of appraised value, and percent of sales price if applicable, specified in such section.

Nothing herein contained shall be deemed to permit mortgage guaranty insurance on a loan secured by a mortgage, deed of trust, or other instrument unless it is (a) a first lien or charge, and (b) the improvement is on real estate and consists of a residential building or buildings designed for occupancy by not more than four families.

The commissioner may adopt, pursuant to the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules and regulations as may be necessary to limit the amount of mortgage guaranty insurance in force on loans of the type authorized by Section 1227 1, 1237, 1239, 7150.1, 7153.9, or 7153.10 of the Financial Code, or Sections 1916.7, 1916.8, 1916.9, 1916.10, 1916.12, or Chapter 5 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of the Civil Code. Such rules and regulations, if adopted, shall apply to any insurer authorized to write and writing mortgage guaranty

insurance in this state and shall be predicated on the total volume of such insurance written anywhere. Full compliance with such rules and regulations shall be a condition for renewal of the insurer's certificate of authority.

CHAPTER 1080

An act to amend Sections 9805 and 9810 of, add Section 12005 to, the Unemployment Insurance Code, and to amend Sections 11201 and 11250.5 of, and to add Article 3.6 (commencing with Section 11335) to Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. The Legislature finds and declares that programs which provide aid payments to needy employable persons should be designed to enable these persons to secure unsubsidized jobs as soon as possible. At this time aid is paid to needy families due to the unemployment of parents and these parents do not receive any employment or training services unless they qualify for the Work Incentive Program. It is the Legislature's intent to assure that such employable parents are provided appropriate employment and training services from existing or redirected employment and training resources. These parents shall have priority for services provided by existing programs because the failure to enable these parents to secure unsubsidized employment will lead to long-term dependency on a public assistance program which is totally funded by state and county general funds.

Also, it is the Legislature's intent to seek ways of providing employment and training for the unemployed parents of needy families instead of public assistance. To accomplish this goal, pilot projects shall be implemented which shall utilize aid payments to create employment opportunities or on-the-job training for unemployed parents.

SEC. 2. Section 9805 of the Unemployment Insurance Code is amended to read.

9805. The Employment Development Department shall conduct the following programs.

(a) Youth on-the-job training programs providing work experience through employment in the private sector, such employment to be subsidized on the basis of regulations developed by the department.

(b) Youth community service programs providing work experience and opportunities for skill development through

employment on projects of positive public benefit and designed to conserve and maintain public recreational and community facilities

(c) Innovative demonstration projects to facilitate the transition of youth from school to work, which shall include, but not be limited to, the following:

(1) Youth education and work experience voucher payment plans, to test the feasibility of providing youth with more flexibility and freedom in selecting their own courses of instruction and enabling them to negotiate with employers for work experience and training. Such vouchers may be used to compensate an employer for wage costs and may be used for basic subsistence and work-related expenses. Funds from Section 11333 of the Welfare and Institutions Code may be utilized as a voucher payment.

(2) Basic education which an eligible youth receives as a complement to work-experience contracts, to test the feasibility of funding innovative educational components which are linked to the worksite training which the individual receives on the job.

(3) The Employment Development Department, the Department of Education, the Chancellor's Office of the Community Colleges, and the Division of Apprenticeship Standards in the Department of Industrial Relations shall cooperate in the development of the innovative demonstration projects described in paragraphs (1) and (2) of this subdivision.

(d) Innovative demonstration projects to provide youths with basic education, training, employment, or other related services for youths who are parents of dependent children under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, to test the feasibility of reducing the dependency of the parents on public assistance.

SEC. 3. Section 9810 of the Unemployment Insurance Code is amended to read:

9810 Youth eligible for employment under this chapter shall have reached the age of 16, but not age 22, and shall be unemployed at the time of employment. Priority in selection for employment shall be given to youth who are experiencing severe handicaps in obtaining employment including, but not limited to, those who lack a high school diploma, need remedial education, who have other significant barriers to employment or who are unemployed parents qualifying for aid under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code.

SEC. 4. Section 12005 is added to the Unemployment Insurance Code, to read:

12005. Priority for training and employment services shall be given to unemployed parents who qualify for aid under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code.

SEC. 5. Section 11201 of the Welfare and Institutions Code is amended to read:

11201. For the purposes of this chapter, "unemployed parent"

means a natural or adoptive parent with whom the child is living

(a) A child shall be considered to be deprived of parental support or care due to the unemployment of his or her parent or parents when either of the following conditions is met:

(1) The parent qualifies as an unemployed parent in accordance with the standards for unemployed parents set by the federal government.

(2) The parent does not qualify as an unemployed parent in accordance with federal standards, but the parent meets the conditions of eligibility set forth in subdivision (b).

(b) Except as specified in paragraph (5), a parent who does not meet the federal standards for unemployed parents shall be an unemployed parent for the purposes of this chapter and a family eligible for aid only if the parent meets all of the following conditions of eligibility:

(1) The parent is not working or is employed only part time as determined in accordance with standards which may be developed by the department by regulation The standards shall be consistent with federal law governing part-time employment for unemployed parents.

(2) If the parent is not ill, incapacitated, or over age 65, the parent shall register for employment and cooperate with the Employment Development Department, and shall either (A) be available for and seeking employment or (B) be accepted for, or participate in, a training program which has been approved by the department and which is essential for future support.

(3) Notwithstanding the provisions of Section 11270, the parent shall apply for, meet all conditions of eligibility for, and accept any unemployment insurance benefits for which he or she may be eligible.

(4) The parent shall not have refused a bona fide offer of employment without good cause, including additional employment if the parent is employed only part time, or has terminated his or her employment without good cause within the 30 days immediately prior to the beginning date of aid or while receiving aid. The State Department of Social Services shall develop standards for determining good cause, which standards shall be consistent with the standards for good cause developed by the federal government in the work incentive program and consistent with the purposes of this chapter. When the Department of Social Services finds that a parent has refused or terminated employment without good cause, the family shall be ineligible for aid for 30 days

(5) When one parent in the home (A) is employed fulltime, or (B) qualifies, or would qualify but refuses to do so, as an unemployed parent in accordance with the standards for unemployed parents set by the federal government, the other parent is not an unemployed parent for the purposes of this chapter unless the parent qualifies as an unemployed parent under paragraph (1) of subdivision (a).

SEC. 5.5. Section 11250.5 of the Welfare and Institutions Code is

amended to read:

11250.5. In order to maximize federal financial participation for families eligible pursuant to Section 11201, a child whose unemployed parent does not satisfy the requirements for federal financial participation set forth in Section 407(b)(1) of Title IV-A of the federal Social Security Act shall, to the extent permitted under federal law, be paid emergency assistance to needy families with children as provided in Section 406(e) of that act.

In addition to aid payments, the unemployed parent in such a family shall receive employment, training, and supportive services, to the extent permitted by federal law, under the emergency assistance to needy families with children provisions.

SEC. 6. Article 3.6 (commencing with Section 11335) of Chapter 2 of Part 3 of Division 9 is added to the Welfare and Institutions Code, to read:

Article 3.6. Employment Training Program

11335. The unemployed parent in a family which qualifies for assistance under paragraph (2) of subdivision (a) of Section 11201 shall be provided job search assistance, employment services, training, and other supportive services as specified for the Employment Preparation Program pursuant to Article 3.5 (commencing with Section 11325) in those sites where the Employment Preparation Program and Job Search Assistance Pilot Projects are implemented.

The State Department of Social Services shall enter into an interagency agreement with the Employment Development Department for the provision of these services so long as funding under Section 11250.5 is available for these services. The interagency agreement shall be annually submitted to the Joint Legislative Budget Committee.

11335.5. The Employment Development Department shall seek funding or resources for the employment and training program from such resources as the following:

(1) Emergency assistance to needy families with children.

(2) Governor's discretionary funds, vocational education funds, or funds allocated to prime sponsors, as provided for under the federal Comprehensive and Employment Training Act (CETA).

(3) Career Opportunities Development program.

(4) Career Worksite Education and Training Act.

(5) Employment services.

(6) Youth Employment and Development program.

(7) Community colleges.

(8) Adult education.

(9) Funds provided pursuant to Title XX of the federal Social Security Act.

(10) Child care and development services.

(11) Any other employment, training, or supportive service.

(12) Tax incentives for employers.

11336. The Employment Development Department, with the cooperation of the State Department of Social Services, shall develop pilot projects for the employment or on-the-job training for unemployed parents qualified for aid under paragraph (2) of subdivision (a) of Section 11201. Notwithstanding any other provision of law, the pilot projects shall demonstrate the effectiveness of utilizing a portion or all of the aid payment to create employment or training slots for the unemployed parent. Aid payments shall not be paid to the family during their participation in the project, but shall be paid to the employer to offset the cost of wages provided to the parent. Eligibility for such employment and training provided under this section shall be limited to unemployed parents who actively participated in job search assistance for at least four weeks and were unable to locate employment. The maximum time that these payments may be diverted to an employer for employment or on-the-job training shall be limited to the average length of time that an unemployed parent receives aid payments

11336.5. Participation in the pilot projects shall be voluntary. The employment and training shall meet the provisions of subdivisions (a), (b), (d), and (e) of Section 5007.5 of the Unemployment Insurance Code. Priority shall be given to employers who will make a commitment to hire the unemployed parent at the successful completion of the subsidized employment or on-the-job training. The Employment Development Department may decrease the amount of aid payments diverted to the employer for employment and on-the-job training from month to month

If the pilot projects are demonstrated to be cost effective the program shall be phased in throughout the state

11337. The Employment Development Department shall review alternative funding mechanisms for promoting unsubsidized employment in the private sector for unemployed parents of families who qualify for programs under this article. The department shall report its findings and recommendations to the Legislature by April 1, 1982.

11337.5. Implementation of the employment and training programs specified by this article shall begin no later than July 1, 1982

11338. The Employment Development Department shall report to the Legislative Analyst by February 1 of each year detailing the performance and status of the programs provided for under this article. The annual report shall meet the requirement of Section 5202 of the Unemployment Insurance Code. The Legislative Analyst shall critique the report submitted to him by the department and shall submit his findings to the Legislature on or before April 1 of each year Commencing with 1983, the report shall estimate net expenditure reductions reasonably attributable to the operation of programs under this article.

11338.5. Commencing with fiscal year 1983–84 the Governor's

Budget shall report net expenditure reductions reasonably attributable to the operations of programs under this article, and shall recommend a portion or all of such savings to be reinvested to further the intent of this act and to enhance the employability services to unemployed parents.

SEC. 7. This act shall become operative only if Assembly Bill No. 799 contains provisions for providing funds in order to carry out the purposes of this act, and if Assembly Bill No. 799 becomes chaptered during the 1981–82 Regular Session of the Legislature.

CHAPTER 1081

An act to add Section 14133.6 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 14133.6 is added to the Welfare and Institutions Code, to read:

14133.6. In acting upon prior authorization requests for nonemergency medical transportation services, the department shall consider all relevant information in its possession regarding the beneficiary for whom services are requested. The department shall act upon such requests in a timely and expeditious manner. The department shall not form separate units within its field offices to receive and act upon prior authorization requests for nonemergency medical transportation. The provisions of this section shall be applicable only in counties having a population in excess of 6,000,000.

CHAPTER 1082

An act to add Sections 18931.5, 18934.5, and 18949 to the Health and Safety Code, relating to building standards, and making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 18931.5 is added to the Health and Safety Code, to read:

18931.5. Each state agency which adopts or has adopted building standards shall pay annually to the Building Standards Commission

a proportionate share of the cost of the review and publication of building standards which are published or proposed to be published in the State Building Standards Code.

The commission shall determine the proportional cost to be paid for review of existing building standards and the amount to be paid for review of building standards adopted by the state agency which are submitted for publication in the State Building Standards Code.

SEC. 2. Section 18934.5 is added to the Health and Safety Code, to read:

18934.5. Where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, codify, and publish building standards providing the minimum standards for the design and construction of state buildings, including buildings constructed by the Trustees of the California State University and Colleges and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California. Building standards of the commission for state buildings shall comply with the criteria in subdivision (a) of Section 18930.

SEC. 3. Section 18949 is added to the Health and Safety Code, to read:

18949. The commission shall establish a schedule of fees for appeals in an amount sufficient to pay its costs of administration and hearing appeals.

CHAPTER 1083

An act to add Chapter 6 (commencing with Section 5475) to Part 1 of Division 5 of, and to repeal Section 5600.3 of, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Chapter 6 (commencing with Section 5475) is added to Part 1 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 6. PRIMARY PREVENTION PROJECTS

5475. The Legislature recognizes that prevention and early intervention services have long been slighted in the community mental health programs and has identified, as a goal of the Short-Doyle program, the prevention of serious mental disorders and psychological problems. It is the intent of the Legislature to establish a system of school-based primary prevention projects designed for

the early detection and prevention of emotional, behavioral, and learning problems in primary grade children with services provided by unpaid volunteers under the supervision of mental health professionals. The goal of the primary prevention projects is to help young children derive maximum profit from the school experience and, in so doing, prevent later-life problems of school failure, unemployment, delinquency, criminal behavior, and substance abuse.

5476. Primary prevention projects shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts may implement primary prevention projects with available funds, or may apply to the State Department of Mental Health to be considered for one of the pilot projects outlined in this chapter.

5477. The State Director of Mental Health shall develop guidelines for primary prevention projects in accordance with the following:

(a) The projects shall serve children in grades kindergarten through three.

(b) The projects may serve children beyond grade three who could benefit from the program but the number of children accepted into the program from grades four and above shall not represent more than 15 percent of the total number of children served.

(c) The projects shall serve children referred by either a screening process, a teacher, pupil services personnel, other school personnel who have had opportunities to observe children in interpersonal contacts, or parents. If a screening process is utilized, behavior rating scales shall constitute the primary instrument from which referrals to primary prevention projects are made. To a more limited extent, observations of children working on structured tasks and standardized projective tests may also be used.

(d) Before acceptance of a child into a primary prevention project, parental consent is required.

5478. (a) Each primary prevention project shall have a core team consisting of mental health professionals, including pupil personnel professionals, a senior aide, and a group of from two to five child aides.

(b) The mental health professionals shall be responsible for accepting referred children into the program, program coordination and supervision of the senior and child aides, assignment of a child to an aide, evaluation of progress, and determination of termination from the program. Mental health professionals, including pupil personnel professionals, shall supervise the scoring and interpretation of screening test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.

(c) The senior aide shall be responsible for communication among school personnel, the mental health professionals, including pupil personnel professionals, and the child aides and for the administrative functions of scheduling with aides and teachers,

arranging case conferences, and maintaining records.

(d) Child aides, under supervision of a mental health professional, shall provide the ongoing weekly sessions with children served in the primary prevention projects. Child aides may be unpaid volunteers such as students, elderly persons or other persons with time and interest in working with young children, or may be provided stipends to meet expenses or small salaries.

(e) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary prevention projects. Training shall, at a minimum, include basic child development, crisis intervention, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.

5479. School sites receiving grants under this chapter shall demonstrate a capability for referral to appropriate public and private community services. The referrals shall be made through contacts with families in response to information regarding the need for such referral arising from the child aide sessions.

5480. (a) By February 1, 1982, the State Department of Mental Health shall issue to school districts a request for proposal consistent with the provisions of this chapter.

(b) By May 1, 1982, the State Department of Mental Health shall contract with at least four school districts to provide pilot primary prevention projects for a period of three years. Costs of the pilot projects shall be financed on a basis of 50 percent state mental health funds and 50 percent school district funds.

(c) The school district share may be in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services.

(1) Contributed space to be used for child aide sessions must be comfortable, attractive, and engaging to young children. Small individual rooms are preferable.

(2) Space to be used for group meetings and consultation sessions may also be contributed.

(3) Equipment and materials may be contributed if it includes items that encourage child participation in expressive play.

5481. The State Department of Mental Health shall, on the basis of applications submitted pursuant to a request for proposal, select school sites based on the following criteria:

(a) Availability of professional and other program staff with related experience and interest in early intervention.

(b) Reasonable evidence of future stability of the program and its personnel.

(c) Representation within the application site of a wide range of economic, ethnic, and cultural populations.

(d) Demonstration of strong support by the teaching, pupil services, and administrative school personnel and by a local mental health agency.

(e) Assurance that grants would supplement existing local resources.

5482. The State Department of Mental Health shall apply to the National Institute of Mental Health for funds for training of school personnel and aides at selected sites.

SEC. 2. Section 5600.3 of the Welfare and Institutions Code is repealed.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1084

An act to amend, repeal, and add Sections 13961.1 and 13965 of the Government Code, and to repeal Section 6 of Chapter 1370 of the Statutes of 1980, relating to victims of crimes.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 13961.1 of the Government Code is amended to read:

13961.1. (a) An emergency award shall be available for a victim of a crime of violence if, as a result of the crime, the victim incurs loss of his or her income or support.

(b) Emergency award application forms shall be provided by the State Board of Control upon request of the applicant. The board shall make available such application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim. Disbursements of emergency awards funds shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards.

(d) If the applicant does not complete the application for a grant or, if, upon final disposition of the victim's claim under this article, it is found that the victim is not eligible for assistance from the board, the victim shall reimburse the board for the emergency award

pursuant to an agreed upon repayment schedule. If upon final disposition of the victim's application, the board grants assistance to the claimant, the amount of the emergency award shall be deducted from the final award of compensation granted to the victim; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's application for assistance, before any appellate action is instituted.

(e) The amount of the emergency award shall be dependent upon the immediate needs of the victim, as evidenced by the victim's loss of income or support and losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. In no event shall the amount of the emergency award exceed one thousand dollars ($1,000).

(f) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of such agency

(4) The name, address, and telephone number of the employer or self-employing entity, the loss of income or support to date and estimate of future loss.

(5) The name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) A statement that in the event the victim is denied assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(7) The applicant's signature and a statement that the victim was a resident of the state on the date of the crime and that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

(8) The board shall report to the Legislature in 1984 on the advances which became uncollectable in 1982 and 1983.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 2. Section 13961.1 is added to the Government Code, to read:

13961.1. (a) An emergency award shall be available for a victim of a crime of violence if, as a result of the crime, the victim incurs loss of his or her income or support.

(b) Emergency award application forms shall be provided by the State Board of Control upon request of the applicant. The board shall make available such application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim. Disbursements of emergency awards funds shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards.

(d) If the applicant does not complete the application for a grant or, if, upon final disposition of the victim's claim under this article, it is found that the victim is not eligible for assistance from the board, the victim shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon final disposition of the victim's application, the board grants assistance to the claimant, the amount of the emergency award shall be deducted from the final award of compensation granted to the victim; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's application for assistance, before any appellate action is instituted.

(e) The amount of the emergency award shall be dependent upon the immediate needs of the victim, as evidenced by the victim's loss of income or support and losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. In no event shall the amount of the emergency award exceed one thousand dollars ($1,000).

(f) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of such agency.

(4) The name, address, and telephone number of the employer or self-employing entity, the loss of income or support to date and estimate of future loss.

(5) The name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) A listing of creditors by name, address, and amount of debts, of whom applicant wishes the board to request forbearance of collections.

(7) A statement that in the event the victim is denied assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(8) The applicant's signature and a statement that the victim was a resident of the state on the date of the crime and that the information is supplied under penalty of perjury, violation of which

is punishable by six months in the county jail.

SEC. 3. Section 13965 of the Government Code is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a cash payment to or on behalf of the victim equal to the pecuniary loss attributable to medical or medical-related expenses directly resulting from the injury but not to exceed ten thousand dollars ($10,000);

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the injury, but not to exceed ten thousand dollars ($10,000);

(3) Authorize cash payments not to exceed three thousand dollars ($3,000) to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to need, subject to the maximum limits provided in paragraphs (1), (2), and (3) of subdivision (a).

(c) The board may also authorize payment of attorney's fees representing the reasonable value of legal services rendered to the applicant, but not to exceed 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less.

No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this section.

(d) The maximum cash payments authorized in paragraphs (1) and (2) of subdivision (a) shall be increased to twenty thousand dollars ($20,000) and the attorney's fees authorized in subdivision (c) of this section shall be increased to one thousand dollars ($1,000), if federal funds for such increases are available.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 4. Section 13965 is added to the Government Code, to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a cash payment to or on behalf of the victim equal to the pecuniary loss attributable to medical or medical-related expenses directly resulting from the injury but not to exceed ten thousand dollars ($10,000);

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the

injury, but not to exceed ten thousand dollars ($10,000);

(3) Authorize cash payments not to exceed three thousand dollars ($3,000) to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to need, subject to the maximum limits provided in paragraphs (1), (2), and (3) of subdivision (a).

(c) The board may also authorize payment of attorney's fees representing the reasonable value of legal services rendered to the applicant, but not to exceed 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less.

No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this section.

(d) The maximum cash payments authorized in paragraphs (1) and (2) of subdivision (a) shall be increased to twenty thousand dollars ($20,000) and the attorney's fees authorized in subdivision (c) of this section shall be increased to five thousand dollars ($5,000) and one thousand dollars ($1,000), respectively, if federal funds for such increases are available.

SEC. 5. Section 2 and 4 of this act shall become operative on January 1, 1985.

SEC. 6. Section 6 of Chapter 1370 of the Statutes of 1980 is repealed.

CHAPTER 1085

An act to add and repeal Sections 17052.11 and 23603 of the Revenue and Taxation Code, relating to tax credits, to take effect immediately, tax levy.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 17052.11 is added to the Revenue and Taxation Code, to read:

17052.11. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (c)) an amount equal to 55 percent of the costs (including installation charges but excluding interest charges), of a device designed and installed to convert a car or truck, which is registered in this state, to the use of

an alcohol fuel consisting of at least 85 percent methanol or ethanol. The credit allowed by this section shall be claimed in the taxable year the device is installed and shall not exceed one thousand dollars ($1,000) per vehicle.

(b) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(c) For the purposes of this section:

(1) The term "net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 17052.5 (relating to the solar energy credit), Section 17052.8 (relating to the energy conservation credit), and Section 17053.5 (relating to the renters' credit).

(2) "Device" is any apparatus for installation on a used motor vehicle or truck that requires modification of the engine or pollution control device, or both, so that methanol or ethanol may be used as fuel for the motor vehicle or truck.

(d) The Department of Motor Vehicles shall, upon request, cooperate with the Franchise Tax Board in determining vehicle eligibility under this section.

(e) If a federal tax credit is enacted for costs incurred by a taxpayer for devices described in this section, then to the extent that credit is allowed or allowable, the state credit provided in paragraph (a) of this section shall be reduced by the amount of the federal credit.

(f) That portion of the credit under this section which exceeds the "net tax" for the taxable year may not be carried over and applied to the "net tax" in succeeding taxable years.

(g) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 2. Section 23603 is added to the Revenue and Taxation Code, to read:

23603. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 55 percent of the cost (including installation charges but excluding interest charges), of a device designed and installed to convert a car or truck, which is registered in this state, to the use of an alcohol fuel consisting of at least 85 percent methanol or ethanol. The credit allowed by this section shall be claimed in the income year the device is installed and shall not exceed one thousand dollars ($1,000) per vehicle.

(b) For purposes of this section, "device" is any apparatus for installation on a used motor vehicle or truck that requires modification of the engine or pollution control device, or both, so that methanol or ethanol may be used as fuel for the motor vehicle or truck.

(c) The Department of Motor Vehicles shall, upon request, cooperate with the Franchise Tax Board in determining vehicle

eligibility under this section.

(d) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of a device described in this section, then to the extent such credit is allowed or allowable, the state credit provided in subdivision (a) shall be reduced by the amount of the federal credit.

(e) That portion of credit under this section which exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year may not be carried over and applied to those taxes in succeeding income years.

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 3. The Franchise Tax Board shall annually, no later than June 30, determine the total amount of revenues which have not been collected in the current fiscal year as a result of the enactment of this act. On July 1, 1982, and every July thereafter through July 1, 1991, the State Treasurer shall transfer that amount determined by the Franchise Tax Board pursuant to the preceding sentence from the Energy and Resources Fund Account in the State Transportation Fund to the General Fund to replace the net loss in revenues resulting from the tax credit for the conversion of motor vehicles to the use of alcohol fuel which is granted by Sections 1 and 2 of this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the operative effect of the provisions of the act shall be as follows:

(a) Section 1 of this act shall be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, Section 1 of this act shall apply in the computation of taxes for taxable years beginning on or after the last day of the calendar year following the effective date.

(b) Section 2 of this act shall be applied in the computation of taxes for income years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, Section 2 of this act shall apply in the computation of taxes for income years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 1086

An act to amend Section 19614 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 19614 of the Business and Professions Code is amended to read:

19614. (a) Notwithstanding the provisions of Sections 19611 and 19612, the California Exposition and State Fair or a district or county fair at which the average daily handle exceeds six hundred fifty thousand dollars ($650,000) shall pay a daily license fee equal to 3.65 percent of its daily conventional parimutuel handle and 4.4 percent of its daily exotic parimutuel handle.

(b) Notwithstanding subdivision (a), any fair located within the area comprised of San Diego, Orange, and Los Angeles Counties which conducts its racing meeting, or any portion thereof, on the same days and at the same time of day as any other racing association within the area, shall pay a daily license fee equal to 2.92 percent of its daily conventional parimutuel handle and 3.67 percent of its daily exotic parimutuel handle.

Notwithstanding subdivision (a), any fair located within the area comprised of Alameda, Solano, San Joaquin, and Sonoma Counties which conducts its racing meetings, or any portion thereof, during the same dates as any other racing association conducting a racing meeting within 100 air miles thereof, shall pay a reduced daily license fee equal to 2.92 percent of its daily conventional parimutuel handle and 3.67 percent of its daily exotic parimutuel handle.

In addition, any fair racing association subject to subdivision (a) that has conducted its race meeting during the daytime since January 1, 1979, and thereafter conducts its race meeting at night, shall pay a license fee on its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee
$1,500,000 or less	2 percent of the handle
$1,500,001 and more	$30,000 plus 7.52 percent of the handle in excess of $1,500,000

plus 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such fair racing association shall pay a license fee in excess of 2.92 percent of its daily conventional parimutuel handle and 3.67 percent of its daily exotic parimutuel handle.

(c) After distribution of the applicable license fees as set forth in subdivision (a) or (b), all funds remaining from the deductions pro-

vided in Section 19610 shall be distributed 48 percent as commissions and 52 percent as purses.

The amount to be distributed as purses for the current racing meeting shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

(d) In addition to the amounts deducted pursuant to Section 19610, any fair racing association shall deduct 1 percent from the total amount handled in its daily conventional and exotic parimutuel pools. The additional 1 percent shall be deposited in the Fair and Exposition Fund and is hereby appropriated for the purposes specified in Section 19627.2.

CHAPTER 1087

An act to add Chapter 3 (commencing with Section 15374) to Part 6.7 of Division 3 of Title 2 of the Government Code, relating to the Permit Reform Act of 1981.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Chapter 3 (commencing with Section 15374) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3. THE PERMIT REFORM ACT OF 1981

15374. The Legislature finds and declares that current administrative practices often result in unnecessary and burdensome delays in the process of obtaining permits, licenses, certificates, registrations, and other similar forms of authorizations from state agencies. It is the intent of the Legislature that this chapter create a system of specific deadlines and procedures designed to expedite the process of obtaining permits and other forms of authorizations and thereby ensuring the timely and efficient handling of permit applications.

15375. (a) "Permit" means any license, certificate, registration, permit, or any other form of authorization required by a state agency to engage in a particular activity or act. Permit does not mean activity subject to the provisions of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7, any permit issued by the Franchise Tax Board under Part 10 (commencing with Section 17001), Part 10.5 (commencing with Section 19501), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, or any document considered to be a receipt.

(b) "State agency" means any agency, board, commission, or

bureau of the state government.

15376. All state agencies which issue permits shall adopt regulations regarding their procedures for considering and issuing permits, specifying the following criteria.

(a) A period dating from the receipt of a permit application within which the agency must either inform the applicant, in writing, that the application is complete and accepted for filing, or that the application is deficient and what specific information is required.

(b) A period dating from the filing of a completed application within which the agency must reach a permit decision.

(c) The agency's median, minimum, and maximum times for processing a permit, from the receipt of the initial application to the final permit decision, based on the agency's actual performance during the two years immediately preceding the proposal of the regulation.

(d) The regulations shall be proposed in accordance with the following schedule:

(1) No later than April 1, 1983, for all agencies within the Health and Welfare Agency.

(2) No later than June 1, 1983, for all agencies within the State and Consumer Services Agency.

(3) No later than September 1, 1983, for all agencies within the Business, Transportation and Housing Agency.

(4) No later than December 1, 1983, for all agencies within the Resources Agency.

(5) No later than March 1, 1984, for all other agencies.

(e) Any new or additional permits required by any state agency after the effective date of this chapter shall be subject to the provisions of this chapter.

(f) An agency may amend its regulations to modify the agency's time periods.

(g) The rulemaking file submitted to the Office of Administrative Law shall contain a justification for time periods proposed.

(h) A state agency shall be deemed to have good cause for exceeding the maximum time period established for processing a permit under either of the following circumstances:

(1) The number of permits to be processed exceeds by 15 percent the number processed in the same calendar quarter the preceding year.

(2) The permit-issuing agency must rely on another public or private entity for all or part of the processing and the delay is caused by that other entity.

15377. The provisions of this chapter shall not apply to any of the following:

(a) Any permit subject to the provisions of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7.

(b) Any permit for which the issuing agency can demonstrate that the median time of processing an application for the permit, from

receipt of the initial application to the final permit decision, based upon the agency's actual performance during the 12 months immediately preceding the implementation of this chapter did not exceed seven days.

(c) Any permit issued by the Public Utilities Commission.

(d) Any permit issued by the Franchise Tax Board under Part 10 (commencing with Section 17001), Part 10.5 (commencing with Section 19501), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(e) Any permit issued by the State Energy Resources Conservation and Development Commission.

(f) Any document considered to be a receipt.

15378. It shall be the direct responsibility of the Secretaries of the Business, Transportation and Housing, Health and Welfare, Resources, and State and Consumer Services Agencies, and the heads of the independent agencies subject to the provisions of this chapter to ensure that the departments, commissions, boards, and other administrative divisions within their agencies that issue permits comply with the provisions of this chapter.

It shall further be the direct responsibility of the secretaries and agency heads to adopt regulations establishing an appeal process through which an applicant can appeal directly to the secretary or agency head for a timely resolution of any dispute arising from a violation of the time periods required by this chapter. The regulations shall provide for the full reimbursement of any and all filing fees paid by a permit applicant whose application was not processed within the time limits adopted by an agency pursuant to this chapter, and whose appeal to the secretary or agency head was decided in the applicant's favor. The appeal shall be decided in the applicant's favor if the state agency has exceeded its established maximum time period for issuance or denial of the permit and the agency has failed to establish good cause for exceeding the time period pursuant to subdivision (h) of Section 15376. Information regarding the appeal process shall be included in the permit application forms issued by the agency.

Secretaries and agency heads shall submit annual reports, each January 31st, to the Governor and the Legislature. The annual report shall include:

(a) The time periods required by this chapter for each permit issued by their agency, specifying any modifications or additions.

(b) The median, minimum, and maximum times for processing permits, from receipt of the initial application to the final permit decision, for each permit issued by their agency.

(c) A description of the appeal process required by this chapter and a summary of the number and disposition of appeals received by the secretary or agency head during the preceding year.

SEC. 2. This act shall become operative on January 1, 1983.

CHAPTER 1088

An act to add and repeal Chapter 12 (commencing with Section 8855) of Division 1 of Title 2 of the Government Code, relating to the California Debt Advisory Commission.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Chapter 12 (commencing with Section 8855) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 12. CALIFORNIA DEBT ADVISORY COMMISSION

8855. (a) There is created the California Debt Advisory Commission, consisting of nine members, selected as follows:

(1) The State Treasurer, or his or her designate.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designate.

(4) Two local government finance officers, appointed by the State Treasurer one each from among persons employed by a county, and a city, or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with such agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Rules Committee.

(b) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The State Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission. The commission, on or after January 1, 1982, and annually thereafter, shall elect from its members a vice chairman and a secretary who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors are elected.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars

($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The advisory commission shall do all of the following:

(1) Assist the Housing Bond Credit Committee and all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide information on state and local debt authorization, sold and outstanding, and serve as a statistical center for all state and local debt issues.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(f) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(g) The issuer of any proposed new debt issue of state or local government shall, no later than 10 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid.

(h) The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount thereof. Failure to give this notice shall not affect the validity of the sale.

(i) The advisory commission shall publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(j) The advisory commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the advisory commission constitutes a quorum for the transaction of business.

(k) All administrative and clerical assistance required by the advisory commission shall be furnished by the Office of the State Treasurer.

8856. In providing services under paragraph (2) of subdivision (e) of Section 8855, the commission may charge fees in an amount not to exceed the fees established by the Department of General Services for the provision of contract services. In carrying out all the other purposes of this chapter, the commission may charge fees

payable solely from the proceeds of sale of the debt issue in an amount equal to one-fortieth of 1 percent of the principal amount of the issue, but not to exceed five thousand dollars ($5,000) for any one issue; provided, however, that no fees shall be charged to any water district which is subject to the jurisdiction of the Districts Securities Commission. Amounts received under this section shall be deposited in the California Debt Advisory Commission Fund, which is hereby created in the State Treasury. All money in the fund shall be available, when appropriated, for expenses of the commission and the State Treasurer.

Until such time as fees are received by the advisory commission and appropriated pursuant to this chapter for the expenses of the commission and the State Treasurer, the commission may borrow such moneys as may be required for the purpose of meeting necessary expenses of initial organization and operation of the commission.

8857. The chairman of the commission, on its behalf, may employ an executive secretary and other persons necessary to perform the duties imposed upon it by this chapter. The executive secretary shall serve at the pleasure of the commission and shall receive compensation as fixed by the commission.

SEC. 2. This act shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1089

An act to add Sections 22131.1 and 24407.5 to the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 22131.1 is added to the Education Code, to read:

22131.1. Notwithstanding the provisions of Section 22131, "improvement factor" means an increase of 2 percent in benefits

provided under Sections 24407 and 24407.5 for each year commencing on September 1, 1981. Such factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the "improvement factor" up or down as the economic conditions dictate. No adjustments of the improvement factor shall reduce the monthly retirement allowance or benefit below that which would be payable to the recipient under this part had this section not been enacted.

SEC. 2. Section 24407.5 is added to the Education Code, to read:

24407.5. The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit and tax-sheltered contributions, of (a) a person who retired on or before December 31, 1981, or (b) the option beneficiary of a person who retired on or before December 31, 1981, or (c) a person receiving a monthly allowance in lieu of the death benefit payable on account of the death of a member whose death occurred prior to July 1, 1972, shall be an amount equal to at least eighteen dollars ($18) per month multiplied by the years of credited service. This guaranteed amount is increased as of September 1, 1981, and is applicable to allowances paid on and after September 1, 1981. If the retirement was effective at less than age 60, this allowance shall be reduced by one-quarter of 1 percent for each full month or fraction of a month which would have elapsed until the retirant reached age 55, and the allowance shall be reduced by one-half of 1 percent for each full month or fraction of a month between age 55 and age 60. If the retirant elected to have his or her allowance modified under option 2 or 3, the increase in the retirant's allowance shall be modified under the option selected.

SEC. 3. The sum of thirty-eight thousand nine hundred dollars ($38,900) is hereby appropriated from the Teachers' Retirement Fund in augmentation of Item 192-001-835 of the Budget Act of 1981 for administrative support of the State Teachers' Retirement System necessary to implement this act.

CHAPTER 1090

An act making an appropriation to pay claims of local agencies and school districts for additional reimbursement for specified state-mandated local costs, awarded by the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. The sum of twenty-one million five hundred seventy-five thousand five hundred forty-six dollars and eighty-four cents ($21,575,546.84) is hereby appropriated according to the following schedule:

(a) From the General Fund, three hundred fifty-five thousand one hundred twenty-one dollars and eighty-four cents ($355,121.84) to the State Board of Control to pay claims awarded pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code during the calendar year 1981.

(b) From the General Fund, four million seven hundred ninety-nine thousand dollars ($4,799,000) to the Controller for the payment of claims of school districts resulting from costs incurred in compliance with state-mandated legislation, as follows:

(1) For costs resulting from Chapter 1176 of the Statutes of 1977, thirty thousand seven hundred dollars ($30,700) for costs incurred in the 1978–79 fiscal year; one million two hundred thousand dollars ($1,200,000) for costs incurred in the 1979–80 fiscal year; one million two hundred thousand dollars ($1,200,000) for costs incurred in the 1980–81 fiscal year.

(2) For costs resulting from Chapter 1215 of the Statutes of 1974, sixty-seven thousand five hundred dollars ($67,500) for costs incurred in the 1978–79 fiscal year; one million one hundred thousand dollars ($1,100,000) for costs incurred in the 1979–80 fiscal year; one million one hundred thousand dollars ($1,100,000) for costs incurred in the 1980–81 fiscal year.

(3) For costs resulting from Chapter 1269 of the Statutes of 1975, five thousand eight hundred dollars ($5,800) for costs incurred in the 1978–79 fiscal year; fifty thousand dollars ($50,000) for costs incurred in the 1979–80 fiscal year; forty-five thousand dollars ($45,000) for costs incurred in the 1980–81 fiscal year.

(c) From the General Fund, sixteen million four hundred twenty-one thousand four hundred twenty-five dollars ($16,421,425) to the Controller to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated legislation as follows:

Chapter 454, Statutes of 1974	$27,888
Chapter 454, Statutes of 1974	46,903
Chapter 1170, Statutes of 1978	895,296
Chapter 1330, Statutes of 1976	48,422
Chapter 894, Statutes of 1977	350,635
Chapter 965, Statutes of 1977	110,854
Chapter 1036, Statutes of 1979	1,651,840
Chapter 1155, Statutes of 1977	31,070
Chapter 694, Statutes of 1975	27,205
Chapter 89, Statutes of 1974	6,683,980

Chapter 1398, Statutes of 1974	630
Chapter 961, Statutes of 1975	2,153,183
Chapter 894, Statutes of 1977	5,598
Chapter 965, Statutes of 1977	1,276
Chapter 1036, Statutes of 1979	3,742,573
Chapter 1357, Statutes of 1976	644,072

SEC. 2. The Board of Control shall amend all of the parameters and guidelines which were adopted prior to January 1, 1981, and for which a significant number of claims are expected, to include a filing deadline of either (a) 120 days from the effective date of this act, or (b) the deadline set out by paragraph (2) of subdivision (d) of Section 2231 of the Revenue and Taxation Code, whichever is later. This deadline shall apply to all claims submitted after the date of enactment of this act. This provision shall not apply to the parameters and guidelines for Chapter 1176, Statutes of 1977, Chapter 1215, Statutes of 1974, and Chapter 1269, Statutes of 1975.

SEC. 3. The Board of Control shall not accept, or submit to the Legislature, any more claims pursuant to Chapter 1146, Statutes of 1978; Chapter 1275, Statutes of 1975; and Sections 3401 to 3409, inclusive, of Title 8 of the California Administrative Code.

SEC. 4. The State Board of Control shall identify savings occurring at the state and local government levels resulting from Chapter 1139, Statutes of 1976.

SEC. 5. The Auditor General shall conduct a study to evaluate the cost effectiveness and potential savings to school districts, county superintendents of schools, and counties of the School Attendance Review Board program mandated under Chapter 1215, Statutes of 1974.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and end hardship to local agencies and school districts as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1091

An act to amend Sections 11344, 11346.8, 11349.7, and 91557 of, to repeal Section 91554 of, and to repeal and add Section 91553 of, the Government Code, to amend Section 44522 of the Health and Safety Code, to amend Section 32 of Chapter 69 of the Statutes of 1981, and to amend Section 133.5 of Chapter 102 of the Statutes of 1981, relating to state government.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 11344 of the Government Code is amended to read:

11344. The office shall:

(a) Provide for the continuing compilation and publication, with periodic supplements, of notices of proposed action pursuant to Section 11346.4, and all regulations required to be filed with the Secretary of State, or of appropriate references to any regulations the printing of which the office finds to be impractical, such as detailed schedules or forms otherwise available to the public, or which are of limited or particular application.

The publication of compiled regulations shall be known as the "California Administrative Code," and the periodic supplements thereto shall be known as the "California Administrative Register."

The publication of notices of proposed action pursuant to Section 11346.4 shall be known as the "Administrative Code Notice Supplement." Such publication may include in addition to the proposed regulatory actions, any of the following information:

(1) A registry of appointments in state agencies, including vacancies therein.

(2) Executive orders.

(3) Summaries of Attorney General's opinions.

(4) Notices of public meetings of state agencies.

(5) Miscellaneous notices of general interest to the citizens of California.

(b) Provide for the manner and form in which regulations, notice of the repeal of regulations and compilations shall be prepared, printed, and indexed, to the end that all regulations and compilations shall be prepared and published in a uniform manner and at the earliest practicable date and that each regulation published shall be accompanied by a reference to the statutory authority pursuant to which it was enacted. The office may prescribe those regulations which are necessary for carrying out the provisions of this chapter.

SEC. 2. Section 11346.8 of the Government Code is amended to read:

11346.8. (a) If a public hearing is not scheduled, the state agency shall, consistent with Section 11346.4, afford any interested person or his or her duly authorized representative, the opportunity to present statements, arguments or contentions in writing. In addition, a public hearing shall be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to the state agency, a request to hold a public hearing. The state agency shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for

notice thereby with the state agency. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

(b) In any hearing under this section the state agency or its duly authorized representative shall have authority to administer oaths or affirmations. An agency may continue or postpone such hearing from time to time to such time and at such place as it shall determine.

(c) No state agency may adopt, amend, or repeal any regulation, unless the full text of the proposed adoption, amendment or repeal has been available to the public at least 45 days prior to the public hearing or close of the written comment period. A state agency may adopt, amend or repeal a regulation which has been changed or modified from that which was made available to the public only if the change or modification is (1) nonsubstantial or solely grammatical in nature, or (2) the resulting adoption, amendment or repeal is sufficiently related to the text made available to the public pursuant to the provisions of Section 11346.5 that the public was adequately placed on notice that the adoption, amendment or repeal could result from the originally proposed regulatory action and the full text of the resulting adoption, amendment, or repeal, with the change or modification clearly indicated, is made available to the public for at least 15 days prior to the date on which the agency adopts, amends or repeals the resulting regulation.

SEC. 3. Section 11349.7 of the Government Code is amended to read:

11349.7. Every agency subject to the provisions of this chapter shall undertake a review of all regulations administered by it on the effective date of this section in accordance with the following:

(a) On or before December 31, 1980, each agency shall transmit to the Office of Administrative Law a plan for the review of all regulations it is administering. The plan shall be prepared in the manner prescribed by the office and shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations, personnel required to evaluate all regulations, and such other information required by the office.

Time schedules shall further identify separate bodies of regulations within each title of the California Administrative Code which shall be evaluated by January 31 of each year. Review of each title shall be completed no later than the date specified in Section 11349.8.

(b) The Office of Administrative Law shall have final authority to determine the time allowed each agency for review of its regulations.

(c) All regulations shall be reviewed in accordance with the standards set forth in Section 11349.1.

(d) The Office of Administrative Law shall, on or before April 1, 1981, file with the Governor, the Senate Committee on Rules and the Speaker of the Assembly a master plan for regulation review. The master plan shall establish specific dates by which each agency shall have complied with this section, including interim review goals to be met each year in accordance with subdivision (a) of this section.

The office shall periodically publish in the Notice Register a schedule for the review of existing bodies of regulations by each agency.

(e) The amount required to implement this section shall be included as part of the budget of each agency in the first Governor's Budget sent to the Legislature following the effective date of this section and shall be updated in each succeeding budget as appropriate.

(f) The Office of Administrative Law shall present to the Governor and the Legislature on January 31 of each year a report on the progress of each agency in complying with this section. The office may include in this report recommendations for the repeal or amendment of statutory provisions that affect the operations of regulatory agencies.

(g) Within six months following the date when a regulation has been reviewed by a state agency and a Statement of Review Completion submitted to the office in accordance with time schedules adopted pursuant to this section, the office on its own motion, or upon the petition of any interested person in keeping with the requirements of Section 11347, may initiate the review of any regulation, group of regulations, or series of regulations. The office may request the agency which chose not to repeal the regulation to forward to it any information on which it relied in reaching its decision. Any such request shall be answered within 14 calendar days of its receipt.

If a state agency reports in a Statement of Review Completion that it will amend or repeal a regulation, the amendment or repeal shall be completed and submitted to the office within six months of the submittal of the Statement of Review Completion.

If a state agency, in conjunction with its review of existing regulations pursuant to this section, submits a proposed adoption, amendment or repeal of a regulation to the office, the time for approval or disapproval of that proposed adoption, amendment or repeal shall also be six months from the date it is submitted to the office.

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, the Office of Administrative Law shall order the adopting agency to show cause why the regulation should not be repealed. In issuing such an order, the Office of Administrative Law shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1. In the case of a regulation for which no, or inadequate, information relating to its necessity can be furnished by the adopting agency, the order shall specify the information which the Office of Administrative Law requires to make its determination.

(i) No later than 60 days following receipt of an order to show cause why a regulation should not be repealed, the agency shall respond in writing to the Office of Administrative Law. Upon

written application by the agency, the office may extend the time for an additional 30 days.

(j) The Office of Administrative Law shall review all information available to it, including the information, if any, transmitted to it in a timely response to the order to show cause why the regulation should not be repealed, and determine whether the regulation meets the standards set forth in Section 11349.1. If the Office of Administrative Law determines that a regulation fails to meet the standards, it shall prepare a statement specifying the reasons for its determination. The statement shall be delivered to the adopting agency, the Legislature, and the Governor and shall be made available to the public and the courts. Thirty days after delivery of the statement required by this subdivision the Office of Administrative Law shall prepare an order of repeal of the regulation and shall transmit it to the Secretary of State for filing.

(k) The Governor, within 30 days after the agency and the office have complied with the requirements of this article, may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect.

(*l*) In the event that the office orders the repeal of a regulation, it shall give notice of its action in accordance with the provisions of subdivision (e) of Section 11346.4.

SEC. 4. Section 91553 of the Government Code is repealed.

SEC. 4.5. Section 91553 is added to the Government Code, to read:

91553. The chairperson of the commission on its behalf shall appoint an executive secretary who shall serve at the pleasure of the commission and shall receive an annual salary which shall not exceed fifty thousand dollars ($50,000). The commission may employ such additional staff as it deems necessary and appropriate to carry out the provisions of this title. The commission shall charge fees commensurate with its direct expenses and those of the office of the State Treasurer in performing its duties pursuant to this title. Amounts received under this section shall be deposited in the Industrial Development Fund which is hereby created and shall be available, when appropriated, for the expenses of the commission. Until such time as fees are received by the commission and appropriated pursuant to this section for the expenses of the commission, the commission may borrow such moneys as may be required for the purpose of meeting necessary expenses of initial organization and operation of the commission.

SEC. 5. Section 91554 of the Government Code is repealed.

SEC. 5.5. Section 91557 of the Government Code is amended to read:

91557. The commission may establish by regulation the nature of the information required for the making of the determinations pursuant to Section 91531.

SEC. 5.7. Section 44522 of the Health and Safety Code is amended to read:

44522. The authority is authorized and empowered:

(a) To adopt an official seal.

(b) To sue and be sued in its own name.

(c) To do all things generally necessary or convenient to carry out its powers and the purposes under this division.

(d) To make temporary loans from those funds set aside for its administrative costs to state financing authorities or advisory commissions created by a statute which takes effect on or after January 1, 1981, and which designates the State Treasurer as the chairperson, such loans to be returned with interest as specified by Section 16314 of the Government Code.

SEC. 6. Section 32 of Chapter 69 of the Statutes of 1981 is amended to read:

Sec. 32. Any state agency which adopts regulations implementing the provisions of this act may adopt the regulations as emergency regulations in accordance with the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of adopting regulations implementing this act and until October 1, 1981, the regulations shall be deemed to be necessary for the immediate preservation of the public peace, health, and safety or general welfare within the meaning of Sections 11346.1 and 11349.6 of the Government Code.

SEC. 7. Section 133.5 of Chapter 102 of the Statutes of 1981 is amended to read:

Sec. 133.5. The following provisions apply to Sections 93 to 133, inclusive, of this act, which make changes in the Medi-Cal program.

(a) Any provision which is in conflict with any federal statute or regulation shall be inapplicable to the extent of such conflict, but this provision and the remainder of the provisions shall be unaffected to the extent no conflict exists.

(b) The State Department of Health Services shall seek all federal waivers necessary to implement the provisions. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(c) The provisions of Sections 14005.12 and 14134 of the Welfare and Institutions Code, as enacted by this act, shall not be implemented with respect to any recipient of medical assistance, unless federal law or federal waivers of applicable law permit the implementation of the provision with respect to all recipients of medical assistance.

(d) Any state agency which adopts regulations implementing the provisions of this act may adopt the regulations as emergency regulations in accordance with the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations which do not require federal waivers shall be deemed, until

November 15, 1981, to be necessary for the immediate preservation of the public peace, health, and safety or general welfare within the meaning of Sections 11346.1 and 11349.6 of the Government Code. Regulations which require federal waivers shall be deemed to be necessary for the immediate preservation of the public peace, health and safety or general welfare within the meaning of Sections 11346.1 and 11349.6 of the Government Code until 30 days after the receipt of the appropriate federal waiver.

CHAPTER 1092

An act to amend Section 54702.14 of, and to add Chapter 6.4 (commencing with Section 54700.1) to Part 1 of Division 2 of Title 5 of, the Government Code, relating to housing.

[Approved by Governor September 30, 1981. Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Chapter 6.4 (commencing with Section 54700.1) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 6.4. EMPLOYEE RENTAL HOUSING

Article 1. Definitions

54700.1. The definitions set forth in this article govern the construction of this chapter, unless the context requires otherwise.

54700.2. "Bonds" means bonds, notes or other evidence of indebtedness issued by a city pursuant to this chapter and secured by rental or lease revenues derived from rental housing for employees.

54700.3. "Local agency" means a city, a city and county or a county.

54700.4. "Construct" or "construction" means all activities necessary or incidental to the construction of housing including, but not limited to, acquisition of property or any interest therein, construction, reconstruction, rehabilitation or maintenance, repair or operation of any property or improvement.

54700.5. "Employee" means an employee of the local agency, the state or any political subdivision thereof, special district, including a school district, or any other local government entity, or an employee of a public or private utility whom the legislative body has determined performs a function essential to the public health, safety or welfare.

54700.6. "Housing" means any dwelling or residential structure,

including, but not limited to, single-family detached dwellings, multi-family dwellings or modular housing or mobilehomes. "Housing" also means a park or other site or facility suitable for modular housing or mobilehomes, and such park or other site or facility may include pads or other foundations, utility connections, and other appropriate on-site improvements.

54700.7. "Legislative body" means the city council or the board of supervisors, as the case may be.

54700.8. "State" means the State of California and, where the context requires, any agency or instrumentality thereof.

Article 2. Powers and Procedures

54701.1. A local agency may construct or cause to be constructed rental housing for employees.

54701.2. A local agency may issue bonds pursuant to this chapter for the purpose of financing the construction of rental housing for employees and for the purpose of funding or refunding previously issued bonds.

54701.3. Rental and lease revenues derived from rental housing for employees shall be the sole revenues of the local agency pledged for the repayment of bonds issued pursuant to this chapter. A local agency may appropriate funds from whatever source derived to the repayment of bonds issued pursuant to this chapter.

54701.4. A local agency may retain engineers, architects, accountants, financial consultants, bond counsel, or other services as may be necessary in the judgment of the legislative body for the construction or financing of construction of rental housing for employees.

54701.5. In addition to all other powers granted by this chapter, a local agency may do all things necessary or convenient to carry out the purposes of this chapter.

54701.6. Notwithstanding any other provision of law, the legislative body may award contracts for the construction of housing for employees by negotiation or following the receipt of competitive bids after notice inviting such bids.

54701.7. Construction of housing for employees pursuant to this chapter shall be exempt from the provisions of Section 30213 of the Public Resources Code.

54701.8. A local agency may accept financial or other assistance from any public or private source, and may expend any funds so accepted for any of the purposes of this chapter.

54701.9. Contributions for any of the purposes of this chapter by a city, the state or any political subdivision thereof, a special district, including a school district, or any other local governmental entity, are hereby declared to be for a proper public purpose.

54701.10. Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt or liability of the local agency for which is pledged the faith and credit of the local agency

54701.11. All construction shall be undertaken or completed subject to the rules and regulations of the local agency. A local agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in property necessary or convenient for the construction or the financing of construction of rental housing for employees, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this chapter.

54701.12. A local agency shall require that contractors and subcontractors engaged in construction financed under this chapter shall provide equal opportunity for employment, without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry. All contracts and subcontracts for construction financed under this chapter shall be let without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry.

54701.13. Not less than 20 percent of the total number of units of housing for rent which are financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of each bond issuance of the city or county, shall be for occupancy on a priority basis by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at affordable rents, as defined in Section 50053 of the Health and Safety Code.

Article 3. Bonds and Notes

54702.1. (a) A local agency may, from time to time, issue its bonds for the purpose of financing construction of rental housing for employees. In anticipation of the sale of bonds, the local agency may issue negotiable bond anticipation notes and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the local agency in anticipation of which they were issued. Bond anticipation notes and the resolution or resolutions authorizing such note may contain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the local agency may contain except that any such note or renewal thereof shall mature at a time not later than two years from the date of the issuance of the original note.

(b) The bonds shall be a special obligation of the local agency payable from all or any part of the rental or lease revenues or other funds as specified in this chapter. The bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.

54702.2. In determining the amount of bonds to be issued, the local agency may include all costs of the issuance of such bonds, bond reserve funds, and bond interest.

54702.3. The bonds may be issued as serial bonds or as term bonds, or the local agency, in its discretion, may issue bonds of both

types. The bonds shall be authorized by resolution of the local agency and shall bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption as the resolution or resolutions of the local agency may provide. The bonds may be sold at either a public or private sale and for such prices as the local agency shall determine. Pending preparation of the definitive bonds, the local agency may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for such definitive bonds. The local agency may sell bonds at a price below the par value thereof, but the discount on any bond so sold shall not exceed 6 percent of the par value thereof.

54702.4. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of the bonds:

(a) The pledge of all or any part of the rental and lease revenues, subject to such agreements with bondholders as may then exist.

(b) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(c) Limitations on the purposes to which the proceeds of a sale of any issue of bonds, then or thereafter issue, may be applied, and pledging such proceeds to secure the payment of the bonds or any issue of bonds.

(d) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(e) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(f) Limitation on expenditures for operation, administration, or other expenses of the local agency.

(g) Specification of the acts or omissions to act which shall constitute a default in the duties of the local agency to holders of the bonds, and providing the rights and remedies of such holders in the event of default.

(h) The mortgaging of any housing and the site thereof for the purpose of securing the bondholders.

54702.5. No member of the legislative body nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof

54702.6. The local agency may purchase its bonds from any source of funds available therefor. The local agency may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders.

54702.7. In the discretion of the local agency, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the local agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. Such a trust agreement or the resolution providing for the issuance of bonds may pledge or assign the revenues to be received and may convey or mortgage any housing the construction of which is to be financed from the proceeds of such bonds. Such trustee agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the local agency authorizing the issuance of the bonds. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trustee agreement or resolution may contain such other provisions as the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trustee agreement or resolution may be treated as a part of the cost of issuance of the bonds.

54702.8. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of such bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of this state or in such resolution, and may enforce and compel the performance of all duties required by this chapter or by such resolution to be performed by the local agency or by any officer, employee, or agent thereof.

54702.9. Any local agency may provide for the issuance of bonds of the city for the purpose of refunding any bonds of the local agency then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the local agency, for the additional purpose of paying all or any part of the cost of additional construction of rental housing for employees.

The proceeds of bonds issued pursuant to this section may, in the discretion of the local agency, be applied to the purchase or retirement at maturity or redemption of outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending such application, that portion of the proceeds allocated for such purpose may be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date, as may be

determined by the local agency. Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds. Any interest or earnings realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the local agency to be used by it for any of the purposes of this chapter. That portion of the proceeds of any bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional construction may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligation of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such costs.

All bonds issued pursuant to this section shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

54702.10. Notwithstanding any other provision of law, revenue bonds issued pursuant to this chapter shall be legal investments for all trust funds, insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, guardians, conservators, trustees, and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be authorized by law, including deposits to secure public funds.

54702.11. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of this state and for their health and welfare. Any bonds issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions of the state, except inheritance and gift taxes.

54702.12. If the jurisdiction of the local agency to order a proposed act is not affected, an omission of any officer or the local agency in proceedings under this chapter or any other defect in the proceedings shall not invalidate the proceedings or bonds issued pursuant to this chapter.

54702.13. This chapter is full authority for the issuance of bonds by a local agency for the purpose of financing construction of rental

housing for employees.

54702.14. This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

54702.15. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of bonds under this chapter and the legality and validity of all proceedings previously taken or proposed in a resolution of a local agency to be taken for the authorization, issuance, sale, and delivery of the bonds and for the payment of the principal thereof and interest thereon.

SEC. 2. Section 54702.14 of the Government Code, as added by Section 1 of this act, is amended to read:

54702.14. This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds except that Sections 8855, 8856, and 8857 shall apply.

SEC. 3. Section 2 of this act shall become operative only if this bill and Assembly Bill 1192 are both chaptered, and become effective January 1, 1982, irrespective of the ordering of chaptering, and in such case Section 2 of this act shall become operative on January 1, 1982.

CHAPTER 1093

An act to amend Section 2558 of, as amended by Chapter 100 of the Statutes of 1981, to amend Sections 39619 and 39809.5 of, to amend Sections 41856 and 42103 of, as added by Chapter 100 of the Statutes of 1981, to amend Sections 42238, 42239, 42241, and 42243.7 of, as amended by Chapter 100 of the Statutes of 1981, to amend Section 46118 of, to amend Sections 49531 and 49552 of, as amended by Chapter 102 of the Statutes of 1981, to amend Section 52616 of, as added by Chapter 100 of the Statutes of 1981, to amend Section 56860 of, to amend Section 59300 of, as added by Chapter 102 of the Statutes of 1981, to add Section 42240.1 to, to repeal and add Section 14041 to, to repeal Sections 41855, 42241.3, and 42241.5 of, and to repeal Chapter 11 (commencing with Section 42900) of Part 24 of, the Education Code, to amend Section 3543.2 of the Government Code, as amended by Chapter 100 of the Statutes of 1981, and to repeal and add Section 7902.1 of the Government Code, as added by Chapter 15

of the Statutes of 1981, to amend Sections 1.4 and 36 of Chapter 100 of the Statutes of 1981, as amended by Chapter 102 of the Statutes of 1981, and to repeal Section 39 of Chapter 100 of the Statutes of 1981, relating to school finance, making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981.]

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

SECTION 1. Section 2558 of the Education Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

2558. Notwithstanding any other provision of law, for the 1979–80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall apportion state aid to county superintendents of schools pursuant to the provisions of this section.

(a) The Superintendent of Public Instruction shall total the amounts computed for the fiscal year pursuant to Sections 2550, 2551, 2551.3, 2552, 2554, 2555, and 2557. For the 1979–80 fiscal year and for purposes of calculating the 1979–80 fiscal year base amounts in succeeding fiscal years, the amounts in Sections 2550, 2551, 2552, 2554, 2555, and 2557, as they read in the 1979–80 fiscal year, shall be multiplied by a factor of 0.994. For the 1981–82 fiscal year and for purposes of calculating the 1981–82 fiscal year base amounts in succeeding fiscal years, the amount in this subdivision shall be multiplied by a factor of 0.97.

(b) The Superintendent of Public Instruction shall subtract from the amount determined in subdivision (a) the sum of: (1) local property tax revenues received pursuant to Section 2573 in the then current fiscal year, and tax revenues received pursuant to Section 2556 in the then current fiscal year, (2) state and federal categorical aid for the fiscal year, (3) district contributions pursuant to Section 52321 for the fiscal year, and other applicable local contributions and revenues, and (4) any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978–79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292, Statutes of 1978, as amended by Chapter 51, Statutes of 1979.

(c) The remainder computed in subdivision (b) shall be distributed in the same manner as state aid to school districts from funds appropriated to Section A of the State School Fund.

(d) If the remainder determined pursuant to subdivision (b) is a negative amount, no state aid shall be distributed to that county superintendent of schools pursuant to subdivision (c), and an amount of funds of that county superintendent equal to such negative amount shall be deemed restricted and not available for expenditure during the current fiscal year. In the next fiscal year, such amount shall be considered local property tax revenue for purposes of the operation of paragraph (1) of subdivision (b) of this

section.

SEC. 2. Section 14041 of the Education Code is repealed.

SEC. 2.5. Section 14041 is added to the Education Code, to read:

14041. (a) The Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in each month of each year in the amounts and manner as herein prescribed so as to provide in each warrant a portion of the total amount certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as apportioned under the provisions of Sections 41330 to 41343 and 84320 to 84332, inclusive, and Chapter 4 (commencing with Section 41600) and Chapter 5 (commencing with Section 41700) and Article 2 (commencing with Section 42237) of Chapter 7 of Part 24 of Division 3 of Title 2, inclusive, during the fiscal year from the State School Fund to the school districts under the jurisdiction of the county superintendent of schools of the county, to the county school service fund, and to the county school tuition fund of the county.

(1) Warrants for amounts allowed to the county school service funds under subdivisions (a) and (b) of Section 14054 shall be for amounts equal to 6 percent in July, 12 percent in August, 10 percent in September, and 8 percent in each remaining month of the fiscal year of the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as a part of the advance apportionment.

(2) Warrants for amounts apportioned to school districts and county school service funds for classes maintained by county superintendents of schools and to the county school tuition funds shall be for amounts equal to 6 percent in July, 12 percent in August, and 8 percent in September, October, November, December, and January, of the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as a part of the advance apportionment.

(3) Warrants in the months of February to May, inclusive, shall be for amounts equal to one-sixth of the difference between the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges for school districts, community college districts, and county school service funds for classes maintained by county superintendents of schools and county school tuition funds as the first principal apportionment and the amounts required by paragraph (2). An additional one-sixth of such difference shall be included in the warrants for the month of February.

(4) Warrants for the month of June shall be for amounts equal to the difference between the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges for school districts, community college districts, and county school service funds for classes maintained by county superintendents of schools and county school tuition funds as the second principal apportionment and the amounts required by

paragraphs (2) and (3).

(5) Warrants in the months of September to November, inclusive, shall include one-tenth of the estimated total amounts of the special purpose apportionment, as determined by the Superintendent of Public Instruction or Chancellor of the California Community Colleges. Warrants in December shall include one-tenth of the amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as the special purpose apportionment, as adjusted, if necessary, to correct excesses or deficiencies in the estimates made for purposes of the warrants in the months of September to November, inclusive. An additional one-tenth of the amounts of the special purpose apportionment shall be included in the warrants for the months from January to June, inclusive.

(6) Warrants in June shall include the total amounts certified by the Superintendent of Public Instruction or Chancellor of the California Community Colleges as the final apportionment.

(7) Notwithstanding any provision of paragraph (2) to the contrary, for school districts which reported less than 5,000 units of average daily attendance in the 1979–80 fiscal year and which received 39 percent or more of their total revenue limits from local property taxes in that fiscal year, warrants for amounts apportioned to the districts shall be for amounts equal to 15 percent in July, August, September, and October; 0 percent in November and December; and 6 percent in January of the amounts certified by the Superintendent of Public Instruction as a part of the advance apportionment. Warrants for amounts apportioned to the districts for the months of February to May, inclusive, shall be in accordance with paragraph (3), and for the month of June, shall be in accordance with paragraph (4).

(b) The drawing of the warrants required to be drawn during any one of the months mentioned may be postponed by the Controller for not to exceed 30 days, but the total amounts due the several counties during any fiscal year shall be paid within the fiscal year. The warrants shall be paid by the State Treasurer from the State School Fund and are not subject to the provisions of Government Code Section 925.6.

SEC. 3. Section 39619 of the Education Code is amended to read:

39619. (a) Whenever a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established pursuant to Section 39618 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in Section 39618, exclusive of categorical aid funds, in either the 1978–79 or 1979–80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to Section 42237 or 42238, the Superintendent of Public Instruction shall so certify to the

State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar ($1) for each one dollar ($1) of local funds up to a maximum of ½ percent of the total general funds and adult education funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service, to the extent of funds available pursuant to Chapter 24 (commencing with Section 17780) of Part 10.

SEC. 4. Section 39809.5 of the Education Code is amended to read:

39809.5. (a) In no case shall the sum of the state aid received and the parent fees collected in a fiscal year exceed actual operating cost of home-to-school transportation in that fiscal year.

(b) If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years.

(c) The governing board shall certify to the county superintendent that districts have levied fees in accordance with law, and that fees have been reduced and excess fee revenue eliminated whenever excess fees have been charged.

SEC. 5. Section 41855 of the Education Code is repealed.

SEC. 6. Section 41856 of the Education Code, as added by Chapter 100 of the Statutes of 1981, is amended to read:

41856. For the 1981–82 fiscal year, from Section A of the State School Fund the Superintendent of Public Instruction shall apportion to each school district the amount of its approved home-to-school transportation costs for the previous fiscal year, but not to exceed 1.06 times the sum of the reduction made pursuant to subdivision (e) of Section 42241, the state reimbursement received in the prior fiscal year for home-to-school transportation costs, and the state apportionment, if any, received in the prior fiscal year pursuant to former Section 41855. Districts not submitting a 1979–80 fiscal year State Department of Education transportation cost report for approval may do so and the superintendent shall determine the approved costs in the same manner as for those districts having submitted a report.

SEC. 7. Section 42103 of the Education Code, as added by Chapter 100 of the Statutes of 1981, is amended to read:

42103. The governing board of each school district shall hold a public hearing on the proposed budget for the ensuing fiscal year in a schoolhouse of the district, or some other place conveniently accessible to the residents of the district, any day prior to the end of the first week in September, at which any resident in the district may appear and object to the proposed budget or any item in the budget.

The hearing may be concluded on the proposed budget when there are no requests for further hearing on file. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held.

The proposed budget, showing program expenditures, cash

balances, and all the appropriations from the state as required to be tabulated in Sections 42122 and 42123 for the ensuing and last preceding fiscal year, any district tax requirement computed pursuant to subdivision (c) of Section 42127 for the school year to which the proposed budget is intended to apply, and any recommendations made by the county superintendent pursuant to subdivision (b) of Section 42127 shall be made available by the district for public inspection in a schoolhouse of the district or in some other place conveniently accessible to residents of the district, during the last week in August.

Notification of dates and location or locations at which the proposed budget may be inspected by the public and the date, time and location of the public hearing on the proposed budget shall be published by the county superintendent of schools in a newspaper of general circulation in the district, or if there is no such newspaper, then in any newspaper of general circulation in the county, at least three days prior to the last week in August. The cost of the publication shall be a legal and proper charge against the school district for which the publication is made.

SEC. 8. Section 42238 of the Education Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

42238. (a) For the 1980–81 fiscal year and each fiscal year thereafter the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section, excluding any funds resulting from an adjustment pursuant to Section 42950, as it read prior to its amendment by Chapter 238 of the Statutes of 1979.

(b) For the 1980–81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979–80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237, shall receive the maximum inflation adjustment if that revenue limit is less than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, one thousand seven hundred dollars ($1,700).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand three hundred fifty dollars ($1,350).

(3) High school districts with less than 301 units of average daily attendance, one thousand nine hundred dollars ($1,900).

(4) High school districts with more than 300 units of average daily attendance, one thousand seven hundred dollars ($1,700).

(5) Unified districts with less than 1,501 units of average daily attendance, one thousand five hundred twenty-five dollars ($1,525).

(6) Unified districts with more than 1,500 units of average daily attendance, one thousand five hundred dollars ($1,500).

(c) For the 1980–81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979–80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237 shall receive the minimum inflation adjustment if that revenue limit is more than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, two thousand two hundred dollars ($2,200).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand eight hundred fifty dollars ($1,850).

(3) High school districts with less than 301 units of average daily attendance, two thousand four hundred dollars ($2,400).

(4) High school districts with more than 300 units of average daily attendance, two thousand two hundred dollars ($2,200).

(5) Unified districts with less than 1,501 units of average daily attendance, two thousand twenty-five dollars ($2,025).

(6) Unified districts with more than 1,500 units of average daily attendance, two thousand dollars ($2,000).

(d) For the 1981–82 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1980–81 fiscal year pursuant to this section shall receive the maximum inflation adjustment if that revenue limit is less than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, one thousand nine hundred seventy-nine dollars ($1,979).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand five hundred seventy-three dollars ($1,573).

(3) High school districts with less than 301 units of average daily attendance, two thousand two hundred nineteen dollars ($2,219).

(4) High school districts with more than 300 units of average daily attendance, one thousand nine hundred seventy-six dollars ($1,976).

(5) Unified districts with less than 1,501 units of average daily attendance, one thousand eight hundred twenty-two dollars ($1,822).

(6) Unified districts with more than 1,500 units of average daily attendance, one thousand seven hundred twenty-four dollars ($1,724).

For computation of revenue limits for the 1982–83 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the maximum inflation adjustment for the preceding fiscal year.

(e) For the 1981–82 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1980–81 fiscal year pursuant to this section shall receive the minimum inflation adjustment if that revenue limit is more than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, two thousand three hundred fourteen dollars ($2,314).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand nine hundred eight dollars ($1,908).

(3) High school districts with less than 301 units of average daily attendance, two thousand five hundred fifty-four dollars ($2,554).

(4) High school districts with more than 300 units of average daily attendance, two thousand three hundred eleven dollars ($2,311).

(5) Unified districts with less than 1,501 units of average daily

attendance, two thousand one hundred fifty-seven dollars ($2,157).

(6) Unified districts with more than 1,500 units of average daily attendance, two thousand fifty-nine dollars ($2,059).

For the computation of revenue limits for the 1982–83 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the difference between the maximum inflation adjustment prescribed in this section for the preceding fiscal year and one hundred dollars ($100).

(f) The maximum inflation adjustment shall be one hundred fifty dollars ($150) plus the amount provided by category (a) of Item 352.2 of the Budget Act of 1980 for the 1980–81 fiscal year; one hundred thirty-eight dollars ($138) for the 1981–82 fiscal year; one hundred thirty dollars ($130) for the 1982–83 fiscal year; and, one hundred thirty-eight dollars ($138) for the 1983–84 fiscal year and each fiscal year thereafter. The minimum inflation adjustment in each fiscal year shall be the amount of the maximum inflation adjustment reduced by sixty-five dollars ($65).

(g) Utilizing the district revenue limit per unit of average daily attendance for the preceding fiscal year computed pursuant to paragraph (2) of subdivision (b) of Section 42237 or this section, as the case may be, the county superintendent of schools shall compute an inflation adjustment for the 1980–81 fiscal year as follows:

(1) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amount specified in subdivision (b) excluding any adjustment pursuant to paragraph (3) of subdivision (b) of Section 42237, the maximum inflation allowance plus an additional amount not to exceed twenty-five dollars ($25) if the district will qualify for the maximum inflation adjustment in the next succeeding fiscal year.

(2) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was greater than the amount specified in subdivision (b), but less than the amount specified in subdivision (c), determine the difference between the prior year amount specified in subdivision (c) and the district's prior year revenue limit per unit of average daily attendance. Multiply that difference by 65 and divide that product by the difference between the prior year amounts specified in subdivisions (b) and (c). This result added to the minimum inflation adjustment specified in subdivision (f) shall be the inflation adjustment.

(3) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was equal to or greater than the amount specified in subdivision (c) the inflation adjustment shall be the minimum inflation adjustment specified in subdivision (f).

(4) The amount computed pursuant to this subdivision shall be added to the revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section 42237, excluding any funds resulting from an adjustment pursuant to

Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979. This amount shall be known as the school district revenue limit per unit of average daily attendance for the 1980–81 fiscal year.

(h) For the 1981–82 fiscal year and each fiscal year thereafter, utilizing the district revenue limit per unit of average daily attendance for the preceding fiscal year computed pursuant to this section, the county superintendent of schools shall compute an inflation adjustment as follows:

(1) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amounts specified in subdivision (e), determine the difference between the prior fiscal year amount specified in subdivision (e) and the district's prior fiscal year revenue limit per unit of average daily attendance. Multiply that difference by 65 and divide that product by the difference between the prior fiscal year amounts specified in subdivisions (d) and (e) for those types of districts. This result added to the minimum inflation adjustment specified in subdivision (f) shall be the inflation adjustment.

(2) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amounts specified in subdivision (d), the maximum inflation allowance shall not exceed 15 percent of the district's preceding fiscal year revenue limit per average daily attendance.

(3) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was equal to or greater than the amounts specified in subdivision (e), the inflation adjustment shall be the minimum inflation adjustment specified in subdivision (f).

(4) The amount computed pursuant to this subdivision shall be added to the revenue limit per unit of average daily attendance computed pursuant to this section. This amount shall be known as the school district revenue limit per unit of average daily attendance for the fiscal year for which it was computed.

(i) The county superintendent of schools shall determine the district's total revenue limit for the current year by adding the amount obtained by multiplying the revenue limit determined pursuant to subdivision (g) or (h) by the sum of the following:

(1) The second principal apportionment regular average daily attendance for the current fiscal year.

(2) The product of 0.6 times the sum of the summer average daily attendance for graduating high school seniors and pupils participating in summer school programs in grades 7 to 12, inclusive, who do not meet the district's adopted proficiency standards.

(3) For regional occupational centers and regional occupational programs and adult education programs and classes the fiscal year units of average daily attendance shall be used.

(j) The county superintendent of schools shall determine a minimum revenue limit guarantee as follows:

(1) Add the amount calculated for the district pursuant to Section 42239 in the prior fiscal year to the district's total revenue limit for the prior fiscal year determined pursuant to subdivision (i), as adjusted pursuant to Section 42241. For the purposes of this subdivision only, the amount determined pursuant to subdivision (i) for the prior fiscal year shall be adjusted proportionately for any change in average daily attendance due to district reorganization, transfers of responsibility for maintaining a junior high program for 7th and 8th grade pupils, changes in state laws regarding attendance reporting, or changes in interdistrict attendance agreements.

(2) For districts which received total revenue limits calculated pursuant to subdivision (h) of this section as it read in the 1980–81 fiscal year, add to the sum determined in paragraph (1), for the 1981–82 fiscal year, the difference between the amounts calculated pursuant to subdivisions (g) and (h) of this section as they read in the 1980–81 fiscal year, exclusive of any adjustments made pursuant to Section 42245 for any fiscal year prior to the 1980–81 fiscal year. For any district which received a total revenue limit pursuant to subdivision (d) of Section 42237 in the 1979–80 fiscal year, subtract the product of the district's reduction factor computed pursuant to Section 2 of Chapter 292, Statutes of 1978, as recalculated pursuant to paragraph (1) of subdivision (a) of Section 42237 and any adjustment greater than zero made pursuant to Section 42245 in the 1978–79 fiscal year, and for any district which reduced its adult education program in the 1980–81 fiscal year, subtract a pro rata portion of the amount determined pursuant to paragraph (4) of subdivision (c) of Section 42237 for the 1979–80 fiscal year. In no event shall the result for this paragraph be less than zero.

For the 1982–83 fiscal year and each fiscal year thereafter, add to the sum determined in paragraph (1) any amount received pursuant to this subdivision for the prior fiscal year.

(k) In no event for the 1981–82 and 1982–83 fiscal year, other than reductions made pursuant to Section 41971 or Section 42245, shall the sum of the district's total revenue limit determined pursuant to subdivision (i) and the amount calculated pursuant to Section 42239 be less than the following:

(1) For a district which had a revenue limit per unit of average daily attendance in the prior fiscal year computed pursuant to either subdivision (g) or (h), adjusted pursuant to Section 42241, which was less than three thousand dollars ($3,000), 1.02 times the sum of the amounts determined in paragraphs (1) and (2) of subdivision (j).

(2) For a district which had a revenue limit per unit of average daily attendance in the prior fiscal year computed pursuant to either subdivision (g) or (h), adjusted pursuant to Section 42241, which was greater than or equal to three thousand dollars ($3,000), the sum of the amounts determined in paragraphs (1) and (2) of subdivision (j).

(*l*) The Superintendent of Public Instruction shall apportion to each school district in the 1980–81 fiscal year and in each fiscal year thereafter, the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior year taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

SEC. 9. Section 42239 of the Education Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

42239. A district may add in Section 42237 or 42238 for purposes of increasing the district's revenue limit for the budget year a portion of its loss in average daily attendance when it is anticipated that the estimated second principal apportionment units of average daily attendance, excluding defined adults and summer school average daily attendance, will be less than those of the preceding year. Loss of average daily attendance due to district reorganization shall not be considered in this calculation. The number of units of average daily attendance to be added is determined as follows:

(a) When the reduction in average daily attendance is 1 percent or more of the preceding year average daily attendance, the district is entitled to two adjustments determined as follows:

(1) The estimated average daily attendance of the budget year may be increased by 75 percent of the reduction.

(2) The estimated average daily attendance of the next succeeding budget year may be increased by 50 percent of the reduction, less any increase in the district's average daily attendance in that year. In no event shall this result be less than zero.

(b) Except as provided in subdivision (f), when the reduction in average daily attendance is less than 1 percent of the preceding year average daily attendance no adjustment is allowed on account of that reduction, nor does it have any bearing on adjustments made pursuant to paragraph (2) of subdivision (a).

(c) The amount calculated in subdivision (a) times the revenue limit per unit of average daily attendance shall be considered an addition to the district revenue limit.

(d) For the purposes of this section, the amount which may be added to the district's revenue limit on account of the adjustments authorized pursuant to subdivision (a) is the revenue limit per unit of average daily attendance computed pursuant to Section 42237 or 42238.

(e) This amount of adjustment in estimated units of average daily attendance shall be allowed without requiring a reduction in the revenue limit in the subsequent year which otherwise would be

required pursuant to Section 42245, except that to the extent that actual data differs from the estimated unit of average daily attendance used in this section, Section 42245 shall be applicable.

(f) A district shall not be entitled to the adjustments pursuant to this section if the number of full-time equivalent employees in the district funded out of state and local general revenues is increased after the district is qualified to use this adjustment. The Superintendent of Public Instruction may waive this restriction if he or she finds that the increase is required as a result of state, federal, or court mandates, or that the district could not maintain an adequate educational service level for its pupils without the increase. Increases in teaching staff due to negotiated decreases in average pupil-teacher ratios shall not be eligible for waivers under this section.

SEC. 9.5. Section 42240.1 is added to the Education Code, to read:

42240.1. Any elementary school district with less than 2,501 units of average daily attendance in grades kindergarten to 6, inclusive, for the second principal apportionment in the 1978–79 fiscal year, whose 7th and 8th grade pupils were being educated by a high school district pursuant to Article 5 (commencing with Section 37060) of Chapter 1 of Part 22 during the 1978–79 fiscal year, shall be entitled to the revenue limit adjustment computed pursuant to Section 42240 beginning with the 1981–82 fiscal year.

This section shall become operative January 1, 1982.

SEC. 10. Section 42241 of the Education Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

42241. Prior to computing school district revenue limits for the 1981–82 fiscal year, the county superintendent of schools shall first adjust each district's revenue limit per unit of average daily attendance computed pursuant to paragraph (4) of subdivision (g) of Section 42238 as follows:

(a) Decrease the revenue limit per unit of average daily attendance by the amount of the State Teachers' Retirement System costs funded by the special education funding pursuant to Chapter 1353 of the Statutes of 1980, divided by the 1980–81 revenue limit average daily attendance.

(b) Increase the revenue limit per unit of average daily attendance by the excess cost added pursuant to Sections 42900 and 42901 in the 1980–81 fiscal year divided by the 1980–81 revenue limit average daily attendance.

(c) Increase the revenue limit per unit of average daily attendance by the excess cost allowed pursuant to Section 42241.3 in the 1980–81 fiscal year divided by the 1980–81 revenue limit average daily attendance.

(d) Increase the revenue limit per unit of average daily attendance by the excess cost allowed pursuant to Section 42241.5 in the 1980–81 fiscal year divided by the 1980–81 revenue limit average daily attendance.

(e) Decrease the revenue limit per unit of average daily

attendance by an amount to be determined by the district, not to exceed the approved home-to-school transportation costs for 1979–80 fiscal year pursuant to Sections 15240 to 15325, inclusive, of Title 5 of the California Administrative Code less the 1980–81 fiscal year state reimbursement for such costs, less the 1980–81 fiscal year apportionments received pursuant to former Section 41855, and less any 1980–81 fiscal year state apportionments received on account of bus replacement, divided by the 1979–80 revenue limit average daily attendance, increased by the 7th and 8th grade average daily attendance in high school districts which educated such pupils in the 1979–80 fiscal year or decreased by the 7th and 8th grade average daily attendance of elementary districts that did not educate such pupils in the 1979–80 fiscal year.

SEC. 11. Section 42241.3 of the Education Code is repealed.

SEC. 12. Section 42241.5 of the Education Code is repealed.

SEC. 13. Section 42243.7 of the Education Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

42243.7. (a) For any unified school district which commenced operations on or after June 30, 1978, or any school district which receives approval from the State Department of Education for a new continuation education high school for the 1979–80 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall compute an adjustment to the district revenue limit pursuant to this section.

(b) Determine the amount of foundation program which the district would have been entitled to pursuant to subdivision (a) of Section 41711 if the district had operated during the 1977–78 fiscal year utilizing the number of units of average daily attendance attending high school in the district in the fiscal year for which the revenue limit is being computed.

(c) Determine the amount of foundation program which the district would have been entitled to pursuant to paragraph (1) of subdivision (b) of Section 41711 if the district had operated during the 1977–78 fiscal year utilizing the same number of units of average daily attendance used in subdivision (b) of this section.

(d) Subtract the amount determined pursuant to subdivision (c) from the amount computed pursuant to subdivision (b).

(e) The amount computed pursuant to subdivision (d), if greater than zero, shall be added to the revenue limit computed pursuant to subdivision (c) of Section 42237 or pursuant to Section 42238. If the amount in subdivision (d) is less than zero there is no adjustment.

SEC. 14. Chapter 11 (commencing with Section 42900) of Part 24 of the Education Code is repealed.

SEC. 14.5. Section 46118 of the Education Code is amended to read:

46118. A single-session kindergarten class shall meet all of the following criteria:

(a) The class is maintained for a minimum of 180 minutes per schoolday.

(b) The kindergarten class teacher is assigned to only one session of kindergarten daily as a principal teacher.

(c) The kindergarten teacher is a full-time certificated employee.

(d) The kindergarten teacher shall be available for assistance or assignment in the instructional program of the primary grades when not involved in the kindergarten program.

SEC. 15. Section 49531 of the Education Code, as amended by Chapter 102 of the Statutes of 1981, is amended to read:

49531. Any child nutrition entity may apply to the Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in such districts or maintained by such county superintendents of schools, or at such private schools and parochial schools and to children receiving child development services. The State Board of Education shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity which receives state funds pursuant to this article, shall provide breakfasts and lunches in accordance with state and federal guidelines.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which qualifies for reimbursement under the federal child nutrition program regulations.

State reimbursement for meals provided pursuant to this article shall be limited to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations which prescribe eligibility for free and reduced price meals.

SEC. 16. Section 49552 of the Education Code, as amended by Chapter 102 of the Statutes of 1981, is amended to read:

49552. For the purposes of this article, needy children shall be defined as those children who meet federal eligibility criteria for free and reduced price meals as defined in Section 49531.

SEC. 16.5. Section 52616 of the Education Code, as added by Chapter 100 of the Statutes of 1981, is amended to read:

52616. The Superintendent of Public Instruction shall determine an adult education block entitlement for the school districts which maintain education programs for adults. This entitlement shall be paid from appropriations to Section A of the State School Fund as a part of the principal apportionment to school districts.

(a) For each fiscal year, the adult education block entitlement shall be computed by multiplying the amount per unit of adult average daily attendance for the preceding fiscal year times the product of 1.06 and the number of units of adult average daily attendance for the programs specified in Section 41976, provided that in no event shall the amount per unit of adult average daily attendance exceed the district's prior fiscal year adult education revenue limit if it is greater than 1.06 times the prior fiscal year statewide average adult education revenue limit pursuant to subdivision (c) of Section 42237.

(b) In the event the district's adult education block entitlement

computed pursuant to subdivision (a) is greater than the following calculations, the following calculations shall be the maximum block entitlement that shall be apportioned to the district:

(1) For the 1981–82 and 1982–83 fiscal years, increase the 1979–80 fiscal year adult average daily attendance for the programs specified in Section 41976 by 1.02 in the 1980–81 fiscal year and by 1.025 in each fiscal year thereafter.

(2) Multiply the amount determined in paragraph (1) by the district's adult revenue limit per unit of average daily attendance for the current fiscal year.

(3) This maximum block entitlement may be exceeded pursuant to the provisions of subdivision (c) when unencumbered funds are reallocated.

(c) If the adult average daily attendance of a school district in any fiscal year is less than the adult average daily attendance utilized to compute the funded district adult education block entitlement for that fiscal year, the district shall receive an apportionment only for the actual average daily attendance generated. Any surpluses accrued as a result of average daily attendance not generated in a district's block entitlement shall be reallocated after the first principal apportionment by the Superintendent of Public Instruction for meeting specific needs or unanticipated growth in adult education, or both. The receipt of reallocated funds shall not be used for computational purposes for the district's block entitlement for subsequent fiscal years.

(d) The adult education block entitlement shall be deposited in a separate fund of the district to be known as the "adult education fund." Moneys in an adult education fund shall only be expended for adult education purposes.

Moneys received for programs other than adult education shall not be expended for adult education.

(e) Each school district which conducted adult education programs for substantially handicapped adults in activity centers, work activity centers, sheltered workshops, state hospitals, and other community settings, shall set aside an amount of money from its adult education block entitlement equal to its current fiscal year revenue limit times the average daily attendance generated in these facilities in the 1979–80 fiscal year times 1.02, subject to the following:

(1) The classes and courses offered in activity centers, work activity centers, sheltered workshops, and state hospitals shall be authorized pursuant to subdivision (e) of Section 41976.

(2) A school district shall operate classes in these facilities and shall expend all funds set aside pursuant to this subdivision and shall use all funds exclusively for those classes for substantially handicapped adults.

(3) The conditions imposed by paragraphs (1) and (2) may be waived by the Superintendent of Public Instruction upon certification from the school district that the local demand for the program is less than the required level of service.

SEC. 17. Section 56860 of the Education Code is amended to read:

56860. The State Departments of Developmental Services, Education, and Mental Health shall submit a joint report to the Legislative Analyst by December 1, 1980, and by December 1 of each year thereafter until 1982, which shall include, but not be limited to, the following:

(a) The implementation of this chapter.

(b) The costs of contracts pursuant to this chapter.

(c) The adequacy of education and related services provided pursuant to this chapter.

(d) The adequacy of fiscal support for educational services provided on hospital grounds and, pursuant to this chapter, in the community.

(e) Recommendations for legislative action.

(f) Identification of funding sources and the amounts used to support education and related services for all state hospital residents eligible for services under Public Law 94-142.

SEC. 18. Section 59300 of the Education Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

59300. Notwithstanding any provision of this part to the contrary, the district of residence of the parent or guardian of any pupil attending a state-operated school pursuant to this part, excluding day pupils, shall pay the school of attendance for each pupil an amount equal to 10 percent of the excess annual cost of education of pupils attending a state-operated school pursuant to this part.

SEC. 18.2. Section 3543.2 of the Government Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

3543.2. (a) The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. "Terms and conditions of employment" mean health and welfare benefits as defined by Section 53200, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security pursuant to Section 3546, procedures for processing grievances pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8, and the layoff of probationary certificated school district employees, pursuant to Section 44959.5 of the Education Code. In addition, the exclusive representative of certificated personnel has the right to consult on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks to the extent such matters are within the discretion of the public school employer under the law. All matters not specifically enumerated are reserved to the public school employer and may not be a subject of meeting and negotiating, provided that nothing herein may be construed to limit the right of the public school employer to consult with any employees or employee organization on any matter outside the scope of representation.

(b) Notwithstanding Section 44944 of the Education Code, the

public school employer and the exclusive representative shall, upon request of either party, meet and negotiate regarding causes and procedures for disciplinary action, other than dismissal, affecting certificated employees. If the public school employer and the exclusive representative do not reach mutual agreement, then the provisions of Section 44944 of the Education Code shall apply.

(c) Notwithstanding Section 44955 of the Education Code, the public school employer and the exclusive representative shall, upon request of either party, meet and negotiate regarding procedures and criteria for the layoff of certificated employees for lack of funds. If the public school employer and the exclusive representative do not reach mutual agreement, then the provisions of Section 44955 of the Education Code shall apply.

SEC. 18.3. Section 7902.1 of the Government Code, as added by Chapter 15 of the Statutes of 1981, is repealed.

SEC. 18.7. Section 7902.1 is added to the Government Code, to read:

7902.1. (a) If, beginning with the 1980–81 fiscal year or any fiscal year thereafter, the proceeds of taxes of a school district, community college district, or county superintendent of schools, exceed its appropriations limit determined pursuant to Section 7902 for that fiscal year, the governing body of the school district or community college district, or the county superintendent of schools, may increase its appropriations limit to an amount equal to its proceeds of taxes.

(b) In the event that the governing body of a district or the county superintendent of schools increases its appropriations limit pursuant to this section, it shall notify the Director of Finance of the change within 45 days.

(c) Any increase in a local jurisdiction's appropriations limit pursuant to this section shall, in the fiscal year in which the change is made, reduce the appropriations limit of the state by an equal amount.

SEC. 18.9. Section 1.4 of Chapter 100 of the Statutes of 1981 is amended to read:

Sec. 1.4. Notwithstanding any other provision of law to the contrary, for public school employee dismissal procedures which begin in the 1981–82 school year affecting employment in the 1982–83 school year, within one month of the effective date of this act, every public school employer shall meet and negotiate with exclusive representatives of employees, as provided by Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, or, if there is no exclusive representative, shall meet and negotiate with any employee organization, as defined in subdivision (d) of Section 3540.1 of the Government Code, which represents employees of the public school employer, and may reach agreement on whether or not to postpone employee dismissal hearings until a time not later than four weeks after the Budget Act for the 1982–83 fiscal year is chaptered.

If agreement is reached to postpone employee dismissal hearings pursuant to this section, the notice required by Section 44955 of the Education Code shall be given no later than six weeks after the Budget Act for the 1982–83 fiscal year is chaptered, and all other time requirements prescribed by that section shall be extended accordingly.

This section shall apply only during the year 1982, and shall have no effect in subsequent years.

SEC. 19. Section 36 of Chapter 100 of the Statutes of 1981, as amended by Chapter 133 of the Statutes of 1981, is amended to read:

Sec. 36. The Superintendent of Public Instruction shall allocate funds appropriated by Item 610-101-001 of the Budget Act of 1981 in such a manner as to provide a total cost-of-living adjustment of 6 percent in the 1981–82 fiscal year for the following programs:

(1) Instructional television.
(2) Gifted and talented pupil programs.
(3) Child nutrition programs.
(4) Instructional materials.
(5) School improvement program.
(6) Miller-Unruh Basic Reading Act of 1965.
(7) Native American Indian education.
(8) Demonstration programs in intensive instruction.
(9) Indian education centers.
(10) Career guidance centers.
(11) Resource centers.
(12) Professional development centers.
(13) School site staff development.
(14) Child care programs.
(15) Preschool programs.
(16) Urban impact aid.
(17) General aid to districts pursuant to Section 54061.
(18) Economic impact aid.
(19) Special education programs for individuals with exceptional needs.
(20) Adult education.
(21) Home-to-school transportation.

SEC. 20. Notwithstanding Section 10555 of the Education Code, the five-year repayment period shall be extended to seven years with interest-only payments during the 1981–82 and 1982–83 fiscal years at the rate prescribed by Section 10555 of the Education Code.

SEC. 21. Notwithstanding the provisions of Section 41323 of the Education Code, the repayment period for the loan pursuant to category (b) of Item 352.1 of the Budget Act of 1980 shall be five years with interest-only payments during the 1981–82 and 1982–83 fiscal years at the rate prescribed by Section 41323 of the Education Code.

SEC. 22. Notwithstanding the provisions of Section 42239 of the Education Code, the Superintendent of Public Instruction shall compute apportionments pursuant to Section 42239 of the Education

Code for the 1981–82 fiscal year for any high school district which educates pupils in grades 7 to 12, inclusive, and which experienced a decline in enrollment during the 1980–81 and 1981–82 fiscal years, but due to work stoppage, failed to experience a decline in the number of units of average daily attendance in the 1981–82 fiscal year. For purposes of this section, the superintendent shall recompute the Section 42239 apportionment for the 1981–82 fiscal year assuming the decline in the number of units of average daily attendance in the 1980–81 fiscal year was proportional to the decline in enrollment between the 1979–80 and 1980–81 fiscal years.

SEC. 23. Section 39 of Chapter 100 of the Statutes of 1981 is repealed.

SEC. 24. Notwithstanding any other provision of law, the county auditor in every county or city and county shall determine, for the school entities' portion of funds raised from the application of a tax rate higher than the tax rate limitation contained in Article XIII A of the California Constitution on property on the unsecured roll for the 1978–79 tax year, the amount of interest earned from the time such portion of taxes would normally have been distributed until they actually are distributed. In every county in which distributions of such taxes have not already been made to school entities, the county auditor shall, and in every city and county in which such distributions have not already been made to school entities, the county auditor and the county board of supervisors shall, allocate the amounts to school districts and community college districts within the county in proportion to the amount, if any, of such taxes received.

SEC. 25. Notwithstanding the Proviso 34 of the provisions applicable to Item 610-101-001 of the Budget Act of 1981, one hundred sixty-three thousand five hundred dollars ($163,500) of the amount appropriated in category (g) of Item 610-101-001 of the Budget Act of 1981 is hereby reappropriated for support of three school resource centers.

SEC. 26. Sections 1, 6, 7, 8, 9, 10, 13, 16.5, 19, 22, and 23 of this act shall become operative on January 1, 1982.

SEC. 26.5. Sections 1.877 and 24.3 of Chapter 100 of the Statutes of 1981 shall not become operative.

SEC. 27. This act shall be deemed operative for the entire 1981–82 fiscal year as though it had been enacted into law and become operative on July 1, 1981. The Superintendent of Public Instruction and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

SEC. 28 Notwithstanding any provision of law to the contrary, from the funds appropriated by Item 352 of the Budget Act of 1980 for adult education apportionments pursuant to paragraph (4) of subdivision (g) of Section 42238 of the Education Code, as it read prior to the enactment of Chapter 100 of the Statutes of 1981, a sum not to exceed four hundred thousand dollars ($400,000) may be

apportioned by the Superintendent of Public Instruction to the Fullerton High School District for the cost of an adult education program that commenced July 1, 1980, and was discontinued on January 26, 1981.

This section shall be deemed operative for the entire 1980–81 fiscal year as though it had been enacted into law and become operative on July 1, 1980. The Superintendent of Public Instruction and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

CHAPTER 1094

An act to amend Sections 2551.3, 56134, 56157, 56195.8, 56362, 56368, 56505, 56712, 56722, 56723, 56726, 56728, 56731, 56732, 56734, 56735, 56751, 56775, 56780, 56781, and 56782 of, and to amend, repeal, and add Section 56342 of, and to add Sections 44903.7, 56030.5, 56365.5, 56728.5, 56728.6, 56730.5, 56730.6, 56736, 56737, 56738, 56742, 56743, 56760.5, 56774, 56827, 56828, and 56829 to, and Chapter 4.4 (commencing with Section 56425) to Part 30 of, the Education Code, and to amend Provision 17 of, and to add Provision 37 to, the provisions applicable to Items 610-101-001 through 610-101-890 of the Budget Act of 1981, relating to special education, and making an appropriation therefor.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 2551.3 of the Education Code is amended to read:

2551.3. (a) For the 1979-80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall make the following computations to determine the state aid to be allocated for pregnant minors programs operated by county superintendents of schools:

(1) The Superintendent of Public Instruction shall determine expenditures made by the county office for the 1979-80 fiscal year and shall divide such amount by the average daily attendance in such program for the 1979-80 fiscal year.

(2) For the 1980–81 fiscal year, the quotient computed pursuant to paragraph (1) shall be increased by 9 percent, and shall be cumulatively increased in each fiscal year thereafter by the average inflation allowance applied to unified school district revenue limits.

(3) The amount computed pursuant to paragraph (2) shall be multiplied by the average daily attendance in pregnant minors

programs for the then current fiscal year.

(b) The product computed pursuant to paragraph (3) of subdivision (a) shall be added to the sum computed pursuant to subdivision (a) of Section 2558.

(c) County superintendents who operate pregnant minors programs for the 1979-80 fiscal year shall continue to operate pregnant minors programs in the 1980–81 fiscal year and each fiscal year thereafter unless the program is transferred to another local education agency, or unless the county superintendent demonstrates that programs and services for pregnant minors, such as continuation school, home instruction, or independent instruction, are available from other local education agencies in the county, pursuant to rules and regulations developed by the Superintendent of Public Instruction.

(d) County superintendents who did not operate pregnant minors programs in the 1979-80 fiscal year may apply to the Superintendent of Public Instruction for approval to operate such programs. The revenue limit adjustment for the program shall be the statewide average amount for the then fiscal current year as computed pursuant to subdivision (a) of Section 42241.5.

(e) Funds received for average daily attendance in pregnant minors programs shall be expended on such programs.

(f) The Superintendent of Public Instruction shall adopt rules and regulations for the effective administration of pregnant minors programs.

SEC. 1.5. Section 44903.7 is added to the Education Code, to read:

44903.7. When a local plan for the education of individuals with exceptional needs is developed pursuant to Article 6 (commencing with Section 56170) of Chapter 2 of Part 30, the following provisions shall apply:

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, transferred, or made an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

(1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the rights specified in Section 44956 or, in the case of probationary employees, Sections 44957 and 44958, both with the district or county office initiating the termination pursuant to Section 44955, and any district or county office which provides special education programs and services for the pupils previously served by the district or county office which has terminated the employee.

(2) The reassignment or transfer shall not affect the classification of certificated employees already attained in any school district

which reorganizes special education programs pursuant to Chapter 797 of the Statutes of 1980. These employees shall have the same status with respect to their classification, with the new employer, including time served as probationary employees.

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education service regions or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 shall not be considered employers of certificated personnel for purposes of this section.

(c) Whenever any certificated employee is reassigned or transferred as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided in subdivision (d), in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is employed.

(d) A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to Section 44955, shall have first priority in being informed of and in filling certificated positions in special education for which he or she is certificated and employed in any other county office or school district which provides the same special education programs and services for the pupils previously served by the district or county which has terminated the employee.

SEC. 1.6. Section 56030.5 is added to the Education Code, to read:

56030.5. "Severely handicapped" means individuals with exceptional needs who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe mental retardation, and those individuals who would have been eligible for enrollment in a development center for handicapped pupils under Chapter 6 (commencing with Section 56800) of this part, as it read on January 1, 1980.

SEC. 1.7. Section 56134 of the Education Code is amended to read:

56134. The superintendent shall perform the duties prescribed by Chapter 4.5 (commencing with Section 56450).

SEC. 2. Section 56157 of the Education Code is amended to read:

56157. In those cases where individuals with exceptional needs are placed in a licensed children's institution by a court, regional center for the developmentally disabled, or public agency, in addition to being responsible for programs operated under the provisions of Section 48645.2, the county office shall be responsible for ensuring the appropriate placement of individuals with

exceptional needs residing in licensed children's institutions. In fulfilling its responsibility, the county office shall provide special education and related services for individuals with exceptional needs who reside in a licensed children's institution either directly or indirectly. To provide these education and services indirectly, the county office shall authorize enrollment in programs authorized by a district, special education services region, or another county office, or shall contract with a nonpublic, nonsectarian school or other agency. If special education and related services are provided by contract with a nonpublic, nonsectarian school, or with a licensed children's institution, the terms of the contract shall be developed in accordance with the provisions of Section 56366.

SEC. 3. Section 56195.8 of the Education Code is amended to read:

56195.8. (a) For the 1980–81 fiscal year only, notwithstanding the provisions of this part, no district or county office shall receive apportionments for special education which amount to less than 1.09 times the amount of such apportionments received during fiscal year 1979–80 per unduplicated pupil in the 1979–80 fiscal year not to exceed the same number of pupils enrolled in special education programs and services in the 1979–80 fiscal year. Such apportionment for the 1979–80 fiscal year shall be reduced by the amount received for pupils in nonpublic, nonsectarian schools and by the amounts, if any, included in the revenue limit for each district and county office for pregnant minors programs pursuant to Sections 42241.5 and 2551.3, respectively, and in the revenue limit for each district for instruction in the home or hospital for pupils with temporary physical disability pursuant to Section 42241.3. All districts and county offices shall receive state aid for pupils enrolled in nonpublic, nonsectarian schools pursuant to Section 56740 for the 1980–81 fiscal year.

(b) Apportionments to county offices pursuant to subdivision (a) shall be computed as follows:

(1) The sum of special education revenue limits for the 1979–80 fiscal year computed pursuant to subdivision (a) of Section 2550, as it read immediately prior to June 30, 1980, multiplied by 1.09.

(2) From the amount computed pursuant to paragraph (1), subtract the amount of property tax revenues for special education for the 1980–81 fiscal year, as computed pursuant to subdivision (c) of Section 2571.

(3) Divide the product computed pursuant to paragraph (2) by the number of unduplicated pupils receiving special education by the county office during the 1979–80 fiscal year.

(4) Multiply the quotient computed pursuant to paragraph (3) by the number of unduplicated pupils receiving special education from the county office in the 1980–81 fiscal year, not to exceed the number of unduplicated pupils receiving special education from the county office in the 1979–80 fiscal year.

(5) From the amount computed pursuant to paragraph (4),

subtract the revenue limit amounts received from school districts in the 1980–81 fiscal year for pupils in special day classes and centers.

SEC. 3.4. Section 56342 of the Education Code is amended to read:

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, and make program placement recommendations.

Prior to recommending a new placement in a nonpublic, nonsectarian school, the individualized education program team shall submit the recommendation to the local governing board of the district, special education services region, or county office for its review and recommendation regarding the cost of such placement.

The local governing board shall complete its review and make its recommendations, if any, at the next regular meeting of the board. A parent or representative shall have the right to appear before the board and submit written and oral evidence regarding the need for nonpublic school placement for his or her child. Any recommendations of the board shall be considered at an individualized education program team meeting, to be held within five days of the board's review.

Notwithstanding Section 56344, the time limit for the development of an individualized education program shall be waived for a period not to exceed 15 additional days to permit the local governing board to meet its review and recommendation requirements.

This section shall remain in effect only until July 1, 1982, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends that date.

SEC. 3.45. Section 56342 is added to the Education Code, to read:

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, and make program placement recommendations.

This section shall become operative July 1, 1982.

SEC. 3.5. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular

school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission for Teacher Preparation and Licensing, and who has demonstrated the competencies for a resource specialist, as established by the Commission for Teacher Preparation and Licensing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. The average caseload for resource specialists shall be no more than 24 pupils, and no resource specialist shall have a caseload which exceeds 28 pupils.

(d) Eighty percent of the resource specialists within a local plan shall be provided with an instructional aide.

(e) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(f) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

SEC. 3.55. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission for Teacher Preparation and Licensing, and who has demonstrated the competencies for a resource specialist, as established by the Commission for Teacher Preparation and Licensing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. The average caseload for resource specialists shall be no more than 24 pupils, and no resource specialist shall have a caseload which exceeds 28 pupils.

(d) Eighty percent of the resource specialists within a local plan shall be provided with an instructional aide.

(e) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(f) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

SEC. 3.66. Section 56365.5 is added to the Education Code, to read:

56365.5. Before state funds can be used for new public and non-public school special education placements of individuals with exceptional needs, the superintendent shall review the appropriateness of the placement if the cost of the placement exceeds twenty thousand dollars ($20,000).

The district, special education services region, or county office shall submit documentation to the superintendent of all efforts made to locate an appropriate alternative placement within the state and outside of the state.

The superintendent or his or her designee shall review the educational placement decision to determine if every effort was made by the district, special education services region, or county office to utilize an appropriate public or nonpublic, nonsectarian school costing less than twenty thousand dollars ($20,000).

The superintendent shall notify the district, special education services region, or county office of his or her findings within 10 days.

The twenty thousand dollars ($20,000) threshhold shall be cumulatively increased by the annual percentage increase specified by Section 56723, or by the in-lieu percentage specified in the Budget Act.

Within five days following receipt of the superintendent's findings indicating availability of alternative placements, an individualized education program team meeting shall be convened to consider those findings.

If the superintendent fails to make findings within 10 days, the original placement decision of the individualized education program team shall be final.

The superintendent shall annually report the total costs incurred by districts, special education services regions, county offices, and the state resulting from placements made pursuant to this section.

SEC. 3.7. Section 56368 of the Education Code is amended to read:

56368. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized indepth knowledge in one or more areas of major handicapping conditions, in preschool handicapped, or career vocational development.

(b) A program specialist shall do all the following:

(1) Observe, consult with, and assist resource specialists, designated instruction and services instructors, and special class teachers.

(2) Plan programs, coordinate curricular resources, and evaluate effectiveness of programs for individuals with exceptional needs.

(3) Participate in each school's staff development, program development, and innovation of special methods and approaches.

(4) Provide coordination, consultation and program development primarily in one specialized area or areas of his or her expertise.

(5) Be responsible for assuring that pupils have full educational opportunity regardless of the district of residence.

(c) At least one program specialist shall be provided for every 850 individuals served by a district, special education services region, or county office.

(d) For purposes of Section 41403, a program specialist shall be considered a pupil services employee.

SEC. 3.8. Section 56368 of the Education Code is amended to read:

56368. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized indepth knowledge in preschool handicapped, career vocational development, or one or more areas of major handicapping conditions.

(b) A program specialist shall do all the following:

(1) Observe, consult with, and assist resource specialists, designated instruction and services instructors, and special class teachers.

(2) Plan programs, coordinate curricular resources, and evaluate effectiveness of programs for individuals with exceptional needs.

(3) Participate in each school's staff development, program

development, and innovation of special methods and approaches.

(4) Provide coordination, consultation and program development primarily in one specialized area or areas of his or her expertise.

(5) Be responsible for assuring that pupils have full educational opportunity regardless of the district of residence.

(c) At least one program specialist shall be provided for every 850 individuals with exceptional needs served by a district, special education services region, or county office.

(d) For purposes of Section 41403, a program specialist shall be considered a pupil services employee, as defined in subdivision (c) of Section 41401.

SEC. 4. Chapter 4.4 (commencing with Section 56425) is added to Part 30 of the Education Code, to read:

CHAPTER 4.4. EARLY EDUCATION FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS

56425. As a condition of receiving state aid pursuant to this part, each district, special education services region, or county office that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980–81 fiscal year, shall continue to operate infant programs in the 1981–82 fiscal year and each fiscal year thereafter.

If a district or county office offered those programs in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education services region, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred.

A district, county office or special education services region which is required to offer a program pursuant to this section shall be eligible for designated instructional services instructional personnel service units in excess of the number it would otherwise be eligible for pursuant to this chapter if the entity:

(1) Is a member of a special education services region which offers classes equal to or greater than the amount computed pursuant to Section 56760.

(2) Provided the program required by this section out of federal funds during the 1980–81 fiscal year, and such funds are no longer available for operation of the program.

The number of designated instructional services instructional personnel units to which an eligible agency is entitled pursuant to this section shall be computed as follows:

The superintendent shall determine the number of individuals with exceptional needs younger than three years of age who were served by the program in 1980–81, and shall divide the amount by 12. In no case shall the amount determined be less than one.

SEC 4 2. Section 56505 of the Education Code, as amended by

Chapter 149 of the Statutes of 1981, is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. The hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) The hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 30 days following completion of the mediation conference or within 45 days from the receipt by the superintendent of the request for a hearing, if the mediation conference is waived. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. The continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) Nothing in this chapter shall preclude a party from exercising

the right to appeal the decision to a court of competent jurisdiction. Any appeal to court by a public education agency or parent shall not operate as an automatic stay of enforcement of the final administrative determination. However, nothing in this section shall be construed to preclude either party to the hearing from seeking a stay of enforcement from any court of competent jurisdiction, and nothing in this section shall be construed to remove the requirement for parental consent for placement pursuant to subdivision (f) of Section 56506.

SEC. 4.3. Section 56505 of the Education Code, as amended by Chapter 149 of the Statutes of 1981, is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. The hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) The hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. The continuance shall be granted upon a showing of good cause. Any

continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exception needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction. Any appeal to court by a public education agency or parent shall not operate as an automatic stay of enforcement of the final administrative determination. However, nothing in this section shall be construed to preclude either party to the hearing from seeking a stay of enforcement from any court of competent jurisdiction, and nothing in this section shall be construed to remove the requirement for parental consent for placement pursuant to subdivision (f) of Section 56506.

SEC. 4.6. Section 56712 of the Education Code is amended to read:

56712. From the sum computed pursuant to Section 56711, the county superintendent shall subtract all the following:

(a) Applicable special education federal funds received by each district or county office.

(b) For the 1981–82 fiscal year only, an amount equal to the difference, if positive, between the sum of state aid received pursuant to this chapter, local general fund contribution, federal funds, and district revenue limits for special day classes and centers, and county taxes for special education for the prior fiscal year, and the amount actually spent on special education programs and services pursuant to this part, for the prior fiscal year.

(c) The property taxes allocated to special education programs pursuant to Section 2572.

(d) The district revenue limit amounts for pupils in special day classes and centers in each district or county office.

(e) The local general fund contribution for special education computed pursuant to Article 6 (commencing with Section 56750).

SEC. 4.66. Section 56722 of the Education Code is amended to read:

56722. For each district or county office, the county superintendent shall compute an instructional personnel cost unit rate based on the 1979–80 costs submitted pursuant to Section 56721 for each of the following instructional personnel services:

(a) Special classes and centers with one special class teacher, using the amount computed pursuant to subdivision (a) of Section 56721.

(b) Special classes and centers for the severely handicapped, as defined in Section 56030.5, with one special class teacher and one instructional aide, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(c) Special classes and centers for the severely handicapped, as defined in Section 56030.5, with one special class teacher and two instructional aides, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(d) Resource specialist programs with one resource specialist only, using the amount computed pursuant to subdivision (b) of Section 56721.

(e) Resource specialist programs with one resource specialist and one instructional aide, using the amounts computed pursuant to subdivision (b) of Section 56721 and 85 percent of the amount computed to subdivision (d) Section 56721. However, for the 1980–81 fiscal year only, each district and county office that continues, pursuant to Section 56195.2, to operate learning disability groups without aides shall use only the amount computed pursuant to subdivision (b) of Section 56721.

(f) Certificated specialists providing designated instruction and services, using the amount computed pursuant to subdivision (c) of Section 56721. For the purpose of this subdivision, aides providing designated instruction and services may be funded in lieu of a certificated specialist.

(g) Special classes and centers for other than the severely handicapped with one special class teacher and one instructional aide using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

(h) Special classes and centers for other than the severely handicapped with one special class teacher and two instructional aides using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

SEC. 4.7. Section 56723 of the Education Code, as amended by Chapter 100 of the Statutes of 1981, is amended to read:

56723. For fiscal year 1980–81 the county superintendent shall multiply the unit rates computed pursuant to Section 56722 by 1.09. For fiscal year 1981–82, the unit rates shall be increased by 5 percent. Commencing with fiscal year 1982–83 and each fiscal year thereafter, the unit rates shall be increased by the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance.

SEC. 5. Section 56726 of the Education Code is amended to read:

56726. For each district and county office that operates an extended year program, which is required by statute, the following amount shall be computed:

(a) For special classes, excluding those funded under subdivision (b):

(1) Divide the number of days taught in extended session for special classes, not to exceed 30, by the number of days in the regular school year.

(2) Multiply the quotient computed pursuant to paragraph (1) by

the unit rate computed pursuant to subdivision (g) of Section 56722, as adjusted pursuant to Section 56723, and multiply the product by 0.6.

(3) Divide the enrollment in special classes as of the second week of extended session by 11; round up to the nearest whole number; and multiply by the product computed pursuant to paragraph (2).

(b) For special centers or classes for severely handicapped pupils, as defined in Section 56030.5:

(1) Divide the number of days taught in extended session for special classes or centers, not to exceed 55, by the number of days in the regular school year.

(2) Multiply the quotient computed pursuant to paragraph (1) by the unit rate computed pursuant to subdivision (c) of Section 56722, as adjusted pursuant to Section 56723.

(3) Divide the enrollment in special classes or centers as of the second week of extended session by 7; round up to the nearest whole number; and multiply by the product computed pursuant to paragraph (2).

(c) For designated instruction and services for pupils in special classes during extended session:

(1) Divide the number of classes computed pursuant to paragraph (3) of subdivision (a) by 3 and multiply that amount by the product computed by multiplying the quotient computed pursuant to paragraph (1) of subdivision (a) by the unit rate computed pursuant to subdivision (f) of Section 56722, as adjusted pursuant to Section 56723.

(2) Divide the number of classes computed pursuant to paragraph (3) of subdivision (b) by 3 and multiply that amount by the product computed by multiplying the quotient computed pursuant to paragraph (1) of subdivision (b) by the unit rate computed pursuant to subdivision (f) of Section 56722, as adjusted pursuant to Section 56723.

(3) Multiply the amount computed pursuant to paragraph (1) by 0.6.

SEC. 6. Section 56728 of the Education Code is amended to read:

56728. Notwithstanding subdivision (d) of Section 56760, state aid for instructional personnel service units operated during the regular school year and during extended year programs shall not exceed the number of units actually in operation for the then current fiscal year. Districts and county offices shall be entitled to the full unit rates computed pursuant to subdivisions (b), (c), (e), (g), and (h) of Section 56722 in regular year and extended year programs only if the appropriate number of instructional aides are actually used.

For the purposes of computing funding for aides other than those in classes for the severely handicapped, a full-time equivalent aide shall be equivalent to .85 times a full-time equivalent aide entitlement for those aides in the 1980–81 fiscal year.

SEC. 7. Section 56728.5 is added to the Education Code, to read:

56728.5. As a condition of receiving state aid pursuant to this

chapter, a district or county office of education shall report in April of each year, on forms provided for this purpose by the Superintendent of Public Instruction, the unduplicated count of the number of pupils receiving special education services provided by the district or county office in the spring semester. The report shall individually report the unduplicated count in special day classes, resource specialist programs, and designated instructional services.

SEC. 8. Section 56728.6 is added to the Education Code, to read:

56728.6. Notwithstanding subdivision (d) of Section 56760, in any semester a district, county office, or special education services region shall only be eligible for state funding of instructional personnel service units in excess of the number of instructional personnel service units for which it received state funding the prior semester in any of the three instructional service settings if both of the following conditions are met:

(a) The prior semester unduplicated count divided by the prior semester number of instructional personnel service units in an appropriate setting or settings is greater than or equal to the following:

Special day classes - 9.

Resource specialist programs - 22.

Designated instructional services - 22.

(b) The difference between the current semester and December 1980 unduplicated count divided by the difference between the current semester and 1980–81 second principal apportionment period number of instructional personnel service units in the appropriate setting or settings is greater than or equal to the following:

Special day classes and centers - 6.

Resource specialist programs - 16.

Designated instructional services - 16.

(c) The criteria in subdivisions (a) and (b) shall first be applied to the individual district or county office desiring to add instructional personnel services units. If the individual district or county office fails to satisfy both criteria, they may then be applied across all districts and county offices within the local plan.

(d) Special education services regions which included 30,000 or fewer regular average daily attendance and which had less than 25 average daily attendance per square mile in the the 1980–81 fiscal year shall be eligible to apply to the Superintendent of Public Instruction for a waiver of the provisions of this section. The waiver request shall be acted upon by the superintendent within 30 days, and shall be valid for a period of three years. If the superintendent fails to act upon the waiver request within 30 days, the waiver shall be operative for a period of one year.

SEC. 8.5. Section 56730.5 is added to the Education Code, to read:

56730.5. The Superintendent of Public Instruction, by January 1, 1982, with the approval of the Department of Finance and the advice of the Legislative Analyst, shall issue standards and criteria,

consistent with the California School Accounting Manual and state law, for the computation of special education costs pursuant to this article.

SEC. 8.6. Section 56730.6 is added to the Education Code, to read:

56730.6. Within one year of the issuance of accounting standards and criteria pursuant to Section 56730.5, the Legislative Analyst and the Department of Finance shall review and comment upon the results of a study of comparable public and nonpublic school costs for services provided to individuals with exceptional needs to be conducted by the California Association of Private Special Education Schools.

SEC. 9. Section 56731 of the Education Code is amended to read:

56731. Each district and county office shall submit to the county superintendent the sum of salaries and benefits paid to instructional personnel, excluding substitute teachers, specified in Section 56721 for providing special education services, based on the regular school year, plus the sum of salaries and benefits paid to instructional personnel specified in Section 56721 for providing special education services for extended year programs during fiscal year 1979–80, plus the increase in salary and benefit costs for instructional aides associated with the unit rates computed pursuant to Article 3 (commencing with Section 56720) of this part.

SEC. 10. Section 56732 of the Education Code is amended to read:

56732. Each district and county office shall submit to the county superintendent the adjusted operating costs for special education in fiscal year 1979–80. Adjusted operating costs shall be computed by reducing the total cost for special education reported by the district or county superintendent for fiscal year 1979–80 less the costs of special transportation, services provided by nonpublic, nonsectarian schools, tuition paid to other school districts or county offices for special education programs and services during the 1979–80 fiscal year but not paid during the 1980–81 fiscal year, pregnant minors programs, programs to provide instruction in the home or hospital for pupils with temporary physical disabilities, and, if appropriate, regionalized services, as enumerated in subdivision (c) of Section 56220.

The amount included in the total cost of special education for indirect support costs shall not exceed 4 percent of the sum of direct costs plus direct support costs.

SEC. 11. Section 56734 of the Education Code is amended to read:

56734. The support services amounts to each district and county office for the 1980–81 fiscal year shall be the amount computed pursuant to Section 56727 multiplied by the quotient computed pursuant to Section 56733.

SEC. 11.5. Section 56735 of the Education Code is amended to read:

56735. (a) The superintendent shall recommend for audit to the Controller districts or county offices whose 1979–80 fiscal year support services quotient exceeded 125 percent of the state average

support services quotient, computed pursuant to subdivision (b), for comparably sized districts.

(b) The superintendent shall compute average support services quotients for the 1979–80 fiscal year for the following groups of districts. As used in this section, "average daily attendance" is the district's regular average daily attendance.

(1) Elementary districts of 100 or less units of average daily attendance.

(2) Elementary districts with more than 100 and less than 901 units of average daily attendance.

(3) High school districts with less than 301 units of average daily attendance.

(4) Unified districts with less than 1,501 units of average daily attendance.

(5) Elementary districts with greater than 900 units of average daily attendance.

(6) High school districts with more than 300 units of average daily attendance.

(7) Unified districts with greater than 1,500 units of average daily attendance.

(c) For purposes of this section, county offices shall be treated as districts within the meaning of paragraph (7) of subdivision (b).

(d) In addition to the audits specified in subdivision (a), the Controller may select a representative cross-section of districts to audit.

(e) The Controller may review the criteria for identifying special education costs to be issued pursuant to Section 56730.5, and make recommendations in their audit report.

SEC. 12. Section 56736 is added to the Education Code, to read:

56736. It is the intent of the Legislature that the adjusted operating costs for special education as computed pursuant to Section 56732 exclude all costs associated with the services enumerated in subdivision (c) of Section 56220 regardless of whether the district or county office operated under the Master Plan for Special Education during the 1979–80 fiscal year and regardless of whether the district or county office received special funding for these services. The Superintendent of Public Instruction shall:

(a) Identify the costs associated with the services enumerated in subdivision (c) of Section 56220 for all districts and county offices during the 1979–80 fiscal year.

(b) Recompute the support services quotients for districts and county offices, excluding the costs identified in subdivision (a) from the computation, not to exceed thirty dollars ($30) per unduplicated pupil count.

SEC. 13. Section 56737 is added to the Education Code, to read:

56737. For the 1981–82 fiscal year and for each fiscal year thereafter, the Superintendent of Public Instruction shall:

(a) Compute the statewide unweighted average of the support services quotients computed pursuant to Section 56736, for the

1980–81 fiscal year.

(b) Compute a support services quotient for each district and county office claiming reimbursement pursuant to this chapter for the then current fiscal year for instructional personnel services units, other than for the severely handicapped, as defined in Section 56030.5, in the following manner:

(1) If the support services quotient for the prior fiscal year is greater than 1.5 times the average quotient computed pursuant to subdivision (a), then the quotient for the current fiscal year shall be 1.5 times the average quotient computed pursuant to subdivision (a).

(2) If the support services quotient for the prior fiscal year is less than or equal to 1.5 times the average quotient computed pursuant to subdivision (a) but greater than the average quotient computed pursuant to subdivision (a), then the quotient for the then current fiscal year shall be the greater of (A) or (B):

(A) The average computed pursuant to subdivision (a); or

(B) The support services quotient for the prior fiscal year minus 0.1.

(3) If the support services quotient for the prior fiscal year is less than or equal to the average quotient computed pursuant to subdivision (a), then the quotient for the then current fiscal year shall be equal to the quotient for the prior fiscal year.

(4) If a district or county office did not operate special education programs and services in the fiscal year, its support services quotient for the then current fiscal year shall be the lesser of (A) or (B):

(A) The average quotient computed pursuant to subdivision (a); or

(B) The statewide unweighted average for the appropriate class district or county office identified in Section 56735.

(c) The support services quotient for instructional personnel services units for the severely handicapped, as defined in Section 56030.5, shall be the quotient for the prior fiscal year, except that that quotient shall not exceed 1.5 times the average quotient computed pursuant to subdivision (a).

(d) No district or county office which had a nonseverely handicapped support services ratio of 1.5 times the average in the 1981–82 fiscal year shall have that average reduced below 1.15 times the average in subsequent years.

(e) Compute a total support services amount for each district and county office equal to the sum of (1) and (2):

(1) Multiply the support services quotient for the current fiscal year computed pursuant to subdivision (b) or (c) by the instructional amounts for the appropriate types of programs, computed pursuant to Section 56725.

(2) Multiply the support services quotient for the current fiscal year computed pursuant to subdivision (b) by the extended year amount computed pursuant to Section 56726. Support services amounts for extended year programs for other than the severely handicapped, as defined in Section 56030.5, shall be divided by 2.

SEC. 14. Section 56738 is added to the Education Code, to read:

56738. Notwithstanding Section 56737, the support services amounts for the following instructional personnel services units shall be one-half of the amounts computed for those units pursuant to Section 56737:

(a) All instructional personnel services units added between the end of the first principal apportionment period and the end of the second principal apportionment period during a single fiscal year.

(b) Any designated instruction and services units in excess of the number of those units operated during the 1980–81 fiscal year.

SEC. 16. Section 56742 is added to the Education Code, to read:

56742. Every district or county office of education which receives state funding pursuant to Section 56740 shall, as a condition of that apportionment, report to the Superintendent of Public Instruction on forms provided for that purpose, when the total cost of a placement of an individual with exceptional needs in a nonpublic, nonsectarian school exceeds by more than 100 percent the average cost, both instructional and support, including transportation and designated instructional services, of serving a pupil in a special day class in the district or county office If the district or county office does not operate special day classes, then the figure used shall be the average special day class cost, both instructional and support, in the region.

The report shall include:

(a) The name of the nonpublic, nonsectarian school in which the individual with exceptional needs is placed.

(b) A brief description of the services provided to that individual.

(c) The total costs of the placement for that individual.

SEC. 17. Section 56743 is added to the Education Code, to read:

56743. Notwithstanding Section 56740, the Superintendent of Public Instruction shall not apportion additional funds to districts or county offices on behalf of those placements reported by districts and county offices pursuant to Section 56742 if the increase claimed from one year to the next exceeds the percentage increase specified by Section 56723, or an in-lieu percentage specified by the Budget Act, unless he or she makes a specific and individual finding that a greater increase is warranted.

SEC. 18. Section 56751 of the Education Code is amended to read:

56751. The county superintendent shall compute an adjusted local general fund contribution amount for each district by subtracting the amount computed pursuant to subdivision (a) from the amount computed pursuant to subdivision (b).

(a) The sum of the district's state aid apportionments for special education, applicable federal funds, revenue limits for pupils in special classes and centers, and tuition earned by the district from operating special education programs for other districts and county offices, exclusive of such revenue earned for providing special transportation, contracting for nonpublic, nonsectarian school services, and earned on account of pregnant minors programs and

programs to provide instruction in the home or hospital for pupils with temporary physical disabilities for the 1979–80 fiscal year.

(b) The district's total reported cost of operating special education programs and services exclusive of the costs of providing special transportation, contracting for nonpublic, nonsectarian school services, and providing pregnant minors programs and instruction in the home or hospital for pupils with temporary physical disabilities for the 1979–80 fiscal year.

The amount included in total cost of special education for indirect support costs shall not exceed 4 percent of the sum of direct costs plus direct support costs.

SEC. 18.4. Section 56760.5 is added to the Education Code, to read:

56760.5. Notwithstanding the provisions of 56760, for the 1981–82 fiscal year special education services regions shall be eligible to receive state funding for only for those instructional personnel services units that do not exceed the sum of the following:

(1) The average number of instructional personnel services units offered by the special education services region in the 1980–81 fiscal year, and

(2) The maximum entitlement of the special education services region at the 10 percent service level, as computed pursuant to Section 56760, minus the instructional personnel services units computed pursuant to paragraph (1), times .5.

SEC. 18.5. Section 56774 is added to the Education Code, to read:

56774. For the purposes of receiving reimbursement pursuant to this article, no district shall contract with a county office of education to have the county office provide special education transportation, nor transfer district transportation, unless the district can demonstrate that state savings within the local plan will result from the contract or transfer, or demonstrate that the new transportation agreement will result in a reduction in mileage of at least 25 percent.

Any district, county office of education, or special education services region may request the Superintendent of Public Instruction to grant a waiver of this section if the district, county office, or special education services region can show a serious reason for doing so.

The superintendent may grant the request when the facts indicate that there is no reasonable alternative for local districts to provide transportation to individuals with exceptional needs.

SEC. 19. Section 56775 of the Education Code is amended to read:

56775. For the 1980–81 fiscal year and for each fiscal year thereafter, the superintendent shall apportion to each county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of contracts with nonpublic, nonsectarian schools to provide special education instruction, related services, or both, to pupils in licensed children's institutions, as funded pursuant to this chapter, and (2) the state and

federal income received by the county superintendent for providing such programs. The sum of the excess cost plus any income from the state or federal government for such purposes shall not exceed the cost of contracts with nonpublic, nonsectarian schools to provide special education and related services for such pupils, as determined by the superintendent.

SEC. 20. Section 56780 of the Education Code is amended to read:

56780. The superintendent shall apportion funds for program specialists as follows:

(a) For the 1980–81 fiscal year:

(1) For districts and county offices that did not operate under the Master Plan in the 1979–80 fiscal year, the superintendent shall multiply one-half of the total unduplicated pupil count in December 1980 in the local plan, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by sixty-three dollars ($63).

(2) For districts and county offices that operated under the Master Plan in the 1979–80 fiscal year, the superintendent shall multiply the total unduplicated pupil count in December 1980 in the local plan, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by sixty-three dollars ($63).

(b) Commencing with the 1981–82 fiscal year and each fiscal year thereafter, the superintendent shall multiply the average of the unduplicated pupil counts for the fall and spring semesters of the then current fiscal year, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by forty-four dollars ($44), as adjusted pursuant to Section 56782.

SEC. 21. Section 56781 of the Education Code is amended to read:

56781. For the 1981–82 fiscal year, and for each fiscal year thereafter, the superintendent shall apportion funds for regionalized services, other than program specialists, as enumerated in subdivision (c) of Section 56220 by multiplying the average of the total unduplicated counts for the fall and spring semesters of the then current fiscal year in the local plan, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by twenty-five ($25).

SEC. 22. Section 56782 of the Education Code is amended to read:

56782. Commencing with the 1982–83 fiscal year and in each fiscal year thereafter, the amounts per unduplicated pupil provided pursuant to Section 56781 shall be increased annually by the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance.

SEC. 23. Section 56827 is added to the Education Code, to read:

56827. The Superintendent of Public Instruction shall, on an ongoing basis, review the information and calculations submitted by districts and county offices in support of all apportionment computations described in this chapter. In particular, the

superintendent shall review the unit rates computed pursuant to Article 3 (commencing with Section 56720), the support services amounts computed pursuant to Article 4 (commencing with Section 56730), and the local general fund contribution computed pursuant to Article 6 (commencing with Section 56750) for accuracy and for consistency with this part. The superintendent shall adjust any of these or other factors computed pursuant to this part if subsequent review determines that they are incorrect.

SEC. 24. Section 56828 is added to the Education Code, to read:

56828. (a) No educational programs already in operation in school districts pursuant to Part 30 (commencing with Section 56000) shall be transferred to the county superintendent of schools, or to other school districts, without the approval of the Superintendent of Public Instruction. The Superintendent of Public Instruction shall approve these transfers only if it is determined that the transfer is in the best interests of the education and welfare of the pupils attending the program.

(b) In the event the transfer is approved, the support services amounts and Instructional Personnel Service Units amounts for the transferring agencies and county superintendent of schools shall be computed using a weighted average. The Superintendent of Public Instruction shall determine the additional costs to the state, if any, caused by the transfer, and permanently reduce the districts' revenue limits, or the county superintendent's support services entitlement, or both the districts' revenue limits and the county superintendent's support services entitlement, by an amount equal to the additional cost.

SEC. 24.5. Section 56829 is added to the Education Code, to read:

56829. For the 1981–82 fiscal year and each fiscal year thereafter, if the total amount of state aid for special education claimed by districts and county offices pursuant to this chapter is less than the amount appropriated for those claims, the balance may be used by the Superintendent of Public Instruction to reimburse districts and county offices of education whose expenditures for special education programs and services in the current year exceed the sum of current year revenues from all sources, including state and federal aid for special education district revenue limits for special day classes and centers, county taxes for special education, and an amount equal to the 1979–80 local general fund contribution.

The sum of the reimbursement received by districts and county offices pursuant to this section plus the total current year revenues received, including state and federal aid for special education, district revenue limits for special day classes and centers, county taxes for special education, and an amount equal to the 1979–80 local general fund contribution, shall not exceed the actual expenditures of the district or county office for special education programs and services.

SEC. 25. (a) Within six months after the enactment of this act, the State Board of Education shall adopt regulations to provide

specific criteria for the identification of pupils as individuals with exceptional needs, as defined in Section 56026 of the Education Code.

(b) The State Board of Education shall consider the eligibility criteria alternatives for learning disabilities being developed by the independent evaluator of the Master Plan for Special Education under contract with the state when adopting regulations pursuant to subdivision (a).

(c) When statewide eligibility criteria regulations have been adopted, the person conducting a state hearing pursuant to Section 56505 of the Education Code shall comply with the criteria in rendering decisions.

SEC. 26. Except as otherwise provided, this act shall be deemed operative for the entire 1981–82 fiscal year as though it had been enacted into law and become operative on July 1, 1981. The Superintendent of Public Instruction and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements.

SEC. 27. Provision 17 of the provisions applicable to Items 610-101-001 through 610-101-890 for local assistance, Department of Education, of the Budget Act of 1981, as amended by Chapter 169 of the Stautes of 1981, is amended to read:

> 17. Provided further, that, notwithstanding any other provision of law, the funds appropriated in category (d), for Special Education are to be allocated only in accordance with provisions of Chapter 7 of Part 30 of the Education Code. Provided that $3.6 million or so much money as is necessary of these funds may be used to meet the matching requirement necessary to maximize the funds available under PL 94-482, Vocational Education, National Priority Programs for handicapped students.
>
> Provided further, that funds included in category (d) for the purposes of Article 8 (commencing with Section 56770) of Chapter 7 of Part 30 of the Education Code shall not exceed $64,260,000.
>
> Provided further that funds included in category (d) for the purposes of Article 9 (commencing with Section 56780) of Chapter 7 of Part 30 of the Education Code shall not exceed $24,700,000.

SEC. 27.5. Provision 37 is added to the provisions applicable to Items 610-101-001 through 610-101-890 for local assistance, Department of Education, of the Budget Act of 1981, as amended by Chapter 169 of the Statutes of 1981, to read:

37. Provided further, that of the funds appropriated in category (d) of Item 610-101-890, $65,753,000 shall be allocated for local education agency entitlements for Special Education Programs for Exceptional Children for the 1981–82 fiscal year.

SEC. 28. (a) There shall be established a special legislative advisory committee on special education to guide, advise, and assist the Legislature. The special advisory committee shall consist of one representative of each of the following:

(1) The Assembly Education Committee.

(2) The Senate Education Committee.

(3) The Education Subcommittee of the Assembly Ways and Means Committee.

(4) The K-12 Education and State Administration Subcommittee of the Senate Finance Committee.

(5) The minority finance staff of the Senate.

(6) The minority ways and means staff of the Assembly.

(7) The Office of the Legislative Analyst.

(8) The Department of Finance.

(9) The Senate Office of Research.

The representatives of the education policy committees of the Assembly and the Senate shall jointly chair the special advisory committee.

(b) The special advisory committee shall examine at least the following areas of concern:

(1) The adequacy of data collected and maintained by the Department of Education.

(2) The degree to which state special education mandates exceed federal special education mandates.

(3) Areas of special education policy and funding which can be reduced with minimum loss of program quality.

(4) The degree to which the master plan has improved or reduced services to individuals with exceptional needs.

(5) The development of appropriate identification criteria.

(6) The possible tying of state requirements for the provision of related services to changes in federal requirements regarding the provision of those services.

(7) The feasibility of removing special education encroachment from district revenue limits.

(c) The special advisory committee shall issue an interim report on its findings and recommendations in these areas and others which it deems appropriate by December 30, 1981 It shall issue a final report by June 30, 1982.

SEC. 29. (a) Of the funds appropriated for special education local assistance for the 1981–82 and 1982–83 fiscal years, up to five

hundred thousand dollars ($500,000) shall be available for the lease or rental of temporary classroom facilities for special education to school districts and county offices of education who meet the following criteria:

(1) The local education agency must have a support services quotient for the 1980–81 fiscal year greater than 1.5 times the statewide average quotient computed pursuant to subdivision (a) of Section 56737 of the Education Code.

(2) The local education agency's 1979–80 fiscal year total special education costs computed pursuant to Section 56732 of the Education Code, must include costs for the rent or lease of temporary classroom facilities for special education.

(3) The local education agency must have certification from the State Allocation Board that no suitable alternative classroom facilities are available.

(b) Local education agencies meeting all of the criteria in subdivision (a) may apply to the Superintendent of Public Instruction for an allocation of funds.

(c) If the allocations approved pursuant to this section exceed the funds available, such allocation shall be reduced on a pro rata basis.

(d) Allocations made pursuant to this section shall be subject to any statewide deficit in the appropriation for special education.

SEC. 30. The Superintendent of Public Instruction shall seek the advice of the Commission on Special Education and the State Board of Education regarding specific funding reductions to programs the funding of which was reduced because of the operation of Provision 37 of the provisions applicable to Items 610-101-001 through 610-101-890 of the Budget Act of 1981, as amended by Chapter 169 of the Statutes of 1981.

The Legislative Analyst shall report to the education subcommittees of the fiscal committees of the Legislature during the 1982 budget hearings regarding the program reductions caused by the allocation of funds pursuant to that provision.

SEC. 31. It is the intent of the Legislature, if this bill and Assembly Bill 717 are both chaptered and become effective January 1, 1982, both bills amend Section 56368 of the Education Code, and this bill is chaptered after Assembly Bill 717, that the amendments to Section 56368 proposed by both bills be given effect and incorporated in Section 56368 in the form set forth in Section 3.8 of this act. Therefore, Section 3.8 of this act shall become operative only if this bill and Assembly Bill 717 are both chaptered and become effective January 1, 1982, both amend Section 56368, and this bill is chaptered after Assembly Bill 717, in which case Section 3.7 of this act shall not become operative.

SEC. 32. It is the intent of the Legislature, if this bill and Assembly Bill 817 are both chaptered and become effective January 1, 1982, both bills amend Section 56362 of the Education Code, and this bill is chaptered after Assembly Bill 817, that the amendments to Section 56362 proposed by both bills be given effect and incorporated in

Section 56362 in the form set forth in Section 3.55 of this act. Therefore, Section 3.55 of this act shall become operative only if this bill and Assembly Bill 817 are both chaptered and become effective January 1, 1982, both amend Section 56362, and this bill is chaptered after Assembly Bill 817, in which case Section 3.5 of this act shall not become operative.

SEC. 34. It is the intent of the Legislature, if this bill and Assembly Bill 817 are both chaptered and become effective January 1, 1982, both bills amend Section 56505 of the Education Code, as amended by Chapter 149 of the Statutes of 1981, and this bill is chaptered after Assembly Bill 817, that the amendments to Section 56505 proposed by both bills be given effect and incorporated in Section 56505 in the form set forth in Section 4.3 of this act. Therefore, Section 4.3 of this act shall become operative only if this bill and Assembly Bill 817 are both chaptered and become effective January 1, 1982, both amend Section 56505, and this bill is chaptered after Assembly Bill 817, in which case Section 4.2 of this act shall not become operative.

SEC. 35. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code if no appropriation is made by another act which would provide reimbursement to local agencies and school districts as required.

SEC. 36. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1095

An act to amend Sections 51280, 51282, and 51283.4 of, and to add Sections 51282.2 and 51286 to, and to add and repeal Section 51282.1 of, the Government Code, relating to agricultural land.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 51280 of the Government Code is amended to read:

51280. It is hereby declared that the purpose of this article is to provide relief from the provisions of contracts entered into pursuant to this chapter under the circumstances and conditions provided herein.

SEC. 2. Section 51282 of the Government Code is amended to read:

51282. (a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

(1) That the cancellation is consistent with the purposes of this chapter; or

(2) That cancellation is in the public interest.

(b) For purposes of paragraph (1) of subdivision (a) cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:

(1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

(3) That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

(4) That cancellation will not result in discontiguous patterns of urban development.

(5) That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land

As used in this subdivision "proximate, noncontracted land" means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision "suitable" for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontiguous parcels.

(c) For purposes of paragraph (2) of subdivision (a) cancellation of a contract shall be in the public interest only if the council or board makes the following findings: (1) that other public concerns substantially outweigh the objectives of this chapter , and (2) that there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision "proximate, noncontracted land" means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision "suitable" for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontiguous parcels.

(d) For purposes of subdivision (a), the uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(e) The landowner's petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required.

(f) In approving a cancellation pursuant to this section, the board or council shall not be required to make any findings other than or in addition to those expresssly set forth in this section, and, where applicable, in Section 21081 of the Public Resources Code.

SEC. 3. Section 51282.1 is added to the Government Code, to read:

51282.1. (a) The purpose of this section is to provide a one-time opportunity for cities and counties, acting in concert with affected landowners, to correct inconsistent applications of the provisions of this chapter and thereby to alleviate present and potential hardships, both for affected cities and counties and for affected landowners. The provisions of this section are alternative to the provisions for cancellation of contracts contained in Section 51282 and the provisions of Section 51282 shall not apply to cancellation of contracts as provided in this section.

(b) Within 60 days from the effective date of this section, each city and county shall provide notice by first-class mail to each landowner whose land is under contract pursuant to this chapter. The notice shall include the following:

(1) The eligibility criteria for the special contract cancellation procedures authorized by this section.

(2) The deadlines for filing a petition, pursuant to the special contract cancellation procedures authorized by this section, for cancellation of a contract.

(3) An explanation of the procedures for cancellation and nonrenewal of contracts which will apply to situations to which this section is not applicable.

(c) A petition for cancellation of a contract pursuant to this section shall be filed with the city or county no later than 150 days after the effective date of this section. Each city or county shall

establish a schedule for acting on the petitions, and all petitions shall be approved or disapproved in accordance with the provisions of Section 65950 and following, except that a county may hold a petition without action pending the completion of annexation proceedings, and transfer the petition to the annexing city upon completion for its action.

(d) The provisions of Section 51284 shall apply to all petitions for cancellation of contracts filed pursuant to this section.

(e) Each petition for cancellation of a contract filed pursuant to this section shall be accompanied by a proposal for a specified alternative use of the land. Additional material requested by the board or council necessary to document or otherwise complete the petition, including additional information regarding the specified alternative use, may be filed after the deadline provided in subdivision (c). The provisions and requirements of Section 51283.4 shall be fully applicable thereto, except as otherwise provided in this subdivision. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as necessary to permit them to make the findings required.

(f) The board or council may grant tentative approval for cancellation of a contract pursuant to this section only if it makes all of the following findings:

(1) That the cancellation and alternative use will not result in discontiguous patterns of urban development.

(2) That the alternative use is consistent with applicable provisions of the city or county general plan which either was in effect on October 1, 1981, or was amended after October 1, 1981, as a result of proceedings which were formally initiated by the landowner or local government as provided in Article 6 (commencing with Section 65350) prior to January 1, 1982.

(g) A tentative approval of a petition to cancel a contract shall be valid for one year from the date of its recordation pursuant to Section 51283.4. If the landowner has been unable to satisfy all the conditions and contingencies within that period, the provisions of subdivision (c) of Section 51283.4 shall apply and the tentative approval of the cancellation of the contract shall be withdrawn, unless the landowner has paid the required cancellation fee. However, the board or council may also extend the one-year time period for a reasonable period upon a finding that the landowner has proceeded with due diligence and has been prevented from satisfying the conditions and contingencies by circumstances beyond his control.

(h) In granting tentative approval for cancellation of a contract pursuant to this section, the board or council shall not be required to make any determination or finding other than, or in addition to, those expressly required by this section, and, where applicable, by Section 21081 of the Public Resources Code.

(i) The provisions of subdivision (c) of Section 51283 shall not apply to cancellations approved pursuant to this section.

SEC. 3.5. Section 51282.2 is added to the Government Code, to

read:

51282.2. (a) In the event that a city has within its boundaries on the effective date of this section 300 acres or less of land which is under contract, the provisions and requirements of subdivisions (e), (f), (g) and (h) of Section 51282.1 shall not apply within that city and a petition for cancellation of a contract shall be approved as otherwise provided in Section 51282.1.

(b) The provisions of this section shall not apply to any contract which is applicable to land located within the coastal zone as described and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code.

SEC. 4. Section 51283.4 of the Government Code is amended to read:

51283.4. (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at such time as specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Sections 51283 and 51283.1, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, such fee shall be recomputed as of the date of notice described in subdivision (b). Any provisions related to the waiver of such fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The board or council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that such amendment is consistent with the findings made pursuant to subdivision (f) of Section 51282.1 or subdivision (a) of Section 51282, whichever is applicable.

(b) The landowner shall notify the board or council when he has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of such notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract and cause the same to be recorded

(c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he is unable to satisfy. Within

30 days of receipt of such notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the board or council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.

SEC. 5. Section 51286 is added to the Government Code, to read:

51286. Any action or proceeding which, on the grounds of alleged noncompliance with the requirements of this chapter, seeks to attack, review, set aside, void or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to the provisions of Section 1094.5 of the Code of Civil Procedure.

The action or proceeding shall be commenced within 180 days from the council or board order acting and petition for cancellation filed under this chapter.

SEC. 6. The cost of preparing and mailing the notice required by subdivision (b) of Section 51282.1 as added to the Government Code by this act shall be deducted from any cancellation fees collected pursuant to Section 51283 of the Government Code for land upon which a contract has been canceled as provided in Section 51282.1. The amount of money so deducted shall be retained by the county treasurer and shall not be transmitted to the Controller as would otherwise be required pursuant to Section 51283 of the Government Code. From the amount of money so retained, the treasurer shall pay to each city an amount sufficient to reimburse it for the cost of preparing and mailing the notice required by Section 51282.1. The treasurer shall deposit the remaining money in the county general fund to reimburse the county for those costs.

SEC. 7. An application for cancellation filed prior to the effective date of this act shall be reviewed and decided upon pursuant to the provisions of law applicable prior to the effective date, unless the applicant elects in writing to proceed under Section 51282 or 51282.1 of this act.

SEC. 8. The Legislature finds and declares that the purpose of this act is not to weaken or strengthen the Williamson Act but simply to clarify and make the law workable in light of problems and ambiguities created by the California Supreme Court decision in the case of Sierra Club v. City of Hayward, 28 Cal 3d 840.

SEC. 9. Section 3 of this act shall be repealed as of January 1, 1983, unless a later enacted statute extends that date. The provisions of Section 3 of this act shall continue in full effect relative to proceedings initiated in compliance with it as enacted, and shall not be affected by its repeal.

SEC. 10. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may

pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1096

An act to add Section 1373.6 to the Health and Safety Code, to add Part 6.1 (commencing with Section 12670) to Division 2 of the Insurance Code, and to add Sections 2800.2 and 2800.3 to the Labor Code, relating to health insurance.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 1373.6 is added to the Health and Safety Code, to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended or renewed on or after January 1, 1983, that provides hospital, medical or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated;

(2) The employee or member failed to pay amounts due the health care service plan;

(3) The employee or member was terminated by the health care service plan from the plan for good cause;

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act

(2) Such person is covered by or is eligible for hospital, medical or surgical benefits under state or federal law.

(3) Such person is covered by or is eligible for hospital, medical

or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 30 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage; provided, however, that it shall be the sole responsibility of the employer to notify its employees of the availability, terms and conditions of such conversion coverage which responsibility shall be satisfied by notification within 30 days of termination of group coverage excluding any period during which there is any continuation or extension of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms and conditions of conversion coverage.

SEC. 2. Part 6.1 (commencing with Section 12670) is added to Division 2 of the Insurance Code, to read:

PART 6.1. HEALTH DISABILITY INSURANCE CONVERSION

12670. It is the intent of the Legislature to ensure that persons covered by non-self-insured group medical, hospital, or major medical benefits who become ineligible for such coverage have access to minimum benefits pursuant to this part by requiring employers, employee organizations and other entities which provide such coverage to their employees or members to also make available conversion policies for such persons and to ensure that insurers as herein defined offer conversion policies.

12670.1. As used in this part:

(a) "Group policy" means a group disability insurance policy providing hospital, surgical, or major medical coverage issued by an insurer, a group contract issued by a hospital service corporation or hospital, surgical, or major medical coverage otherwise provided by a policyholder to its employees or members, except for self-insurance programs provided by employers. For purposes of this part a group policy shall be considered renewed on each anniversary of its effective date.

(b) "Conversion coverage" means disability insurance benefits providing hospital, surgical, or major medical coverage issued to an individual under a converted policy.

(c) "Converted policy" means a policy or contract providing conversion coverage issued by an insurance company or by a hospital service corporation, or individual hospital, surgical or major medical

coverage otherwise provided by a policyholder to its employees or members.

(d) "Insurer" means the entity issuing a group policy, an individual or converted policy, a hospital service contract or an employer or employee organization otherwise providing hospital, surgical, or major medical coverage to its employees or members.

(e) "Insurance" refers to hospital, surgical, or major medical coverage paid by premium or contribution under a group coverage, a converted policy, a hospital service contract, or as otherwise provided by a policyholder to its employees or members other than by self insuring.

(f) "Policyholder" means the holder of a group policy of group disability insurance issued by an insurer, a holder of a group contract issued by a hospital service corporation or an employer, employee association or other entity otherwise providing hospital, surgical, or major medical coverage on a group basis to its employees or members.

(g) "Premium" means contribution or other consideration paid or payable for coverage under a group policy or converted policy.

(h) "Medicare" means Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded.

12672. Any group policy issued, amended or renewed in this state on or after January 1, 1983, which provides employees or members with hospital, surgical, or major medical insurance on an expense-incurred or service basis, other than for specific disease or for accidental injuries only, shall contain a provision that an employee or member whose coverage under the group policy has been terminated for any reason except as provided in this part, shall be entitled to have a converted policy issued to him or her by the insurer under whose group policy he or she was covered, without evidence of insurability, subject to the terms and conditions of this part.

12673. Conversion coverage shall be required to be made available to an employee or member unless such coverage under the group policy terminates for one or more of the following reasons:

(a) The group policy or the policyholder's participation in the group policy terminates and the insurance is replaced by similar coverage under another group policy within 60 days of the date of termination of the group coverage or the policyholder's participation, in which case the subsequent insurer shall offer the conversion policy when it would otherwise be required to be offered under this part.

(b) The employee or member has failed to make any required payment of the premium or contribution when due.

(c) The employee or member had not been continuously covered during the three-month period immediately preceeding the employee's or member's termination of coverage.

12674. A converted policy shall be issued effective on the day

following the termination of coverage under the group policy if written application and the first premium payment for the conversion policy are made to the insurer not later than 31 days after the termination of insurance, unless such requirements are waived in writing by the insurer.

12675. The premium for the conversion coverage shall be determined in accordance with the insurer's rates applicable to the age and class of risk of each person to be covered and to the type and amount of coverage provided.

12676. The conversion coverage shall cover the employee or member and his or her dependents who were covered by the group policy on the date of termination of coverage. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

12677. The insurer shall not be required to issue a converted policy covering any person if such person is entitled to be covered by Medicare.

12678. The insurer shall not be required to issue a converted policy covering any person if any of the following exists:

(a) Such person is covered or is eligible to be covered for similar benefits by another group policy.

(b) Such person is covered or is eligible to be covered for similar benefits under any arrangement of coverage for persons in a group whether insured or uninsured.

(c) Similar benefits are provided for or are available to such person, by reason of any state or federal law.

12679. A converted policy may provide that the insurer may at any time request information from any person covered thereunder as to whether he or she is covered for the similar benefits described in Section 12678. The converted policy shall provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for the following reasons only:

(a) Failure of the individual covered by the converted policy to provide the requested information.

(b) Fraud or material misrepresentation by the individual covered by the converted policy in applying for any benefits under the converted policy.

(c) Eligibility of the individual covered by the converted policy for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(d) Nonpayment of premium.

(e) Eligibility of the individual covered by the converted policy for coverage under any group policy.

(f) Other reasons approved by the Insurance Commissioner

12680. If conversion coverage is issued and benefits are also provided to a person under Section 12678. the insurer may limit the conversion benefits provided or available for such person so that such conversion benefits together with benefits provided or available

from the sources referred to in Section 12678 shall not exceed 100 percent of the charges for covered benefits. Priority of any coverages involved shall be determined by the effective dates, the earlier one being first.

12681. An insurer shall not be required to issue a converted policy providing benefits in excess of those provided under the group policy from which conversion is made.

12682. The converted policy shall not exclude, as a preexisting condition, any condition covered by the group policy. The converted policy may provide for a reduction of its benefits by the amount of any such benefits payable under the group policy after the individual's insurance terminates thereunder. The converted policy may also provide that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in effect.

12683. Subject to the provisions and conditions of this part, if the group policy from which conversion is made covers the employee or member for basic hospital or surgical expense only, the employee or member shall be entitled to obtain a converted policy providing the following minimum benefits:

(a) Plan A.

(1) Hospital room and board daily expense benefits up to two hundred dollars ($200) for a duration of 70 days.

(2) Miscellaneous hospital expense benefits up to a amount of 10 times the hospital room and board daily expense benefits.

(3) Surgical expense benefits according to a surgical schedule procedures schedule consistent with those customarily offered by the insurer under a group or individual health insurance policy and providing a maximum benefit of four thousand eight hundred dollars ($4,800).

(b) Plan B—75 percent of the dollar amounts of Plan A.

(c) Plan C—50 percent of the dollar amounts of Plan A.

(d) The maximum dollar amount for Plan A's hospital room and board daily expense benefit may be redetermined by the Insurance Commissioner as to conversion coverage issued subsequent to such redetermination. Such redetermination shall not be made more often than once in three years.

(e) Covered expenses under this section shall include benefits for expense incurred by the employee, member, or spouse in connection with pregnancy, provided that:

(1) The pregnancy commenced while covered under the group policy from which conversion was made;

(2) The expense is of a type which would have been covered under such group policy; and

(3) The conversion policy is in force when the expense is incurred.

12684. Subject to the provisions and conditions of this part, if the

group policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing comprehensive major medical coverage providing the following minimum benefits:

(a) A payment per covered person for all covered medical expenses incurred during the person's lifetime equal to one hundred thousand dollars ($100,000); provided, however, that for treatment of mental illness payment may be limited to ten thousand dollars ($10,000) during the person's lifetime.

(b) Payment of benefits at the rate of 75 percent of covered medical expenses; provided, however, that outpatient mental health coverage may be provided at the option of the insurer.

(c) A deductible for each benefit period at the option of the insured of two hundred dollars ($200), five hundred dollars ($500), or one thousand dollars ($1,000).

(d) The term "covered medical expense" shall include the charges for semiprivate hospital room and board daily expense benefits, but shall not be more than two hundred fifty dollars ($250), two hundred dollars ($200), or one hundred fifty dollars ($150) per day at the option of the insured, provided that covered expense for intensive care units shall not be more than two and one-half times such charges.

(e) Covered medical expenses shall include maternity coverage for the employee or member or their spouse only in connection with pregnancy which commenced while covered under the group policy from which conversion was made, provided such expenses would have been covered under such group policy, and that no coverage was provided pursuant to Section 12683, in which case no coverage shall be provided under this section.

12685. The insurer may, at its option, offer alternative plans for group health conversion in addition to those required by this part.

12686. (a) In the event coverage would be continued under a group policy on an employee following his or her retirement prior to the time he or she is or could be covered by Medicare, the employee or member may elect to have the same conversion rights as would apply had that coverage terminated at retirement.

(b) The converted policy may provide for reduction or termination of coverage of any person upon his or her eligibility for coverage under Medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(c) Subject to the conditions set forth herein, the conversion coverage shall also be available to:

(1) A covered dependent spouse and such children whose coverage terminates under the group policy by reason of the death of the employee or member, or a covered dependent spouse in the event such person ceases to be a qualified family member by reason of the termination of the marriage.

(2) A child, solely with respect to himself or herself, whose coverage terminates because the child ceases to be a qualified family member under the group policy.

(d) If the benefit levels required in Section 12683 or Section 12684 exceed the benefit levels provided under the group policy, the converted policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in Section 12683 or Section 12684.

(e) The insurer may elect to provide conversion coverage through a group insurance policy issued for that purpose in lieu of an individual policy.

(f) An insurer required by this part to provide conversion coverage may provide such coverage through one or more other insurers authorized to provide disability insurance coverage in this state.

12687. Notwithstanding any other provision in this part, whenever an employee or member chooses among two or more conversion policies, such choice shall be made within 30 days from the last date when the employee or member was eligible for benefits under a group policy from which conversion is available.

12688. Notwithstanding any provision in this part to the contrary, a hospital service corporation or any insurer which customarily offers individual conversion coverage on a service basis may, in lieu of the expense incurred conversion coverage provided in Sections 12683 and 12684, make available conversion coverage on a service basis which complies with the intent of this part as approved by the commissioner.

12689. A notification of the conversion coverage shall be included in each certificate of coverage or other legally required document explaining coverage; provided, however, that it shall be the sole responsibility of the policyholder to notify its employees or members of the availability, terms and conditions of conversion coverage which responsibility shall be satisfied by notification within 30 days of termination of group coverage excluding any period during which there is any continuation or extension of group coverage. For purposes of this part, the policyholder shall not be deemed to be the agent of the insurer for purposes of notification of the availability, terms and conditions of conversion coverage.

12690. Nothing in this part shall prohibit insurers from establishing one or more pools from which the converted policies provided for on this part may be issued.

12691. A converted policy which is delivered in a jurisdiction other than this state may be in a form which could be delivered in such jurisdiction as a converted policy had the group policy been issued in such jurisdiction.

SEC. 3. Section 2800.2 is added to the Labor Code, to read:

2800.2. Any employer, employee association or other entity otherwise providing hospital, surgical or major medical benefits to its employees or members is solely responsible for notification of its

employees or members of the coversion coverage made available pursuant to Part 6.1 (commencing with Section 12670) of Division 2 of the Insurance Code or Section 1373.6 of the Health and Safety Code.

SEC. 4. Section 2800.3 is added to the Labor Code, to read:

2800.3. Any employer, other than a self-insurer, employee association or other entity otherwise providing hospital, surgical or major medical benefits to its employees or members shall also make available conversion coverage which complies with the provisions of Part 6.1 (commencing with Section 12670) of Division 2 of the Insurance Code and Section 1373.6 of the Health and Safety Code.

SEC. 5. The provisions of this act shall become operative January 1, 1983, and shall apply to group policies issued, amended, or renewed in this state on or after such date.

CHAPTER 1097

An act to amend Sections 33753, 52011.5, and 52020 of, to add Chapter 3.5 (commencing with Section 50171) to Part 1 of Division 31 of, and to repeal Section 51360.5 of, the Health and Safety Code, relating to mortgage revenue bonds.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 33753 of the Health and Safety Code is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Construction loan" means a loan to finance residential construction under this chapter, whether such loan is insured or uninsured.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences and the making of loans to qualified mortgage lenders.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing of residences, pursuant to this chapter.

(e) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state or any of its political subdivisions or employee of any redevelopment agency shall be eligible to be a participating party under the provisions of this chapter.

(f) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(g) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(h) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes. As used in this section, "substandard residence" has the same meaning as the term "substandard building," as defined in Section 17920.3, except that "substandard residence" shall include all property improved with any structure defined in subdivision (j) of this section as a "residence," with respect to which any of the conditions listed in Section 17920.3 exist.

(i) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan.

(j) "Residence" means real property improved with a residential structure and within a redevelopment project area real property improved with a commercial structure (or structures) or a mixed residential and commercial structure, which the redevelopment agency determines to be an integral part of a residential neighborhood. For purposes of determining the integrality of new construction for such purpose, a proposed commercial or mixed residential and commercial structure shall be located within or immediately adjacent to a neighborhood primarily residential in character.

New construction of any commercial structure, or of the commercial portion of any mixed residential and commercial structure, financed under this chapter shall not exceed 80,000 square feet of gross building area per development. Any suit challenging such finding shall be filed within 60 days, or the findings of the

agency shall be conclusive.

An agency may not provide long-term financing pursuant to this chapter for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure if conventional financing in an amount sufficient to complete the construction has been obtained for the construction of such structure or portion thereof.

Prior to the financing of any commercial structure within a redevelopment project area, the agency shall adopt a financing plan by resolution, which may include commercial and residential structures. The square footage of the commercial structures shall not exceed 30 percent of the aggregate square footage of all the commercial and residential structures within the project area and financed pursuant to the financing plan. The financing plan for the commercial and residential structures shall include structures that have been, or are being, financed pursuant to this chapter or under federal or state financial assistance programs or local assistance programs of any kind whatsoever. However, such a financing plan shall not be required for an agency that has financed residential structures with the proceeds of bonds issued prior to the effective date of the amendment to this section enacted during the 1980 portion of the 1979–80 Regular Session, nor shall such amendments affect the validity of the tax-exempt status of bonds issued pursuant to this chapter prior to such date.

Additionally, any financing for a commercial structure or a mixed residential and commercial structure authorized or preliminarily approved by resolution adopted by a redevelopment agency or community development commission established pursuant to Section 33201 either (1) on or before June 3, 1980, in furtherance of which the agency or any person or entity has expended substantial funds or committed to reimburse another person or entity which has expended substantial funds; provided that if the long-term permanent financing is in excess of five million dollars ($5,000,000) on any one project from all financing sources, including conventional and tax exempt financing, a redevelopment agency or community development commission shall not provide such long-term permanent financing unless such agency or commission adopted a resolution before January 1, 1981, officially approving and authorizing the sale of revenue bonds to provide such long-term permanent financing, and the bonds were sold and delivered before March 1, 1981; or (2) before October 31, 1980, in furtherance of which the agency has expended funds in connection with such financing or plans relating to such financing if the structure to be financed is located within a city designated pursuant to Section 119 of federal Public Law 95-128, as amended, or within a city designated as of the effective date of the amendments to this section enacted during the 1980 portion of the 1979–80 Regular Session under Title IX of federal Public Law 89-136, as amended, as a long-term economic deterioration area, or financing for a commercial structure or mixed

residential and commercial structure as to which bonds have been delivered on or before July 31, 1980 (without regard to the date the bonds were authorized or received preliminary approval), shall not be subject to new requirements or conditions of this subdivision enacted during the 1980 portion of the 1979–80 Regular Session.

"Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(k) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(*l*) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

SEC. 1.5. Chapter 3.5 (commencing with Section 50171) is added to Part 1 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.5. QUALIFIED MORTGAGE BONDS

Article 1. Legislative Findings and Short Title

50171. The Legislature finds and declares that the federal Mortgage Subsidy Bond Tax Act of 1980 (Title XI, Public Law 96-499) limits the total amount of qualified mortgage bonds which can be issued to finance owner-occupied residences in the state, and that such act does not provide an adequately detailed scheme for allocation of bonding authority among actual and potential state and local issuers. Effective allocation of this bonding authority is necessary to maximize the impact of public housing finance programs in creating housing opportunities throughout the state. In general, public programs should be focused to provide their assistance primarily for persons unable to afford adequate housing without governmental assistance and to finance the construction or rehabilitation of residences in order to meet the need for additional housing, to upgrade depressed and deteriorated areas, and to reduce pressures for suburbanization and its concomitant problems including inefficient use of energy resources. Moreover, no public purpose is served when publicly subsidized mortgage capital merely supplants mortgage capital that would otherwise be available and be used from private financial institutions for such individuals or areas.

The Legislature further finds and declares it to be in the public

interest to assure adequate access to the bond market for all state and local issuers. Statewide coordination is necessary to assure, to the greatest extent possible, that each issuer has timely access to the bond market under conditions which avoid temporary saturation of the market resulting in excessively high bond interest rates.

The Legislature further finds and declares it to be necessary to establish a method of allocating the state ceiling among state and local agencies which will be simple to administer and which will maximize the utilization of qualified mortgage bonds to remedy the serious shortgage of decent, safe, and sanitary housing and to assist those unable to afford adequate housing without governmental assistance.

50172. Pursuant to Section 103A(g)(6) of the federal act, this chapter shall govern the allocation of the state ceiling among the governmental units in this state having authority to issue qualified mortgage bonds. Any allocation approved or assigned pursuant to or granted by this chapter shall become the applicable limit, as that term is used in Section 103A(g)(1) of the federal act, for the issuer for which such allocation is approved or to which such allocation is granted or assigned.

50173. This chapter shall be known as and may be cited as the Costa-Marks Housing Bond Allocation Act of 1981.

Article 2. Definitions and General Provisions

50175. This chapter is enacted in implementation of the Mortgage Subsidy Bond Tax Act of 1980 (Title XI, Public Law 96-499). Accordingly, the definitions contained in this article and the provisions of this chapter shall be construed to be consistent with the purposes and provisions of such federal act and in its implementation. This chapter shall not apply to any issuance of bonds which is accepted from or otherwise not affected by the federal act.

To the extent that any provision of this chapter is held to be inconsistent with or repugnant to the federal act, the provision shall be given effect in accordance with its terms to the greatest extent possible and consistent with the federal act, and such inconsistency shall have no effect on the remaining provisions of this chapter.

50176. As used in this chapter, the following terms have the following meanings:

(a) "Allocation" means the maximum aggregate principal amount of qualified mortgage bonds that a state or local agency is allocated to issue in any calendar year as provided in Sections 50189, 50190, and 50191.

(b) "Committee" means the Mortgage Bond Allocation Committee established pursuant to Section 50185.

(c) "Entitlement allocation" means the allocation of qualified mortgage bonds to a state agency pursuant to Section 50190, and with respect to a local agency, the allocation of qualified mortgage bonds

pursuant to subdivision (a) of Section 50189.

(d) "Federal act" means Section 103A of the Internal Revenue Code of 1954 as enacted by the Mortgage Subsidy Bond Tax Act of 1980 or as hereafter amended, and includes administrative regulations adopted pursuant to such act.

(e) "Issuer" means a state agency or local agency and includes a redevelopment agency, housing authority or other local entity, authorized by state law to issue bonds, to which a local agency has assigned an allocation under this chapter.

(f) "Local agency" means a city, county, or city and county.

(g) "Local bond limit" means 66⅔ percent of the state ceiling for each calendar year.

(h) "Median household income" means "median household income" as defined by subdivision (f) of Section 52020.

(i) "Qualified mortgage bonds" has the same meaning as that specified in the federal act.

(j) "State bond limit" means 33⅓ percent of the state ceiling for each calendar year.

(k) "State ceiling" has the same meaning as that specified in the federal act and as established in accordance with the federal act by the Mortgage Bond Allocation Committee as provided in Section 50187.

(*l*) "Supplementary allocation" means the allocation of qualified mortgage bonds to a local agency pursuant to subdivision (b) of Section 50189.

(m) "Territory" means for any city or city and county, the area within the boundaries of such city or city and county, and for any county, the area within the boundaries of such county not within the boundaries of any city.

Article 3. Allocation of Bonding Authority

50185. There is hereby created the Mortgage Bond Allocation Committee composed of the Governor, or in the Governor's absence, the Director of Finance, the Controller, and the State Treasurer. The Director of Housing and Community Development ; the Executive Director of the California Housing Finance Agency; and two representatives of local government, one representative of the counties appointed by the Senate Rules Committee, and one representative of the cities appointed by the Speaker of the Assembly shall serve as ex officio, nonvoting members. The State Treasurer shall be the chairperson of the committee. The members of the committee shall serve without compensation. A majority shall be empowered to act for such committee.

50186. The committee shall determine, in advance of granting an approval for any portion of an allocation of bonding authority in excess of a local agency's entitlement allocation specified in subdivision (a) of Section 50189, whether the state's credit would be subject to an undue risk by the proposed program. In evaluating

whether the state's credit would be subject to an undue risk by the proposed program, the committee shall consider the following facts: (1) the date on which the bonds are proposed to be sold, (2) the security of the proposed program, and (3) except in the case of private placement, the rating assigned by a nationally recognized bond rating agency to the proposed issuance of qualified mortgage bonds. In evaluating the rating assigned to the proposed issuance of qualified mortgage bonds, absent a compelling reason to the contrary, a rating of "A" (or its equivalent) or better shall be presumed not to subject the credit of the state to an undue risk. In evaluating a rating of less than "A" assigned to a proposed issuance of qualified mortgage bonds, the committee shall examine the basis of the rating and shall consider as well the public purposes to be achieved by the use of qualified mortgage bonds, including, but not limited to, the revitalization of deteriorating areas and assistance to persons and families of low or moderate income. If, within 30 days of the receipt of a notice under subdivision (b) of Section 50191, the committee finds the state's credit would be subject to an undue risk by reason of (1) a conflict between the date upon which the proposed program's bonds are to be sold and the date upon which state bonds are to be sold, (2) inadequate security for the proposed bonds, or (3) a rating less than "A" assigned by a nationally recognized bond rating agency to the proposed issuance of qualified mortgage bonds then it may either (A) require that the proposed sale date be changed, or (B) require other specific additional security. If a rating from a nationally recognized bond rating agency has not been assigned to a proposed issuance of qualified mortgage bonds at the time the committee considers the local agency's request for an allocation of qualified mortgage bonds, the committee may condition its grant of the allocation upon the proposed issuance of qualified mortgage bonds receiving a rating of "A" from a nationally recognized bond rating agency. If an allocation granted by the committee is conditioned upon the proposed issuance of qualified mortgage bonds receiving a rating of "A" and a rating of less than "A" is assigned to the proposed issuance of qualified mortgage bonds, the local agency may request the committee to review and reconsider its condition upon the allocation of qualified mortgage bonds. However, the committee may not take any action that would affect that portion of a proposed issuance which is included within the local agency's entitlement allocation if the proposed issuance of qualified mortgage bonds has been assigned a rating of "A" or better by a nationally recognized bond rating agency.

50187. (a) The committee shall annually determine the state ceiling, on or before February 15 of each calendar year, in accordance with the federal act. Subject to Section 103A (g) (4) of the federal act and any regulations of the United States Department of the Treasury adopted thereunder, the committee shall include within its calculations all types of mortgages on single-family owner-occupied residences within the state, including, to the

greatest extent practicable, first liens and subordinate liens, installment sales contracts, other seller financings, and refinancings, but not including mechanic's liens, tax liens, special assessment liens, or similar encumbrances, and shall utilize in its calculations, to the extent practicable and with appropriate adjustments, appropriate statistics compiled by the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Federal Home Loan Bank Board, Comptroller of the Currency, California Housing Finance Agency, Department of Veterans Affairs, Military Department, Department of Savings and Loan, Department of Corporations, lending institutions, associations of lending institutions, and surveys designed to determine mortgage activity of types (such as owner-financing) not reflected in the above statistics. Any such calculations shall include mortgages on manufactured housing, as defined in Section 18007.5, financed as real property.

(b) From January 1 to February 15, inclusive, or after February 15, if sufficient data on mortgages executed in the prior year is not available by February 15, the committee shall process applications on the basis of a provisional state ceiling, which shall be an amount which in the committee's judgment will assure that the state ceiling will not be exceeded during that calendar year. The provisional state ceiling shall remain in effect only until sufficient information is available to establish the state ceiling pursuant to subdivision (a).

50188. Of the maximum total amount of qualified mortgage bonds which may be issued within the state ceiling during a calendar year, two-thirds shall be allocated to local agencies as provided in Sections 50189 and 50191, and one-third shall be allocated to state agencies as provided in Section 50190.

50189. One-third of the annual state ceiling shall be reserved for the entire calendar year for entitlement allocations to local agencies pursuant to subdivision (a). An additional one-third of the annual state ceiling shall be reserved until March 1 of each calendar year for supplementary allocations to local agencies pursuant to paragraphs (1) and (2) of subdivision (b). The maximum allocation of qualified mortgage bonds to any single local agency in a calendar year shall be the sum of the amounts determined pursuant to subdivisions (a) and (b), but not to exceed two hundred fifty million dollars ($250,000,000).

(a) The entitlement allocation for a local agency in any calendar year shall be the greatest of one of the following:

(1) The local bond limit times the ratio of the population of the territory of such local agency for the prior calendar year to the population of the state for the prior calendar year, but not to exceed sixty million dollars ($60,000,000).

(2) The local bond limit times the ratio of the amount of growth in population of the territory of the local agency from the year 1975 to the year 1980 to the amount of growth in population of the state over the same period, but not to exceed sixty million dollars ($60,000,000).

(3) The local bond limit times the housing need of the local agency, not to exceed sixty million dollars ($60,000,000).

(4) Twenty million dollars ($20,000,000).

For purposes of this subdivision only, the population of the territory of a local agency for any given calendar year shall be deemed to be the Department of Finance's population estimate for that territory and year as of the effective date of this chapter and as subsequently revised.

The housing need of the local agency shall be the ratio of the number of households within the territory of the local agency paying more than 35 percent of their income for rent to the number of households in the state paying more than 35 percent of their income for rent, according to the most recent available census.

(b) In addition to an entitlement allocation under subdivision (a), a local agency shall be eligible for a supplementary allocation of qualified mortgage bonds by filing a notice of intent pursuant to subdivision (b) of Section 50191 prior to March 1 of the calendar year, if the supplementary allocation of qualified mortgage bonds is restricted, by reason of provisions in the resolution or indenture authorizing the issuance of such qualified mortgage bonds or by reason of the statute under which such qualified mortgage bonds are issued, for use exclusively to provide mortgages to persons and families whose incomes do not exceed:

(1) One hundred twenty percent of the median household income in the case of financing for improving a residence or for residences where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(2) The median household income where the purchaser will not be the first occupant. However, the issuer shall assure that no less than half the funds allocated for financing where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of such median household income; provided, that the legislative body of the issuer may, by resolution, increase this income limitation to 90 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of the median household income. Such a resolution shall be final and conclusive as to the findings required by this paragraph.

Supplementary allocations requested after March 1, may be for any purpose lawful under the federal act and state law. However, the committee shall not provide a supplementary allocation not restricted for use pursuant to paragraphs (1) and (2) of this subdivision until the committee has acted upon any pending requests for supplementary allocations filed prior to March 1 of each calendar year which are so restricted.

50190. One-third of the state ceiling shall be reserved for qualified mortgage bonds of state agencies and shall be allocated as

follows: 3 percent shall be allocated for programs under the California National Guard Members Revenue Bond Act of 1978, (Chapter 10 (commencing with Section 480), Part I, Division 2, of the Military and Veterans Code), 6 percent shall be allocated to the Regents of the University of California Faculty Home Loan Program, 19 percent shall be allocated for programs under the Veterans Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50), Chapter 6, Division 4, of the Military and Veterans Code), and 72 percent shall be allocated to the California Housing Finance Agency, for programs conducted pursuant to Part 3 (commencing with Section 50900) of this division.

If in any year a state agency conducting a program or programs specified in this section determines it will be unable to utilize the full amount of the authority specified, it shall promptly notify the committee, which shall provide for reallocation to one or more of the state agencies for other programs specified in this section. If there is no other state agency able to use this bonding allocation, then it shall be allocated to local agencies in the manner provided in subdivision (b) of Section 50189.

50191. (a) At least 30 days prior to issuing qualified mortgage bonds, a local agency shall file with the committee a notice specifying the amount of qualified mortgage bonds proposed to be issued, the approximate date on which the qualified mortgage bonds are to be issued, the amount of the proposed issuance attributable to the local agency's entitlement allocation under subdivision (a) of Section 50189, the portion of the proposed issuance, if any, which is to be a supplementary allocation under subdivision (b) of Section 50189, the portion of the proposed issuance, if any, which is an allocation assigned to the local agency pursuant to Section 50193 and what portion, if any, will be assigned to its housing authority or redevelopment agency. The committee may require the local agency to submit verification of amounts assigned to it pursuant to Section 50192.

Prior to March 1, a local agency may not file, and the committee may not accept, a notice of intent to issue qualified mortgage bonds in excess of its entitlement allocation plus amounts assigned pursuant to Section 50192, unless all proceeds of qualified mortgage bonds in excess of such amounts are restricted for use exclusively to provide mortgages to persons and families whose incomes do not exceed the applicable maximum incomes specified in paragraphs (1) and (2) of subdivision (b) of Section 50189.

Upon receipt of a notice pursuant to this subdivision, the committee shall advise the local agency of the aggregate amount of qualified mortgage bonds in each allocation category previously approved pursuant to this chapter in that calendar year. Within five days of selling qualified mortgage bonds, the local agency shall notify the committee of the amount of qualified mortgage bonds sold.

(b) Except as provided in Section 50186, the committee shall approve an allocation for qualified mortgage bonds specified in a

notice filed by a local agency pursuant to subdivision (a) and which conforms to the requirements and limitations of this chapter, provided the allocation, when combined with previously approved allocations, would not exceed the respective portions of the state ceiling reserved for entitlement allocations and supplementary allocations during that calendar year. If the committee has not acted within 30 days after the date that the local agency files a notice with the committee pursuant to subdivision (a), the proposed allocation shall be deemed approved by the committee.

(c) Within 30 days of receiving a notice from the first local agency filing pursuant to subdivision (a), and every 30 days thereafter if requests for allocation are pending before the committee, the committee shall determine whether the combined and cumulative requests for allocations as of that date would, if approved, exceed the respective portions of the state ceiling reserved for entitlement and supplementary allocations to local agencies pursuant to Section 50189, or if after March 1, would exceed the local bond limit. If the sum of the requests would exceed the respective portions of the state ceiling reserved for entitlement and supplementary allocations on that date, or if after March 1, would exceed the local bond limit, the committee shall reduce each request pro rata based on the amount of each request so as not to exceed either the local bond limit or the respective portions of the state ceiling reserved for entitlement and supplementary allocations during the calendar year.

(d) Unless sold, an allocation of qualified mortgage bonds to a local agency shall expire 180 days after the allocation was granted by the committee. However, the committee may, upon application of the local agency in advance of the expiration date, extend the expiration date on the allocation if the committee determines that the issuer is making all efforts to issue. Any allocation which has expired shall be available for reallocation to local agencies pursuant to Section 50189. If the amount of qualified mortgage bonds reported sold by a local agency pursuant to subdivision (a) of this section is less than the amount allocated to the local agency, the amount allocated but not sold shall be available as of the date of the local agency's report pursuant to subdivision (a) for reallocation to local agencies pursuant to Section 50189.

50192. Any local agency may by written agreement assign to any other issuer having the authority to issue qualified mortgage bonds under the laws of this state all or any part of the local agency's entitlement allocation pursuant to subdivision (a) of Section 50189 for the calendar year, but only if the assignment is solely for use by the issuer to provide financing for properties located within the territory of the assigning local agency (including a proportionate share of costs of issuance, underwriters discount, capitalized interest, reserve funds and similar expenses associated with the financing), provided that such assignment shall not be deemed ineffective if, after issuance of the qualified mortgage bonds and for reasons beyond the control of the issuer, the issuer is unable to use any

portion of the proceeds of such qualified mortgage bonds to provide financing for properties located within the territory of the assigning local agency, as required by such assigned allocation, and such proceeds are instead used to redeem the qualified mortgage bonds or to provide financing for properties authorized to be financed under the state law under which the bonds were issued and located within the county within which the assigning local agency is located.

50193. A local agency may assign all or any portion of its allocation of qualified mortgage bonds under this chapter to its redevelopment agency, its housing authority, or a joint powers agency created by an agreement to which it is a party or to the California Housing Finance Agency pursuant to Chapter 6 (commencing with Section 52060) of Part 5, permitting the California Housing Finance Agency to issue qualified mortgage bonds on behalf of the local agency or agencies.

50194. The committee may determine on the advice of the State Treasurer that any approved allocation shall not be sold within a period specified by the committee, if a postponement in the date of sale is necessary because of the number and amounts of qualified mortgage bonds to be sold in such period pursuant to this chapter, or so that a sale or sales of state or local multifamily rental housing bonds may occur during such period. However, any postponement required by the committee pursuant to this section shall not exceed 10 days in length.

50195. The committee shall establish and charge a fee which it determines is reasonably sufficient to cover all of the costs of the committee in carrying out its responsibilities under this chapter. The fees shall be deposited by the committee in the Mortgage Bond Allocation Fee Account which is hereby created in the General Fund and shall be available, upon appropriation by the Legislature, to the committee for the purpose of covering all of such costs.

50196. (a) The committee shall, after consultation with appropriate agencies including, but not limited to the Department of Business and Economic Development, the Department of Housing and Community Development, the Governor's Office of Planning and Research, the California Housing Finance Agency, the Senate Office of Research, the Assembly Office of Research, and the Department of Finance, designate areas of chronic economic distress in conformity with paragraph (3) of subdivision (k) of Section 103(A) of the Internal Revenue Code. Criteria to be used in designating areas of chronic economic distress include:

(1) The condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units.

(2) The need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates.

(3) The potential for use of owner-financing under this section to improve housing conditions in the area.

(4) The existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

(b) The committee may evaluate and include other criteria it considers appropriate in determining areas of chronic economic distress including but not limited to:

(1) Low vacancy rates in residential units

(2) Low volume of mortgage loan activity.

(3) The percentage of households paying more than 35 percent of income for rent.

(4) The existence of adequate transportation facilities between such designated areas and areas of employment concentration.

(c) State agencies and local agencies, including, but not limited to, redevelopment agencies, housing authorities, or other local entities authorized by the laws of this state to issue qualified mortgage bonds, may recommend on or before February 15 of each calendar year, the designation of an area of chronic economic distress to the committee.

The committee shall review all such proposals in making designations in accordance with paragraph (3) of subdivision (k) of Section 103(A) of the Internal Revenue Code or any appropriate regulations. The State Treasurer, or his or her designee, shall be responsible for seeking approval of that designation by the Secretary of the Treasury and the Secretary of Housing and Urban Development of the United States and providing certification of these designations and is hereby designated as the official to make certifications for purposes of federal law.

SEC. 2. Section 51360.5 of the Health and Safety Code is repealed.

SEC. 2.5. Section 52011.5 of the Health and Safety Code is amended to read:

52011.5. "City" or "county" includes a city and county and also includes any agency created by a joint powers agreement under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code entered into by cities or counties, or both, for the express purpose of the joint exercise of their powers under this part.

SEC. 3. Section 52020 of the Health and Safety Code is amended to read:

52020. For purposes of a home financing program authorized by this part, a city or county shall have the following powers and duties:

(a) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at such purchase prices and upon such other terms and conditions as shall be determined by the city or county or such other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts. Prior to executing any such contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to

originate and service home mortgages under home financing programs authorized by this part and shall with respect to each home financing progam, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in such program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within such county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of such entities.

(b) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, shall require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of such net proceeds.

(c) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to such issuance, such standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation the following:

(1) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(2) The location and other characteristics of homes to be financed by home mortgages.

(3) The terms and conditions of home mortgages to be acquired.

(4) The amounts and types of any insurance coverage required on homes, home mortgages and bonds.

(5) The representations and warranties of lending institutions confirming compliance with such standards and requirements.

(6) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(7) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(8) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as shall be deemed relevant by the city or county.

(d) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of

compliance with any standards and requirements established by it.

(e) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(f) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of such persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing such criteria, factors such as the following shall be taken into consideration:

(1) The amount of the income of such person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of such persons or families for federal housing assistance of any type.

Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(A) One hundred twenty percent of the median household income is to be for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(B) The median household income where the purchaser will not be the first occupant. However, the city or county shall assure that no less than half the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of such median household income; provided, that the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. Such a resolution shall be final and conclusive as to the findings required by this subparagraph.

(C) One hundred fifty percent of the median household income is to be for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion thereof, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119, of the Housing and Community Development Act of 1974, provided that

the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that the designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (i) statewide median household income, (ii) countywide median household income, or (iii) median family income for area as determined by the United States Department of Housing and Urban Development (with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area).

(g) Each city or county which finances housing pursuant to this part shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for the purchase of homes where the purchaser will be the first occupant, or for substantial rehabilitation. As used in this chapter, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(h) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by such city or county.

(i) To do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

CHAPTER 1098

An act to amend Sections 53530 and 91549 of, and to amend, repeal and add Sections 53531, 53532, and 53541 of, and to add Section 8858 to, the Government Code, and to amend Section 33753 of the Health and Safety Code, relating to local agencies.

[Approved by Governor September 30, 1981 Filed with Secretary of State September 30, 1981]

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

SECTION 1. Section 8858 is added to the Government Code, to read:

8858. The commission shall comprehensively review the financing of capital improvements by all agencies of local government and study the comparative debt of local governmental agencies for capital improvements and the use of bond financing as a source of the indebtedness. The review shall include an analysis of all general obligation and revenue bond financing laws. On or before January 1, 1983, the commission shall submit to the Legislature a

report of its findings and recommendations, if any, for revising the laws governing such financing devices.

SEC. 2. Section 53530 of the Government Code is amended to read:

53530. As used in this article:

(a) "Local agency" means county, city, city and county, public district, public entity or authority, or other public or municipal corporation, including redevelopment agencies, housing authorities, and industrial development authorities.

(b) "Bonds" means bonds, warrants, notes or other evidences of indebtedness of a local agency or zone or improvement district thereof.

SEC. 3. Section 53531 of the Government Code is amended to read:

53531. Any provision of law specifying the maximum interest rate on bonds to the contrary notwithstanding, bonds may bear interest at a coupon rate or rates as determined by the legislative body in its discretion but not to exceed 12 percent per year payable as permitted by law, unless some higher rate is permitted by law.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 4. Section 53531 is added to the Government Code, to read:

53531. Any provision of law specifying the maximum interest rate on bonds to the contrary notwithstanding, bonds may bear interest at a coupon rate or rates as determined by the legislative body in its discretion but not to exceed 10 percent per year payable as permitted by law, unless some higher rate is permitted by law.

This section shall become operative on January 1, 1984.

SEC. 5. Section 53532 of the Government Code is amended to read:

53532. The provisions of Section 53531 shall apply only to coupon rates and shall not affect the power of a local agency to sell bonds at a discount below par if permitted by law. Any provision of law permitting bonds to be sold at a discount but specifying a maximum interest yield on bonds sold at a discount to the contrary notwithstanding, the bonds may be sold at a price yielding to the purchaser an effective interest rate of not to exceed 12 percent per year, payable as permitted by law, according to standard tables of bond values.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 6. Section 53532 is added to the Government Code, to read:

53532. The provisions of Section 53531 shall apply only to coupon rates and shall not affect the power of a local agency to sell bonds at a discount below par if permitted by law. Any provision of law permitting bonds to be sold at a discount but specifying a maximum interest yield on bonds sold at a discount to the contrary

notwithstanding, the bonds may be sold at a price yielding to the purchaser an effective interest rate of not to exceed 10 percent per year, payable as permitted by law, according to standard tables of bond values.

This section shall become operative on January 1, 1984.

SEC. 7. Section 53541 of the Government Code is amended to read:

53541. Any provision of law requiring an election to the contrary notwithstanding, the legislative body without a vote of the electors may issue bonds of the local agency, zone or improvement district if:

(a) The principal amount of such bonds does not exceed the then unissued balance of the principal amount of bonds of the same type authorized at an election heretofore held in the local agency, or in such zone or improvement district;

(b) The bonds are issued for the same purpose as that for which said unissued bonds were authorized; and

(c) The bonds are issued in accordance with the laws governing the issuance of bonds of the local agency, except for the requirement of a bond election.

Bonds issued pursuant to this section may bear interest at a rate or rates not to exceed 12 percent per year. When bonds are issued pursuant to this section, unissued bonds as referred to in subdivisions (a) and (b) of this section in a principal amount at least equal to the principal amount of bonds issued pursuant to this section, shall be canceled by order of the legislative body and shall not be issued.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 8. Section 53541 is added to the Government Code, to read:

53541. Any provision of law requiring an election to the contrary notwithstanding, the legislative body without a vote of the electors may issue bonds of the local agency, zone or improvement district if:

(a) The principal amount of such bonds does not exceed the then unissued balance of the principal amount of bonds of the same type authorized at an election heretofore held in the local agency, or in such zone or improvement district;

(b) The bonds are issued for the same purpose as that for which said unissued bonds were authorized; and

(c) The bonds are issued in accordance with the laws governing the issuance of bonds of the local agency, except for the requirement of a bond election.

Bonds issued pursuant to this section may bear interest at a rate or rates not to exceed 10 percent per year. When bonds are issued pursuant to this section, unissued bonds as referred to in subdivisions (a) and (b) of this section in a principal amount at least equal to the principal amount of bonds issued pursuant to this section, shall be canceled by order of the legislative body and shall not be issued.

This section shall become operative on January 1, 1984.

SEC. 9. Section 91549 of the Government Code is amended to read:

91549. (a) Except as may be authorized by other state legislation, this title provides the exclusive authority of public agencies for the undertaking, carrying out, and completion of projects authorized by this title.

(b) Except as limited by subdivision (a), the authorizations of this title shall be regarded as supplemental and additional to powers conferred by other laws.

(c) In the exercise of any of the powers conferred, including powers relating to the offer, issuance, and sale of bonds, under the provisions of this title, authorities need not comply with the provisions of any law applicable to the exercise of similar powers except as referred to in this article.

(d) A charter city which is otherwise authorized to undertake, carry out and complete projects hereunder authorized need not comply with the provisions of this title if (1) the project is undertaken by January 1, 1982, by the adoption of a resolution or by the taking of other similar official action which describes the project in terms sufficient for identification and states a conditional or unconditional intention to undertake such project and enter into agreements with an identified company or companies relating thereto, and (2) all bonds are issued for such project by January 1, 1984.

(e) A charter city which is otherwise authorized to undertake, carry out and complete projects hereunder authorized and which adopted an industrial bond ordinance before July 1, 1979 need not comply with the provisions of this title (commencing with Section 91500) if: (1) the project is undertaken by January 1, 1984, by the adoption of a resolution or by the taking of other similar official action which describes the project in terms sufficient for identification and states a conditional or unconditional intention to undertake such project and enter into agreements with an identified company or companies relating thereto, and (2) all bonds are issued for such project by January 1, 1986.

SEC. 10. Section 33753 of the Health and Safety Code is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Construction loan" means a loan to finance residential construction under this chapter, whether such loan is insured or uninsured.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences and the making of loans to qualified

mortgage lenders.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing of residences, pursuant to this chapter.

(e) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state other than officers provided for by Article VI of the California Constitution, and no employee or member of the redevelopment agency, shall be eligible to be a participating party under the provisions of this chapter. If any elected officer of any political subdivision of the state participates in deliberations or votes on a financing plan, redevelopment plan, or bond issue, that person shall not be eligible to be a participating party for bonds issued pursuant to those plans or issues.

(f) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(g) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(h) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes. As used in this section, "substandard residence" has the same meaning as the term "substandard building," as defined in Section 17920.3, except that "substandard residence" shall include all property improved with any structure defined in subdivision (j) of this section as a "residence," with respect to which any of the conditions listed in Section 17920.3 exist.

(i) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan.

(j) "Residence" means real property improved with a residential structure and within a redevelopment project area real property improved with a commercial structure (or structures) or a mixed

residential and commercial structure, which the redevelopment agency determines to be an integral part of a residential neighborhood. For purposes of determining the integrality of new construction for such purpose, a proposed commercial or mixed residential and commercial structure shall be located within or immediately adjacent to a neighborhood primarily residential in character.

New construction of any commercial structure, or of the commercial portion of any mixed residential and commercial structure, financed under this chapter shall not exceed 80,000 square feet of gross building area per development. Any suit challenging such finding shall be filed within 60 days, or the findings of the agency shall be conclusive.

An agency may not provide long-term financing pursuant to this chapter for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure if conventional financing in an amount sufficient to complete the construction has been obtained for the construction of such structure or portion thereof

Prior to the financing of any commercial structure within a redevelopment project area, the agency shall adopt a financing plan by resolution, which may include commercial and residential structures. The square footage of the commercial structures shall not exceed 30 percent of the aggregate square footage of all the commercial and residential structures within the project area and financed pursuant to the financing plan. The financing plan for the commercial and residential structures shall include structures that have been, or are being, financed pursuant to this chapter or under federal or state financial assistance programs or local assistance programs of any kind whatsoever. However, such a financing plan shall not be required for an agency that has financed residential structures with the proceeds of bonds issued prior to the effective date of the amendment to this section enacted during the 1980 portion of the 1979–80 Regular Session, nor shall such amendments affect the validity of the tax-exempt status of bonds issued pursuant to this chapter prior to such date.

Additionally, any financing for a commercial structure or a mixed residential and commercial structure authorized or preliminarily approved by resolution adopted by a redevelopment agency or community development commission established pursuant to Section 33201 either (1) on or before June 3, 1980, in furtherance of which the agency or any person or entity has expended substantial funds or committed to reimburse another person or entity which has expended substantial funds, or (2) before October 31, 1980, in furtherance of which the agency has expended funds in connection with such financing or plans relating to such financing if the structure to be financed is located within a city designated pursuant to Section 119 of federal Public Law 95-128, as amended, or within a city designated as of the effective date of the amendments to this

section enacted during the 1980 portion of the 1979–80 Regular Session under Title IX of federal Public Law 89-136, as amended, as a long-term economic deterioration area, or financing for a commercial structure or mixed residential and commercial structure as to which bonds have been delivered on or before July 31, 1980 (without regard to the date the bonds were authorized or received preliminary approval), shall not be subject to new requirements or conditions of this subdivision enacted during the 1980 portion of the 1979–80 Regular Session.

"Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(k) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(*l*) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

SEC. 11 Section 1 of this act shall become operative only if Assembly Bill No. 1192 of the 1981–82 Regular Session is enacted and, in such case, shall become operative upon the effective date of enactment of Assembly Bill No. 1192.

CHAPTER 1099

An act to amend Sections 94302, 94303, 94304, 94311, 94312, 94320, 94330, 94331, 94333, 94337, and 94343 of, to amend, repeal, and add Section 94310 to, to add Sections 94304.5, 94305.5, 94315, and 94345 to, to repeal and add Article 5 (commencing with Section 94350) of Chapter 3 of Part 59 of, and to repeal Chapter 3 (commencing with Section 94300) of Part 59 of, the Education Code, relating to education, and making an appropriation therefor.

[Became law without Governor's signature Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 94302 of the Education Code is amended to read:

94302. As used in this chapter, unless the context requires otherwise:

(a) "Agent" means any person who, at a place away from the principal school premises or site of instruction, whose primary task is to serve as a paid recruiter, while owning an interest in, employed by, or representing for remuneration or other consideration a private postsecondary educational institution located within or without this state, offers or attempts to secure enrollment of any person within this state or accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances are exempted from this definition.

(b) "Agent's permit" means a nontransferable written document issued to an agent pursuant to the provisions of this chapter by the Superintendent of Public Instruction

(c) "Approval to operate" means that the institution so approved has met recognized and accepted standards as determined by the Superintendent of Public Instruction in carrying out the provisions of this chapter to operate a postsecondary educational institution in this state.

(d) "Authorization to operate" means that the institution so authorized has been granted permission by the Superintendent of Public Instruction to operate as a postsecondary educational institution.

(e) "Council" means the Council for Private Postsecondary Educational Institutions established pursuant to Section 94304.

(f) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(g) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree.

(h) "Education" or "education services" includes, but is not limited to, any class, course, or program of training, instruction, or study.

(i) "Superintendent" refers to the Superintendent of Public Instruction.

(j) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(k) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational degrees or diplomas are offered or granted.

(*l*) "Postsecondary educational institution" or "institution" includes, but is not limited to, an academic, vocational, technical, business, professional, home study school, college, or university, or other organization (comprised of a person, firm, association, partnership, or corporation) which offers educational degrees or diplomas, or offers instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance. Auxiliary organizations of the California State University and Colleges are not included within this division and are not governed by this article.

(m) "Vocational objective" means an objective which is ordinarily attained upon completion of a course which qualifies the person or leads to employment in a recognized occupation listed in the latest "Dictionary of Occupational Titles," issued by the United States Department of Labor, or declared by that department to be eligible for such listing, or leading to an employable objective determined by the council.

(n) "Professional objective" means an objective which ordinarily is attained upon the completion of a curriculum or program of studies leading to a recognized profession or semiprofession.

(o) "Educational objective" means an objective which ordinarily is attained upon the completion of a program consisting of any curriculum, or any combination of unit courses or subjects offered by an educational institution which normally leads to earning a college degree.

(p) "Technological objective" means one which is ordinarily attained upon completion of a curriculum or program of studies which emphasizes the application of principles to the solution of practical problems rather than the theoretical development of those principles.

(q) "Accredited" means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the federal Department of Education or the Committee of Bar Examiners for the State of California. It shall not include those institutions which have applied for accreditation and are candidates for accreditation or have provisional accreditation.

(r) "Occupational skill, knowledge, or ability" means any fundamental or advanced competency which increases an individual's employability or potential, effectiveness, or expertise in a vocation or profession, including, but not limited to, self-employment, business, or financial ventures.

(s) "Instruction" includes any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(t) "Certificate of Authorization for Service" means a written, nontransferable document issued by the superintendent authorizing

an individual to be an instructor or administrator in any private postsecondary institution in California which is approved under subdivision (d) of Section 94311.

SEC. 2. Section 94303 of the Education Code is amended to read:

94303. The following education and educational institutions, and these only, are exempted from the provisions of this chapter:

(a) Education solely avocational or recreational in nature, and institutions offering such education exclusively.

(b) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination if such education is limited to instructions in the principles of that church or denomination, or to courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma or degree is limited to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church or denomination.

(c) Institutions exclusively offering instruction at any or all levels from preschool through 12th grade.

(d) Postsecondary educational institutions established, operated, and governed by the federal government or by this state or its political subdivisions.

(e) Education sponsored by a bona fide trade, business, professional, or fraternal organization predominantly for that organization's membership.

SEC. 3. Section 94304 of the Education Code is amended to read:

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of 15 members, selected as follows:

(1) The superintendent or his or her designee shall be a member, and the superintendent shall, with the concurrence of the State Board of Education, appoint four members. Two shall be members of the general public, one with a strong interest in developing private postsecondary education, and one representative of business that employs persons in positions requiring vocational or technical education. Two shall be administrative heads of institutions, one representing a non-accredited, degree granting school operating pursuant to subdivision (b) or (c) of Section 94310 and one representing a non-accredited non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(2) The Senate Rules Committee shall appoint five members. Two shall be members of the general public, one with a knowledge of private vocational education and one representative of a labor organization that represents persons with vocational or technical training. Three shall be administrative heads of institutions, one representing a non-accredited, degree granting school operating pursuant to subdivision (b) or (c) of Section 94310, one representing an accredited non-degree granting school operating pursuant to subdivision (c) of Section 94311, and one representing a non-accredited non-degree granting school operating pursuant to

subdivision (d) of Section 94311.

(3) The Speaker of the Assembly shall appoint five members. Three shall be members of the general public with an interest in developing private postsecondary vocational and technical education. Two shall be administrative heads of institutions, one representing an accredited, non-degree granting school operating pursuant to subdivision (c) of Section 94311, and one representing a non-accredited, non-degree granting school operating pursuant to subdivision (d) of Section 94311.

(4) In addition, the following shall serve as ex officio members of the council:

(i) The Director of the Department of Consumer Affairs, or his or her designee.

(ii) The Director of the Department of Employment Development, or his or her designee.

(iii) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(5) Administrative heads of institutions appointed under paragraphs (2) and (3) of this subdivision may be selected from lists submitted by an association or associations of institutions governed under this chapter which has at least 30 members.

(6) Public members appointed under paragraphs (1), (2), and (3) of this subdivision shall not be retained, or be employed by any secondary or postsecondary educational institution or system when appointed or during their term of appointment.

(b) The first members shall be appointed on or before January 15, 1982, and the superintendent shall designate the date of the first meeting of the council

The terms of office of the members of the council shall commence on January 15, 1982, and the members shall enter upon their terms of office by lot so that the terms of five members shall expire on January 15, 1983; the terms of five members shall expire on January 15, 1984; and the terms of five members shall expire on January 15, 1985.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

No person appointed by the superintendent shall be deemed to be a member of the council until his or her appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the director, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of the provisions of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivision (b) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's permit, shall meet before such approval or permit may be issued, and to continue such approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of such appeals and

complaints.

(7) Represent private postsecondary educational institutions on the State Occupational Informational Coordinating Committee.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

SEC. 4. Section 94304.5 is added to the Education Code, to read:

94304.5. (a) The Council for Private Postsecondary Educational Institutions shall impanel a special committee of technically qualified persons to develop explicit standards to be used in the review and authorization of private postsecondary institutions which operate pursuant to subdivision (c) of Section 94310 as it existed on January 1, 1982. These standards shall:

(1) Be sufficiently comprehensive so that a determination can be made that the institution has the facilities, financial resources, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective.

(2) Include a method of determining if the course of study for which the degree is granted achieves its professed or claimed educational objective. Members of this committee shall be administrative heads of institutions operating pursuant to subdivision (c) of Section 94310, as of January 1, 1981.

(b) Members of the special committee shall be selected by the Chair of the Council for Private Postsecondary Institutions, from names submitted by private school associations operating in California as of January 1, 1981. Each private school association which represents institutions operating pursuant to subdivision (c) of Section 94310 shall nominate three individuals to serve on the special committee. The chair of the council shall select from among these nominees so that each association has two representatives on the special committee. The Director of the California Postsecondary Education Commission, or his or her designee, shall also be a member of this special committee.

(c) The special committee shall submit these authorization standards to the council prior to September 1, 1982, for the council's review. If the council determines that the standards effect the purposes of this chapter, the council may recommend adoption of the standards as the requirements for authorization to grant degrees pursuant to subdivision (c) of Section 94310. The council shall take action to accept or reject the standards proposed by the special committee prior to January 1, 1983.

(d) Prior to February 1, 1983, the California Postsecondary Education Commission shall report to the Legislature on the extent to which the proposed standards effect the purposes of this chapter. The commission shall:

(1) Review the adequacy of these proposed standards in

providing a method of determining if the course of instruction for which the degree is granted achieves its professed or claimed educational objective.

(2) Compare these proposed standards to provisions which exist in other states.

(3) Determine the extent to which the proposed standards are sufficiently comprehensive and complete so that they protect the integrity of degrees awarded by those institutions.

(e) The members of the special committee shall serve without compensation, and shall not receive any travel costs or per diem.

SEC. 5. Section 94305.5 is added to the Education Code, to read:

94305.5. The superintendent may bring a civil action, in his or her name, to enjoin the operation of a postsecondary educational institution that has not been approved or authorized to operate pursuant to Sections 94310 or 94311, or has not filed affidavits pursuant to Section 94315.

The superintendent may bring a civil action to enjoin the agent of a postsecondary educational institution or any person or entity from conducting, maintaining, or aiding and abetting the operation of a postsecondary educational institution that has not been approved or authorized to operate pursuant to Sections 94310 or 94311, or has not filed affidavits pursuant to Section 94315.

The legal office of the Department of Education may represent the superintendent in actions brought pursuant to this section

SEC. 6. Section 94310 of the Education Code is amended to read:

94310. No institution may issue, confer, or award an academic or honorary degree unless such institution meets the requirements of at least one of the three subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national or applicable regional accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution has been approved by the superintendent to award or issue specific degrees. The superintendent shall not approve an institution to issue degrees until it is determined, based upon information submitted to him or her, that the institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree; and the curriculum is consistent in quality

with curricula offered by established institutions that issue the appropriate degree upon the satisfactory completion thereof. This shall include the determination that the course for which the degree is granted achieves its professed or claimed objective for higher education. The criteria developed hereunder shall be such as will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

Upon the receipt of a completed application, the superintendent shall, within 90 days, impanel a special committee for the purpose of evaluating the applicant institution. Within 90 days of the receipt of the special committee's recommendations, the superintendent shall take one of the following actions:

(1) Grant a full approval for a period not to exceed three years.

(2) Grant a conditional approval for a period not to exceed one year plus the remainder of the year in which the application was made.

(3) Disapprove the application. If the application is disapproved or a conditional approval is granted, the institution shall be advised of the specific reasons for such action and the specific corrective measures needed to achieve full approval.

Those institutions approved to issue degrees pursuant to this subdivision may also be authorized by the superintendent to issue diplomas for the completion of courses of study, within their approved degree program, but which do not fully meet the degree requirements. The superintendent may approve an application to issue honorary degrees, provided the applicant institution has full approval to issue academic degrees.

(c) The institution has filed the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1) of this subdivision, located within the State of California, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. Such assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty

thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, the following information:

(i) All names, whether real or fictitious, of the person, institution, firm, association, partnership or corporation under which it has done or is doing business.

(ii) The address, including city and street, of every place of doing business of the person, firm, association, partnership or corporation, within the State of California.

(iii) The address, including city and street, of the location of the records of the person, firm, association, partnership or corporation, and the name and address, including city and street, of the custodian of such records.

(iv) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership or corporation.

(v) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of such change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3) of this subdivision, and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by but not affiliated with the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take such steps as may be necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

Prior to July 1, 1983, the Council for Private Postsecondary Educational Institutions shall submit to the Legislature recommendations for a revision of this subdivision. These

recommendations shall include the proposed authorization standards developed pursuant to Section 94304.5.

(d) This section shall remain in effect only until July 1, 1983, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends that date.

SEC. 7. Section 94310 is added to the Education Code, to read:

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution must file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution has been approved by the superintendent to award or issue specific degrees. The superintendent shall not approve an institution to issue degrees until it is determined, based upon information submitted to him or her, that the institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree; and the curriculum is consistent in quality with curricula offered by established institutions that issue the appropriate degree upon the satisfactory completion thereof. This shall include the determination that the course for which the degree is granted achieves its professed or claimed objective for higher education. The criteria developed hereunder shall be such as will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation

Upon the receipt of a complete application, the superintendent shall, within 90 days, impanel a special committee for the purpose of evaluating the applicant institution. Within 90 days of the receipt of the special committee's recommendations, the superintendent shall take one of the following actions:

(1) Grant a full approval for a period not to exceed three years.

(2) Grant a conditional approval for a period not to exceed one year plus the remainder of the year in which the application was made

(3) Disapprove the application. If the application is disapproved or a conditional approval is granted, the institution shall be advised of the specific reasons for such action and the specific corrective measures needed to achieve full approval.

Those institutions approved to issue degrees pursuant to this subdivision may also be authorized by the superintendent to issue diplomas for the completion of courses of study, within their approved degree program, but which do not fully meet the degree requirements. The superintendent may approve an application to issue honorary degrees, provided the applicant institution has full approval to issue academic degrees

(c) The institution has met standards developed and recommended by the Council for Postsecondary Educational Institutions pursuant to Section 94304 5, and adopted by the Legislature.

(d) The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1), located within the State of California, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. Such assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, the following information:

(i) All names, whether real or fictitious, of the person, institution, firm, association, partnership or corporation under which it has done or is doing business.

(ii) The address, including city and street, of every place of doing business of the person, firm, association, partnership or corporation, within the State of California

(iii) The address, including city and street, of the location of the records of the person, firm, association, partnership or corporation, and the name and address, including city and street, of the custodian of such records

(iv) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership or corporation.

(v) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of such change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by but not affiliated with the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate can be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take such steps as may be necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

(e) This section shall become operative July 1, 1983.

SEC. 8. Section 94311 of the Education Code is amended to read:

94311. No postsecondary educational institution may offer courses of education leading to educational, professional, technological, or vocational objectives unless such institution has been approved or authorized by the superintendent as meeting at least one of the following requirements:

(a) A hospital licensed under the provisions of Article 1 (commencing with Section 1250) of Chapter 2, Division 2 of the Health and Safety Code and issues diplomas only in connection with the operation of a hospital.

(b) An institution which is accredited, approved, or licensed by a state board or agency as a school and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it; provided, that this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled

by the accrediting, approving, or licensing board or agency. Authorization to operate pursuant to this subdivision shall only be denied if the institution does not possess a valid accreditation, approval, or licensure by a California state agency. Institutions seeking approval or authorization pursuant to this subdivision shall be exempt from providing the application materials specified in subdivision (a) of Section 94330, and from the requirements of subdivisions (e) and (g) of Section 94330.

(c) An institution which at the time of the issuance of a diploma, has accreditation of the institution, program or specific course of study upon which the diploma is based by a national or applicable regional accrediting agency recognized by the United States Department of Education, and the administrative head of the institution has filed with the superintendent an annual affidavit verifying that the institution, program, or each course of study for which a diploma is issued is so accredited.

(d) An institution which has been approved by the superintendent as meeting the following minimum criteria:

(1) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of that particular course.

(3) Every instructor and administrator holds an applicable and valid Certificate of Authorization for Service issued by the superintendent in the specified competence area in which the individual will serve. Certificates may be issued to administrators upon the superintendent's determination that the applicant is of good moral character and to instructors upon the superintendent's determination that the applicant is of good moral character and possesses adequate academic, experiential, and professional qualifications.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness. absence, grading policy and rules of operation and conduct is given to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes. The superintendent may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's administrator, director, owner, and instructors are of good reputation and character.

(10) Application for such approval shall be made in writing on proper application forms. Pending final approval, the superintendent may issue a provisional approval upon submission of the complete application.

Within 30 days following receipt of application, and prior to the issuance of either provisional or final approval, a representative of the superintendent shall personally inspect the school and verify the application. If the visitation does not occur within 30 days following receipt of the application, the institution will automatically receive a provisional approval. Within 30 days following visitation, either final approval, provisional approval, or denial of approval must be given to each application. If the superintendent does not act within 30 days following visitation, the application from the institution will automatically receive approval. If all information is in order, the superintendent may authorize provisional approval. A provisional approval shall not exceed a period of one year, subject to prior termination or conversion to annual approval. A provisional approval may not be extended.

SEC. 9. Section 94312 of the Education Code is amended to read:

94312. All institutions authorized, or approved, under this chapter shall be maintained and operated, or in the case of a new institution, must demonstrate that it shall be maintained and operated, in compliance with the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That the institution and its agents do not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(c) That the institution designates an agent for service of process within this state.

(d) That the institution has and maintains a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall be in compliance with the minimum standard of refunds as adopted by the superintendent. The superintendent shall take into consideration the length and character of the educational program in determining standards for refunds.

(e) That any written contract or agreement signed by a prospective student away from the institution premises will not become operative until the student makes an initial visit to the institution. The provision applies only in those situations when the student begins payment on tuition charges (beyond the registration fee) prior to arriving at the campus. The student is obligated to visit the campus at least six days prior to the start of classes. The school officials are obligated to provide the student with a thorough tour of the campus facilities and to place a written statement, signed by the student, in the student's file to verify that the visitation and campus tour were provided. Following the visitation to the campus, the

student will have a three-day "cooling off" period to void the contract with no money to be retained by the school as provided in subdivision (d) of this section. If the student does not visit the campus after signing the contract, the "cooling off" period will automatically begin six days prior to the start of classes. The student may waive the right to visit the campus at any time after signing the contract. This provision does not apply to correspondence schools or other mail study institutions. The superintendent shall take into consideration the character of the educational program in determining if other types of institutions should also be excluded from this provision.

(f) That any written contract or agreement for a course of study with an institution shall include on the first page of such agreement or contract, in 12-point boldface print or larger, the following statement:

"Any questions or problems concerning this institution which have not been satisfactorily answered or resolved by the institution should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 95814."

In addition, such written contracts or agreements shall specify, in underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters

(g) That neither the institution nor its agents engage in sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(h) That the institution makes available to students and other interested persons a catalog or brochure containing information describing the courses offered, program objectives, length of program, faculty and their qualifications, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, the total cost of tuition over the entire period, and (for vocational training programs for which specific placement claims are made) placement data, as well as such other material facts concerning the institution and the program or course of instruction, as are reasonably likely to affect the decision of the student to enroll therein, as specified by the superintendent and defined in the rules and regulations; and that such information is made available to prospective students prior to enrollment

(i) That upon satisfactory completion of training, the student is given an appropriate degree or diploma by the institution, indicating that the course or courses of instruction or study have been satisfactorily completed by the student

(j) That adequate and accurate records are maintained by the institution, in accordance with regulations adopted by the

superintendent, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(k) That the institution maintains current records for a period of not less than five years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the superintendent or the Attorney General of California showing the following:

(1) The names and addresses, both local and home, including city and street, of each of its students;

(2) The courses of study offered by the institution;

(3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each;

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

(*l*) Accreditation by a national or applicable regional accrediting agency recognized by the United States Department of Education shall be accepted by the superintendent as evidence of compliance with the minimum standards established by the accrediting or licensing agency, and therefore as evidence of compliance with the minimum standards specified in the provisions of this section. If there is substantial evidence of violation of the standards established by the responsible agency, however, the superintendent may require such further evidence and make such further investigation as may be necessary.

(m) That the institution provides instruction as part of its educational program. Instruction shall include any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(n) Institutions licensed solely under the provisions of subdivision (b) of Section 94311 shall comply with subdivisions (b), (e), (g), (h), (i), and (j). The responsibility for monitoring and enforcing institutional compliance with these minimum standards shall be with the state board or agency responsible for licensing the school.

SEC. 10. Section 94315 is added to the Education Code, to read:

94315. No institution may offer education which develops or improves an occupational skill, knowledge, or ability unless the ownership for its statewide operations has filed with the superintendent an annual affidavit for public disclosure setting forth the following information: the ownership's legal name, headquarters address, and name of an agent for the service of process within California; all names, whether real or fictitious, under which the ownership is doing and will do business; and, the names and addresses of the principal officers of the ownership. Accompanying such annual affidavit shall be representative copies of any existing media advertising or promotional material. Institutions filing

pursuant to this section shall be exempt from all the provisions of this chapter except those in subdivision (a) of Section 94320, Section 94321, and Section 94336. Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the institution or the education offered.

This provision does not apply to education with an educational, professional, technological, or vocational objective which is subject to approval or authorization pursuant to Section 94311. Institutions accredited by a national or applicable regional accrediting agency recognized by the United States Department of Education, or accredited, approved, or licensed by a California state agency for such education, are exempted from the provisions of this section. Also exempted from this section are remedial and tutorial education, as determined by the superintendent, any education which is offered free of charge, and any education offered by nonprofit entities, including national or statewide professional and occupational organizations and public benefit corporations.

SEC. 10.5. Section 94320 of the Education Code is amended to read:

94320. No institution, or representative of such institution, shall:

(a) Operate in this state a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization or approval to operate issued pursuant to the provisions of this chapter.

(b) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from the provisions of this chapter, whether such institution is within or outside this state, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to the provisions of this chapter, nor accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter; provided, however, that the superintendent may promulgate rules and regulations to permit the rendering of legitimate public information services without such permit.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for such purposes, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, in this state, whether such person, agent, group, or entity is located within or without this state, unless such person, agent, group, or entity observes and is in compliance with the minimum standards set forth in Section 94312, the criteria established by the superintendent and reviewed by the council pursuant to paragraph (4) of subdivision (f) of Section 94304, and the

rules and regulations adopted by the superintendent pursuant to subdivision (b) of Section 94305.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

SEC. 11. Section 94330 of the Education Code is amended to read:

94330. (a) Each institution desiring to operate in this state shall make application to the superintendent, upon forms to be provided by the superintendent. The application shall include, as a minimum, at least the following:

(1) A catalog published or proposed to be published by the institution containing the information specified in the criteria promulgated by the superintendent. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) The name and California address of a designated agent upon whom any process, notice or demand may be served.

(b) Each application shall be signed and certified to under oath by the principal owners of the school (those who own at least 10 percent of the stock).

(c) Following review of such application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and such investigation of the applicant as the superintendent may deem necessary or appropriate, the superintendent shall either grant or deny approval or authorization to operate to the applicant.

The provision of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

(d) The term for which approval or authorization is given shall not extend for more than three years, and may be issued for a lesser period of time.

(e) The approval or authorization to operate shall be issued to the owner, or governing body, of the applicant institution, and shall be nontransferable. In the event of a contemplated shift in control, or a change in ownership of the institution, a new owner, or governing body, must at least 20 days prior to the shift in control or change in ownership, apply for a new approval or authorization to operate, and in the event of failure to do so, the institution's approval or authorization to operate shall terminate. Application for a new approval or authorization to operate by reason of a shift in control or a change in ownership of the institution shall be deemed an application for renewal of the institution's approval or authorization to operate. The shift in control, or change in ownership of the institution may not be made until the application is approved. "Ownership," for purposes of this section, shall be deemed to mean

ownership of a controlling interest in the institution, or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling such institution.

(f) At least 60 days prior to the expiration of an approval or authorization to operate, the institution shall complete and file with the superintendent an application form for renewal of its approval or authorization to operate. Said renewal application shall be reviewed and acted upon as provided hereinabove.

(g) Institutions accredited by an agency recognized by the United States Department of Education are not required to file the information described in part (3) and (4) of subdivision (a) of this section.

(h) Catalogs submitted by accredited institutions shall be deemed to meet the requirements of paragraph (1) of subdivision (a) of this section, unless the superintendent finds that the catalog does not meet the standards and criteria of the institution's accrediting agency. In such case, the superintendent may require modification of the catalog to bring it into compliance with the standards and criteria of the institution's accrediting agency.

SEC. 12. Section 94331 of the Education Code is amended to read:

94331. The superintendent shall establish and maintain a Private Postsecondary Education Administration Fund. All fees collected pursuant to this section shall be credited to this fund, along with any interest on the money, for administration of the provisions of this chapter. The money in the fund is continuously appropriated to the State Department of Education without regard to fiscal years. However, if the Legislature makes an appropriation for the support of the Office of Private Postsecondary Education in the Budget Act of any fiscal year, the amount for support of the Office of Postsecondary Education expended from the Private Postsecondary Education Administration Fund during that fiscal year shall not exceed the amount appropriated by the Budget Act.

For the approval or authorization of private institutions operating under this chapter, the superintendent shall charge an amount not exceeding the the actual costs of approving or authorizing the private institutions. However, in no case shall these fees exceed the fee schedule in this section, except that such maximum amounts may be increased by a percentage which reflects an increase in the Consumer Price Index, all items of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year preceding the fiscal year to which it applies. If the actual costs incurred exceed the proceeds of the maximum amount so computed, the superintendent may further increase the maximum fee up to the amount of the actual costs incurred, with the approval of the council. The superintendent shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For approval to issue specified degrees pursuant to subdivision (b) of Section 94310:

(1) Fifteen hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) Five hundred dollars ($500) for an institution's additional degree title.

(b) For authorization to issue degrees pursuant to subdivision (c) or (d) of Section 94310:

(1) Fifteen hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(c) For authorization to issue diplomas or offer courses pursuant to subdivision (c) of Section 94311:

(1) (A) Four hundred dollars ($400) for a new institution.

(B) Two hundred fifty dollars ($250) for an institution converting from approval pursuant to subdivision (d) of Section 94311.

(C) Two hundred dollars ($200) for a new or converted institution of an administrative family.

(2) (A) Two hundred dollars ($200) for an annual renewal of a new or converted institution.

(B) One hundred dollars ($100) for an annual renewal of an administrative family institution.

(d) For approval to issue diplomas or offer courses pursuant to subdivision (d) of Section 94311:

(1) (A) Five hundred dollars ($500) for a new institution.

(B) Two hundred fifty dollars ($250) for a new institution of an administrative family.

(C) Two hundred dollars ($200) for a new institution of a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, if such education is limited to instruction in employment and skill training and if it is offered at no charge to those persons receiving such education.

(2) (A) Two hundred twenty-five dollars ($225) for an institution's annual renewal.

(B) One hundred dollars ($100) for an annual renewal of an institution of an administrative family and for an annual renewal of an institution described in subparagraph (C) of paragraph (1) of

subdivision (d).

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) One hundred dollars ($100) for an institution's additional course.

(e) For an annual filing by an ownership to offer career-related education pursuant to Section 94315: Two hundred dollars ($200).

(f) For purposes of this section, "administrative family" refers to two or more institutions under common ownership, and the ownership maintains centralized administration, records, and reporting at one California location, and has at least a five-year history of private postsecondary education operations in California.

(g) For evaluation of an applicant for a certificate of authorization for service, issued pursuant to paragraph (3) of subdivision (d) of Section 94311, the original and renewal applications for a three-year authorization shall be accompanied by a twenty-five dollar ($25) fee.

(h) For a private school agent's permit pursuant to Section 94333: Twenty-five dollars ($25) annually per applicant.

SEC. 13. Section 94333 of the Education Code is amended to read:

94333. (a) Notwithstanding any other provision of this chapter concerning agents, the owner of at least 51 percent of the equitable interest in an institution shall be exempt from this section by virtue of having filed for a permit to operate under Section 94310 or 94311.

Any agent, as defined by subdivision (a) of Section 94302, must hold a valid permit issued by the superintendent. Administrators or faculty, or both, who make informational public appearances, but whose primary task is not to serve as a paid recruiter, are exempted from this section.

The application for such a permit shall be furnished by the superintendent and shall include the following:

(1) A statement signed by the applicant that he or she has read the provisions of this chapter and the rules and regulations promulgated pursuant thereto.

(2) A surety bond making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. Such bond shall provide for liability in the penal sum of one thousand dollars ($1,000) for each agent to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the superintendent

(3) A fee as required by Section 94331.

(b) An agent representing more than one institution must obtain a separate agent's permit for each institution represented; provided, that when an agent represents institutions having a common ownership, only one agent's permit shall be required with respect to said institutions. In the event any institution which the applicant intends to represent does not have approval or authorization to operate in this state, said application shall be accompanied by the information required of institutions making application for such approval or authorization.

(c) No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

(d) A permit shall be valid for the calendar year in which it is issued, unless sooner revoked or suspended by the superintendent for fraud or misrepresentation in connection with the solicitation for the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he or she represents which, if in existence at the time the permit was issued, would have been grounds for denial of the permit.

(e) The permittee shall carry the permit with him or her for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school.

(f) A temporary permit shall be issued when a complete application is filed. The temporary permit will automatically expire when the applicant is notified of the superintendent's decision to issue or deny a regular permit. Notification is complete when the applicant learns of the decision or three days after notice of the decision is mailed to the applicant's address stated in the application, whichever occurs first. The superintendent may deny or terminate any temporary permit at any time upon receipt of any information for which a regular permit might be denied. Such termination is effective when the applicant is notified as stated above.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study away from the premises of the school shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever, that the superintendent has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent, by any means whatever,

that the issuance of the permit constitutes an assurance by the superintendent that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

SEC. 14. Section 94337 of the Education Code is amended to read:

94337. Any institution approved or authorized to operate prior to the effective date of the act that added this chapter shall retain such authorization until January 1, 1979, without authorization or approval of the superintendent unless:

(a) Such authorization or approval is revoked by the superintendent or suspended by operation of law pursuant to the provisions of this section.

(b) Such authorization or approval expires and is subject to renewal.

(c) The institution ceases to exist or provide instruction.

After January 1, 1982, all institutions must either be authorized or approved by the superintendent in conformity with this chapter.

SEC. 15. Section 94343 of the Education Code is amended to read:

94343. Commencing January 1, 1979, the superintendent may annually assess institutions authorized, or approved, under this chapter, who charge and collect prepaid tuition. Each such institution shall be assessed a charge of one-tenth of 1 percent, maximum charge not to exceed two dollars ($2), of tuition paid by each student enrolled during each fiscal, calendar, or school year, in such institutions. Said assessments shall be paid into the State Treasury and credited to the Student Tuition Recovery Fund, and said deposits shall be allocated, except as otherwise provided for in this act, solely for the payment of valid claims to students. In no event shall assessments be levied if, on June 30 of any year, the balance in the fund exceeds seven hundred fifty thousand dollars ($750,000); provided that, regardless of the balance in the fund, assessments shall be made on any newly approved or authorized institution. The moneys so deposited in the Student Tuition Recovery Fund are continuously appropriated to the Department of Education for the purpose of paying claims to students pursuant to Section 94342. Not more than fifty thousand dollars ($50,000) per fiscal year shall be used for the administration of the tuition recovery program authorized by Section 94342 and this section. The interest earned on money in the fund shall be credited to the fund. Institutions which are accredited by a regional accrediting association recognized by the U.S. Department of Education, or which meet the student tuition indemnification requirements of a California state agency, or which demonstrate to the superintendent that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from the provisions of this section.

In the event of a closure by any institution authorized, or approved

under this chapter, any assessments which have been made against such institutions, but have not been paid into the State Treasury, shall be recovered, or any payments from the Student Tuition Recovery Fund to students on behalf of any such institution may be recovered, by appropriate action taken by the Superintendent of Public Instruction. The moneys so deposited in the Student Tuition Recovery Fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of such institutions or students.

SEC. 16. Section 94345 is added to the Education Code, to read:

94345. Prior to January 1, 1985, the California Postsecondary Education Commission shall review and evaluate the implementation of the provisions of this chapter by the State Department of Education, and shall report to the Legislature on the results of this review and evaluation.

SEC. 17. Article 5 (commencing with Section 94350) of Chapter 3 of Part 59 of the Education Code is repealed.

SEC. 18. Article 5 (commencing with Section 94350) is added to Chapter 3 of Part 59 of the Education Code, to read:

Article 5. Termination

94350. This chapter shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute which is chaptered before July 1, 1986, deletes or extends that date.

CHAPTER 1100

An act to amend Sections 32110 and 32121 of the Health and Safety Code, relating to hospital districts.

[Became law without Governor's signature Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 32110 of the Health and Safety Code is amended to read:

32110. (a) Except as otherwise provided in subdivision (b), no person possessing any property interest in, or owning any of the stocks, bonds, or other securities issued by, any private hospital serving the same area served by the district, or who is a director or other officer of any such private hospital, shall be eligible for or hold any district office, either as a member of the board, or an officer of the medical staff. For the purpose of this section, a "private hospital" shall be considered to serve the same area as a district hospital when more than 5 percent of the private hospital's inpatient admissions are residents of the district. No person who is a director or an officer of,

or who occupies any management position or office whatsoever, on the administrative staff of any such private hospital, shall be eligible for or hold any district office or any management position or office whatsoever in any district hospital. The possession or ownership of such interest, stocks, bonds, or other securities by the spouse or minor children of any person shall be deemed, for the purposes of this section, to be the possession or interest of such person.

(b) No person shall be prohibited from serving concurrently on the administrative staffs of any private hospital and any district hospital where the boards of directors of such hospitals have determined that the dual administrative staff positions will further joint planning, efficient delivery of health care services, and the best interests of the areas served by their respective hospitals.

(c) Any candidate who elects to run for the office of member of the board of directors of a hospital district and who owns stock in, or who works for, a private hospital as defined in subdivision (a) which does not serve the area shall disclose on the ballot his or her occupation and his or her place of employment.

SEC. 2. Section 32121 of the Health and Safety Code is amended to read:

32121. Each local hospital district shall have and exercise the following powers:

(a) To have and use a corporate seal and alter it at pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description within the limits of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To administer any trust declared or created for hospitals of the district, and received by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, and to perform such functions in respect to the legal affairs of the district as the board may direct; and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for such legal advice and assistance.

(g) To employ such officers and employees, including architects and consultants, as the board of directors deems necessary to carry on properly the business of the district.

(h) To prescribe the duties and powers of the hospital

administrator, secretary and other officers and employees of any such hospitals; to determine the number of and appoint all such officers and employees, and to fix their compensation, which officers and employees shall hold their offices or positions at the pleasure of the boards.

(i) To do any and all things which an individual might do which is necessary for and to the advantage of a hospital and a nurses' training school.

(j) To establish, maintain and operate one or more health facilities, situated within the territorial limits of the district.

(k) To do any and all other acts and things necessary to carry out the provisions of this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and without the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs and such other health care provider groups and organizations as are necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate in cooperation with its medical staff a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations for the benefit of the hospital district.

CHAPTER 1101

An act to add and repeal Section 43002.5 of the Health and Safety Code, relating to air pollution.

[Became law without Governor's signature Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 43002.5 is added to the Health and Safety Code, to read:

43002.5. No engine in a bus used for transporting passengers shall be required to meet emission standards more stringent than those adopted by the Environmental Protection Agency. This section shall apply only to buses owned or operated by a public transit operator that are used for transporting passengers.

This section shall remain in effect only until January 1, 1984, and as of that date is repealed unless a later enacted statute deletes or extends this date.

SEC. 2. The State Air Resources Board may conduct a study on pure alcohol fuels serving as a replacement for diesel fuels.

CHAPTER 1102

An act to amend Sections 12800 and 13000 of the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor September 30, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 12800 of the Vehicle Code is amended to read:

12800. Every application for a driver's license shall contain the following information:

(a) The applicant's true full name, age, sex, and residence address.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant has previously operated a motor vehicle and, if so, for what length of time.

(h) Whether the applicant has the normal use of both hands and feet.

(i) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(j) Whether the applicant understands traffic signs and signals.

(k) Whether the applicant has ever previously been issued an identification card by the department.

(*l*) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

This section shall become operative on July 1, 1982.

SEC. 1.5. Section 12800 of the Vehicle Code is amended to read:

12800. Every application for a driver's license shall contain the following information:

(a) The applicant's true full name, age, sex, and residence address.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

This section shall become operative on July 1, 1982.

SEC. 2. Section 13000 of the Vehicle Code is amended to read:

13000. (a) The department may issue an identification card to any person attesting to the true name, correct age, and other identifying data as certified by the applicant for such identification card.

(b) Any person 62 years of age or older may apply for, and the department upon receipt of a proper application therefor shall issue, an identification card bearing the notation "Senior Citizen".

(c) Every application for an identification card shall be signed and verified by the applicant before a person authorized to administer oaths and shall be supported by such bona fide documentary evidence of the age and identity of such applicant as the department may require, and shall include a legible print of the thumb or finger of the applicant.

(d) Any person 62 years of age or older, and any other qualified person, may apply for, or possess, an identification card under the provisions of either subdivision (a) or (b), but not under both of those provisions.

(e) This section shall become operative on July 1, 1982.

SEC. 3. The state has adopted a policy that the driver's license and identification card issued by the Department of Motor Vehicles are the basic identification documents in this state and that the state has a compelling interest in insuring the accuracy and integrity of

this identification system. It is the purpose and intent of this act to further secure the accuracy and integrity of this system by requiring the application for a license or card to include a legible thumb or fingerprint of the applicant, effective July 1, 1982.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1301 are both chaptered and become effective January 1, 1982, both bills amend Section 12800 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1301, that Section 12800 of the Vehicle Code, as amended by Section 1 of Assembly Bill 1301 be further amended on the operative date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 12800 proposed by this bill. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 1301 are both chaptered and become effective January 1, 1982, both bills amend Section 12800, and this bill is chaptered after Assembly Bill 1301, in which case Section 1.5 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

CHAPTER 1103

An act to amend Section 432.7 of the Labor Code, and to amend Sections 11105 and 13300 of the Penal Code, relating to criminal history.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 432.7 of the Labor Code is amended to read:

432.7. (a) No employer whether a public agency or private individual or corporation shall ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention which did not result in conviction, or information concerning a referral to and participation in any pretrial or posttrial diversion program, nor shall any employer seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention which did not result in conviction, or any record regarding a referral to and participation in any pretrial or posttrial diversion program. As used in this section, a conviction shall include a plea, verdict, or finding of guilt regardless of whether sentence is imposed by the court. Nothing in this section shall prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial.

(b) In any case where a person violates any provision of this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from such person actual damages or two hundred dollars ($200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars ($500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(c) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies which an applicant may have under any other law.

(d) Persons seeking employment as peace officers or for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 of the Penal Code are not covered by this section.

(e) Nothing in this section shall prohibit an employer at a health facility, as defined in Section 1250 of the Health and Safety Code, from asking an applicant for employment either of the following.

(1) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(2) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(f) (1) No peace officer or employee of a law enforcement agency with access to criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose, with intent to affect a person's employment, any information contained therein pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(2) No other person authorized by law to receive criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose any information received therefrom pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(3) No person, except those specifically referred to in Section 1070 of the Evidence Code, who knowing he or she is not authorized by law to receive or possess criminal justice records information maintained by a local law enforcement criminal justice agency, pertaining to an arrest or other proceeding which did not result in a conviction, including information pertaining to a referral to and

participation in any pretrial or posttrial diversion program, shall receive or possess such information.

(g) "A person authorized by law to receive such information", for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal offender records maintained by a local law enforcement criminal justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal justice agency who is required by such employment to receive, analyze, or process criminal offender record information.

(h) Nothing in this section shall require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

(i) As used in this section, "pretrial or posttrial diversion program" means any program under Chapter 2.5 (commencing with Section 1000) or Chapter 2.7 (commencing with Section 1001) of Title 6 of Part 2 of the Penal Code, Section 13201, 13201.5 or 13352.5 of the Vehicle Code, or any other program expressly authorized and described by statute as a diversion program.

SEC. 2. Section 11105 of the Penal Code, as amended by Chapter 269 of the Statutes of 1981, is amended to read.

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830 5, and

subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public

utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information

and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Any state agency required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed

(h) It is not a violation of this section to include information

obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 3. Section 11105 of the Penal Code, as amended by Chapter 269 of the Statutes of 1981, is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based

upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432 7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates

(2) To a peace officer of the state other than those included in subdivision (b)

(3) To a peace officer of another country

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States

when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization

approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained Any state agency required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7514 of the Business and Professions Code shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 4. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, subdivisions (a), (b), and (c) of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly

refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the local agency supplies such data, it shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public

Utilities Code, when access is needed in order to assist in employing persons who will be seeking entrance to private residences in the course of their employment. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the local agency supplies the data pursuant to this paragraph, it shall furnish a copy of the data to the person to whom the data relates.

Any information obtained from the local summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The local summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed 30 days after employment is denied or granted, including any appeal periods, except for those cases where an employee or applicant is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed 30 days after the case is resolved, including any appeal periods.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the employee or applicant who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violation.

Nothing in this section shall be construed as imposing any duty upon public utilities to request local summary criminal history information on any current or prospective employee.

Seeking entrance to private residences in the course of employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing such information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer, or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this

section may charge the applicant a fee sufficient to reimburse the agency for such expense.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 964 are both chaptered and become effective January 1, 1982, both bills amend Section 11105 of the Penal Code, and this bill is chaptered after Senate Bill 964, that the amendments to Section 11105 proposed by both bills be given effect and incorporated in Section 11105 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill 964 are both chaptered and become effective January 1, 1982, both amend Section 11105, and this bill is chaptered after Senate Bill 964, in which case Section 2 of this act shall not become operative.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 7 No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1104

An act to add Section 31648.55 to, the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 31648.55 is added to the Government Code, to read:

31648.55. Any member who is an elective officer, and who has had a break in service, may receive credit for the previous service as current service, if all of the following conditions are met:

(a) The member serves in the same office.

(b) The service is not a basis for any other present or future public retirement benefits.

(c) The member, prior to the effective date of retirement, by lump-sum payment or by installment over a period not to exceed five years, (1) contributes an amount equal to twice the contributions the members would have made to the retirement fund if the member had been a member during the same length of time as that for which the member has elected to receive credit as service, computed by applying the rate of contribution first applicable to the member upon commencement of membership and (2) pays any interest that would have accrued to that amount.

This section shall not be operative in any county, until adopted by resolution of the board of supervisors.

CHAPTER 1105

An act relating to parks and recreation.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In 1974, the state acquired parcels of real property in Old Town San Diego State Historic Park from private property owners for the purpose of realigning a street.

(b) The state has not utilized the property for the purpose for which it was acquired and the former owner and three current lessees of the businesses located on those parcels have been operating those businesses on short-term leases from the state.

(c) The best interests of the former owner would have been served if the former owner could have retained ownership of the premises.

(d) The lessees wish to continue to operate their respective businesses; however, the current policy of the state of granting short-term leases does not permit the period of time needed to do long-range planning.

(e) It is the intent and purpose of this act to balance the hardships

caused to the former owner and three current lessees as a result of the state's acquisition by granting long-term leases to those persons, thereby enabling them to make long-range plans and investments with respect to their businesses.

SEC. 2. The Director of General Services shall offer to extend the leases of the following described property located in Old Town San Diego State Historic Park to the current lessees of that property for a period of three years, commencing on January 1, 1982:

(a) The property identified as San Diego Assessor's Parcel No. 760-102-53 and known as 2811 San Diego Avenue.

(b) The property identified as San Diego Assessor's Parcel No. 760-102-52 and known as 2803 San Diego Avenue.

(c) The property identified as San Diego Assessor's Parcel No. 760-102-51 and known as 3976 Wallace Street.

(d) The property identified as San Diego Assessor's Parcel No. 760-102-50 and known as 3890 Wallace Street.

Notwithstanding the appropriation made in Section 15863 of the Government Code, all revenues received by the department under the extension of leases pursuant to this section shall be available for expenditure pursuant to Section 15863 only when appropriated by the Legislature.

SEC. 3 On or before December 31, 1984, notwithstanding Section 5019.11 of the Public Resources Code, the Director of Parks and Recreation shall negotiate and execute concession agreements with the lessees of the properties specified in subdivisions (a) to (d), inclusive, of Section 2 providing for the occupancy by those lessees at other premises within the Old Town San Diego State Historic Park. Those agreements may provide for the reconstruction of historic structures by the concessioners, the Department of Parks and Recreation, or both, and shall be on terms and conditions offered other concessioners in that park, taking into consideration current costs of interest and construction, capital investment requirements of concessioners, reasonable periods of time necessary to amortize the capital investments of concessioners, and reasonable rates of return on investments of concessioners. The agreements shall be at current market values, and any long-term agreement shall provide for adjustments each five years to reflect then current market values.

SEC. 4. If a concession agreement is not executed between the Director of Parks and Recreation and a lessee, as specified in Section 3, the Director of General Services shall negotiate and execute a lease with that lessee to continue to occupy the same premises occupied by the lessee for a period of five years. The lease shall be on terms and conditions offered other lessees of similar premises within the Old Town San Diego State Historic Park and shall contain an option for the lessee to extend the lease for an additional five years. The rental payable during the additional five-year period shall be adjusted to reflect the then current market rental rate.

SEC. 5. Any lease or concession agreement executed under this act shall retain to the Director of General Services or the Director

of Parks and Recreation, whichever is applicable, the sole authority to approve or disapprove any changes of the tenancies or of any proposed subleases of those parcels.

CHAPTER 1106

An act to amend Sections 10205 and 10301 of the Government Code, relating to the Legislative Counsel.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 10205 of the Government Code is amended to read:

10205. (a) The Legislative Counsel may employ and fix the compensation, in accordance with law, of such professional assistants and clerical and other employees as he deems necessary for the effective conduct of the work under his charge.

(b) The Legislative Counsel and the employees of the Legislative Counsel Bureau shall, to the extent that funds appropriated for the support of the Legislative Counsel Bureau include funds for that purpose, receive any or all of the employee benefits provided to employees of either house of the Legislature. The benefits which are authorized by this subdivision shall be in addition to any other employee benefits authorized by any other provision of law.

SEC. 2. Section 10301 of the Government Code is amended to read:

10301. The commission consists of one Member of the Senate appointed by the Committee on Rules, one Member of the Assembly appointed by the Speaker, and seven additional members appointed by the Governor with the advice and consent of the Senate. The Legislative Counsel shall be an ex officio member of the commission.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, those Members of the Legislature shall constitute a joint interim investigating committee on the subject of this chapter and as a joint interim investigating committee shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.

The members appointed by the Governor shall be appointed for a term of four years and shall hold office until the appointment and qualification of their successors. The terms of the members first appointed shall not commence earlier than October 1, 1953, and shall expire as follows: four on October 1, 1955, and three on October 1,

1957. When a vacancy occurs in any office filled by appointment by the Governor, he shall appoint a person to the office, who shall hold office for the balance of the unexpired term of his predecessor.

CHAPTER 1107

An act to amend Sections 301, 305, and 315 of the Elections Code, relating to elections.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 301 of the Elections Code is amended to read:

301. No person shall be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county clerk and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county clerk or on the 29th day before an election to be held in the registrant's precinct if (a) the affidavit is executed on or before the 29th day prior to the election, and (b) the affidavit is received by the county clerk by mail after the 29th day and by the fourth day after the 29th day before the election.

For purposes of verifying signatures on a recall, initiative, or referendum petition or signatures on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for such verification purposes if (a) the affidavit is signed on the same date or a date prior to the signing of such petition or paper; and (b) the affidavit is received by the county clerk on or before the date on which the petition or paper is filed.

Notwithstanding any other provision of law to the contrary, the affidavit of registration required under the provisions of this chapter shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

SEC. 2. Section 305 of the Elections Code is amended to read:

305. (a) Except as provided in subdivision (b), the county clerk shall accept affidavits of registration at all times except during the 28 days immediately preceding any election, when registration shall cease for that election as to electors residing in the territory within which the election is to be held. Transfers of registration for an election may be made from one precinct to another precinct in the same county at any time when registration is in progress in the precinct to which the elector seeks to transfer.

(b) The county clerk or his deputy shall accept an affidavit of registration executed as part of a voter registration card in the forthcoming election if (1) the affidavit is executed on or before the 29th day prior to the election, and (2) the affidavit is received by the county clerk or his deputy by mail after the 29th day and by the fourth day after such 29th day.

SEC. 3. Section 315 of the Elections Code is amended to read·

315. In lieu of executing a new affidavit of registration for a change of address within the county the county clerk shall accept a notice or letter of the change of address signed by a voter as he is registered.

The county clerk shall accept notifications received by mail by the fourth day after the 29th day before an election and shall change the address on the voter's affidavit of registration accordingly. Any requests for change of address received prior to an election, but after the day specified herein shall not be applicable to that election but shall apply to all subsequent elections.

CHAPTER 1108

An act to add and repeal Section 667.7 to the Penal Code, relating to sentences.

[Approved by Governor October ., 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 667.7 is added to the Penal Code, to read:

667.7. Any person convicted of a felony in which such person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; voluntary manslaughter; mayhem; rape by force or threat of great bodily harm, oral copulation by force, violence, duress, menace or threat of great bodily harm; sodomy by force, violence, duress, menace or threat of great bodily harm; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace or threat of great bodily harm; kidnapping for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon, assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation

of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which such person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but such person shall not otherwise be released on parole prior to such time. This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

This section shall remain in effect only until January 1, 1987, and is repealed on such date, unless a later enacted statute which is chaptered before January 1, 1987, deletes or extends such date. However, the terms of those persons committed to terms of imprisonment pursuant to this section shall not be affected by the repeal of this section.

CHAPTER 1109

An act to amend Section 17732 of the Education Code, relating to schools.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 17732 of the Education Code is amended to read:

17732. The board shall fix rents for all projects acquired and may change the rents from time to time as may be needed provided the rents shall not in any year exceed the sum of the following:

(a) One dollar ($1).

(b) Any interest earned on funds in the county school lease-purchase fund for the district.

(c) Any unencumbered bond funds of the district.

(d) The net proceeds from the sale or lease of any school buildings or land no longer needed for school purposes, exclusive of such proceeds which are used for capital outlay expenditures for school construction when the construction conforms to State Allocation Board building area standards.

CHAPTER 1110

An act to amend Sections 1141.11, 1141.12, 1141.16, 1141.18, and 1141.26 of the Code of Civil Procedure, relating to judicial arbitration.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable. In the Superior Court of Sonoma County all at-issue civil actions pending between October 1, 1979, and October 1, 1981, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the

amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823.1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5; provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

(e) In the Counties of Los Angeles and San Bernardino, actions in which the amount in controversy does not exceed twenty-five thousand dollars ($25,000) shall be submitted to arbitration.

SEC. 2. Section 1141.12 of the Code of Civil Procedure is amended to read:

1141.12. (a) In each superior court in which arbitration may be had pursuant to subdivision (a) or (b) of Section 1141.11, upon stipulation of the parties, any at-issue civil actions shall be submitted to arbitration regardless of the amount in controversy.

(b) In all other superior, municipal, and justice courts, the Judicial Council shall provide by rule for a uniform system of arbitration of the following causes:

(i) Any cause upon stipulation of the parties, and

(ii) Upon filing of an election by the plaintiff, any cause in which the plaintiff agrees that the arbitration award shall not exceed the amount in controversy as specified in Section 1141.11.

SEC. 3. Section 1141.16 of the Code of Civil Procedure is amended to read:

1141.16. (a) The determination of the amount in controversy, under subdivision (a) or (b) of Section 1141.11 and Section 1141.12, shall be made by the court and the case submitted to arbitration at any conference at which all parties are present or represented by counsel. Such conference shall be held no later than three months after the at-issue memorandum is filed and no later than 90 days before trial, whichever occurs first. At that time the court shall make a determination whether any prayer for equitable relief is frivolous or insubstantial, which decision shall not be appealable. The date of such conference may be postponed upon motion of any party for good cause shown. No determination pursuant to this section shall be

made if all parties stipulate in writing that the amount in controversy exceeds the amount specified in Section 1141.11.

(b) The determination and any stipulation of the amount in controversy shall be without prejudice to any finding on the value of the case by an arbitrator or in a subsequent trial de novo. The determination shall be based on the total amount of damages, and the judge shall not consider questions of liability or comparative negligence or other defenses.

(c) The case shall be submitted to arbitration at an earlier time upon the written request of all plaintiffs, subject to a motion by a defendant for good cause shown to delay the arbitration hearing.

(d) In cases submitted to arbitration pursuant to Section 1141.11 or subdivision (a) of Section 1141.12 or paragraph (i) of subdivision (b) of Section 1141.12, an arbitrator shall be assigned to hear a case within 30 days from the time of its submission to arbitration.

SEC. 3.5. Section 1141.18 of the Code of Civil Procedure is amended to read:

1141.18. (a) Arbitrators shall be retired judges or members of the State Bar, and shall sit individually. A judge may also serve as an arbitrator without compensation. People who are not attorneys may serve as arbitrators upon the stipulation of all parties.

(b) The Judicial Council rules shall provide for the compensation, if any, of arbitrators, except that no compensation shall be paid prior to the filing of the award by the arbitrator, or prior to the settlement of the case by the parties. Compensation for arbitrators shall, unless waived in whole or in part, be one hundred fifty dollars ($150) per case, or one hundred fifty dollars ($150) per day, whichever is greater, except that the board of supervisors of a county or a city and county may set a higher level of compensation for that county or city and county.

(c) The board of governors of the State Bar shall provide by rule for the method of selection of arbitrators after consulting with administrative committees established pursuant to Rule 1603 of the Judicial Arbitration Rules for Civil Cases and with county bar associations in counties where there are no administrative committees. These rules shall provide for specialized panels and shall become operative upon approval of the Judicial Council.

(d) Any party may request the disqualification of the arbitrator selected for his case on the grounds and by the procedures specified in Section 170 or Section 170.6 within five days of the naming of the arbitrator.

SEC. 4. Section 1141.26 of the Code of Civil Procedure is amended to read:

1141.26. Nothing in this act shall prohibit an arbitration award in excess of the amount in controversy as specified in Section 1141.11. No party electing a trial de novo after such award shall be subject to the provisions of Section 1141.21 if the judgment upon the trial de novo is in excess of the amount in controversy as specified in Section 1141.11.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1111

An act to amend Sections 1170, 1203.01, 3000, and 3041.5 of, and to add Section 3058.5 to, the Penal Code, and to add Section 1180 to the Welfare and Institutions Code, relating to parole.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or

suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment either party may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable

provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

SEC. 2. Section 1203.01 of the Penal Code is amended to read:

1203.01. Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with such reports as the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause such statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which he was convicted. Forthwith after the filing of such statements and reports, the clerk of the court shall mail a copy thereof, certified by such clerk, with postage thereon prepaid, addressed to the Department of Corrections at the prison or other institution to which the person convicted is delivered. Within 30 days after judgment has been pronounced, the clerk shall mail a copy of the charging documents, the transcript of the proceedings at the time of the defendant's guilty plea, if the defendant pleaded guilty, and the transcript of the proceedings at the time of sentencing, with postage prepaid, to the prison or other institution to which the

person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage thereon prepaid, addressed to the attorney for the defendant, if any, and to the defendant in care of the Department of Corrections, and a copy of any statement submitted by the attorney for the defendant, with postage thereon prepaid, shall be mailed to the district attorney.

SEC. 3. Section 3000 of the Penal Code is amended to read:

3000. The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section. Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter:

(a) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170, or at the expiration of such term as reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding three years, unless the board for good cause waives parole and discharges the inmate from custody of the department.

(b) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for first or second degree murder or any offense for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the board for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall be also applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(c) The board shall consider the request of any inmate regarding the length of his parole and the conditions thereof.

(d) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under subdivision (a) or (b), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and subdivisions (a) and (b) shall be computed from the date of initial parole, or July 1, 1977, whichever is later, and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward such period of parole unless the prisoner is found not guilty of the parole violation. However, in no case, except as provided in Section 3064, may a prisoner subject to three years on parole be retained under parole supervision or in

custody for a period longer than four years from the date of his initial parole, and, except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his initial parole.

(e) It is not the intent of this section to diminish resources presently allocated to the Department of Corrections for parole functions.

(f) The Department of Corrections shall meet with each inmate at least 30 days prior to his good time release date, unless such release date is within 30 days of July 1, 1977, and shall provide, under guidelines specified by the Board of Prison Terms, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the Board of Prison Terms.

SEC. 4. Section 3041.5 of the Penal Code is amended to read:

3041.5. (a) At all hearings for the purpose of reviewing a prisoner's parole suitability, or the setting, postponing or rescinding of parole dates

(1) At least 10 days prior to any hearing by the Board of Prison Terms, the prisoner shall be permitted to review his or her file which will be examined by the board and shall have the opportunity to enter a written response to any material contained in such file.

(2) The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his own behalf.

(3) Unless legal counsel is required by some other provision of law, a person designated by the Department of Corrections shall be present to insure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.

(4) The prisoner shall be permitted to request and receive a stenographic record of all proceedings.

(5) If the hearing is for the purpose of postponing or rescinding of parole dates, the prisoner will have rights set forth in paragraphs (3) and (5) of subdivision (a) of Section 2932.

(b) (1) Within 10 days following any meeting where a parole date has been set, the board shall send the prisoner a written statement setting forth his parole date, the conditions he must meet in order to be released on the date set, and the consequences of failure to meet such conditions.

(2) Within 20 days following any meeting where a parole date has not been set for the reasons stated in subdivision (b) of Section 3041, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date; and suggest activities in which he might participate that will benefit him while he is incarcerated.

The board shall hear each case annually thereafter, except the board may schedule the next hearing no later than three years after any hearing at which parole is denied if the prisoner has been

convicted, in the same or different proceedings, of more than one offense which involves the taking of a life, and the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following years and states the bases for the finding.

(3) Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for such action and shall offer the prisoner an opportunity for review of such action.

(4) Within 10 days of any board action resulting in the rescinding of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for such action and shall, within six months, set the prisoner's parole release date in accord with the provisions of Section 3041 and this section.

SEC. 5. Section 3058.5 is added to the Penal Code, to read:

3058.5. The Department of Corrections shall provide, within 10 days, upon request to the chief of police of a city or the sheriff of a county information available to the department, including photographs, concerning persons then on parole who are or may be residing or temporarily domiciled in that city or county.

SEC. 6. Section 1180 is added to the Welfare and Institutions Code, to read:

1180. The Department of the Youth Authority shall provide, within 10 days, upon request to the chief of police of a city or the sheriff of a county information available to the department, including photographs, concerning persons then on parole who are or may be residing or temporarily domiciled in that city or county.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1112

An act to amend Section 12078 of the Penal Code, and to amend Section 25258 of the Vehicle Code, relating to peace officers.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 12078 of the Penal Code is amended to read:

12078. The preceding provisions of this article do not apply to sales of concealable firearms made to persons properly identified as full-time paid peace officers as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2 and subdivision (a) of Section 830.3, nor to sales of concealable firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by such governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser is employed, identifying the purchaser and authorizing the purchase. The certification shall be delivered to the seller at the time of purchase and the purchaser shall identify himself as the person authorized in such certification. On the day the sale is made, the dealer shall forward by prepaid mail to the Department of Justice a report of such sale and the type of information concerning the buyer and the firearm sold as is indicated in Section 12077

SEC. 2. Section 25258 of the Vehicle Code is amended to read:

25258. (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) An authorized emergency vehicle used by the California Highway Patrol, California State Police Division, or any sheriff's or municipal police department in the performance of its duties may in addition display a steady or flashing blue warning light visible from the front, sides or rear thereof.

CHAPTER 1113

An act to amend Sections 17736, 17740, 17741, and 39144 of, to add Sections 17741.5, 17741.6, and 39144.5 to, and to repeal and add Section 39403 to, the Education Code, relating to school facilities, and making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 17736 of the Education Code is amended to read:

17736. (a) Except as provided in subdivision (b), funds may only be expended from the county school lease-purchase fund by the applicant school district when specifically authorized by the board for either direct project costs or reimbursements.

(b) Upon specific authorization by the board, applicant school districts may be reimbursed from the county school lease-purchase fund for expenditures, or commitments therefor, made prior to the approval of a project by the board, subject to all of the following conditions:

(1) The expenditures or commitments were made in accordance with the terms of the approval of a project.

(2) The expenditures or commitments were made not more than two years prior to the approval of a project.

(3) The expenditures or commitments do not include any cost incurred for construction of a project

SEC. 2. Section 17740 of the Education Code is amended to read:

17740. Except as provided in Section 17741, no project shall be approved, the building area of which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17743, 17744, 17745, and 17746.

As used in Sections 17741.5, 17743, 17744, 17745, and 17746, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 17745 and 17746, "attendance center" means a school maintained or to be maintained at a given location within a district.

No estimate of average daily attendance made by an applicant district for the purpose of justifying an application for an elementary school project shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, or in the case of an application for a junior high school or high school project, for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district which maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless one of the following conditions is met:

(a) The elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975.

(b) The elementary district by a vote of the electorate at an election held on June 2, 1981, withdraws its 7th and 8th grade pupils from the high school district and the junior high school facility is

within the elementary school district and the elementary district purchases the facility from the high school district.

When such pupils are so considered in determining or estimating the average daily attendance of the elementary district, such pupils shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

SEC. 2.5. Section 17740 of the Education Code is amended to read:

17740. Except as provided in Section 17741, no project shall be approved, the building area of which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17743, 17744, 17745, and 17746.

As used in Sections 17741.5, 17743, 17744, 17745, and 17746, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance

As used in this section and Sections 17745 and 17746, "attendance center" means a school maintained or to be maintained at a given location within a district.

No estimate of average daily attendance made by an applicant district for the purpose of justifying an application for an elementary school project shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, or in the case of an application for a junior high school or high school project, for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district which maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless one of the following conditions is met:

(a) The elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975.

(b) The elementary district by a vote of the electorate withdraws its 7th and 8th grade pupils from the high school district and the high school district continues to qualify for a project, other than a project pursuant to Section 17741, on the basis of the remaining 7th and 8th grade pupils.

(c) The elementary district by a vote of the electorate withdraws its 7th and 8th grade pupils from the high school district and the

junior high school facility is within the elementary school district and the elementary district purchases the facility from the high school district.

(d) Subdivision (b) shall apply only to a district which voted to withdraw its 7th and 8th graders at an election held on November 4, 1980. Subdivision (c) shall apply only to a district which voted to withdraw its 7th and 8th graders at an election held on June 2, 1981. When such pupils are so considered in determining or estimating the average daily attendance of the elementary district, such pupils shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

SEC. 3. Section 17741 of the Education Code is amended to read:

17741. Whenever the area of adequate school construction existing in any attendance area is such as to prevent another attendance area from receiving the maximum area of school construction for each unit of attendance as specified for the district as a whole, the allowable building area may be computed separately for each attendance area. For the purposes of this section and Section 17741.5, an "attendance area" is defined as the geographical area serving an existing or proposed high school and those junior high schools and elementary schools included therein.

SEC. 4. Section 17741.5 is added to the Education Code, to read:

17741.5. (a) Whenever the area of adequate school construction existing in an attendance area is less than the maximum area computed for that attendance area, any portion of the remaining computed allowable building area may be used for the construction of district administration and maintenance facilities.

(b) If the allowable building area is computed separately by attendance area, the board shall include within the computation of the maximum area for that attendance area the proposed building area of a project for the construction of district administration and maintenance facilities.

SEC. 5. Section 17741.6 is added to the Education Code, to read:

17741.6. The board shall, in allocating funds for school facilities construction pursuant to this chapter, give first priority to applicant districts proposing additional classrooms within their maximum allowable building area before allocating funds to applicant districts proposing administration and maintenance facilities.

SEC. 6. Section 39144 of the Education Code is amended to read:

39144. Except as provided in Section 39144.5, before letting any contract for any construction or alteration of any such school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall be first had and obtained.

SEC. 7. Section 39144.5 is added to the Education Code, to read:

39144.5. Before the commencement of any fabrication, construction, or alteration of a relocatable school building of a type previously approved by the Department of General Services, the written approval of the plans, as to the safety and design of

construction, by the Department of General Services, shall be first had and obtained.

SEC. 8. Section 39403 of the Education Code is repealed.

SEC. 9. Section 39403 is added to the Education Code, to read:

39403. (a) No more than 30 percent of the total surplus school acreage owned by a school district may be purchased or leased by public agencies pursuant to this article.

(b) The right of any public agency to purchase or lease surplus school property pursuant to this article shall exist only with respect to an amount of surplus school acreage within its jurisdictional boundaries which, when added to the surplus school acreage within its jurisdictional boundaries already purchased or leased pursuant to this article, will not exceed 30 percent of the surplus school acreage owned by the school district which is within the jurisdictional boundaries of that agency.

(c) For purposes of this section, "surplus school acreage" of a school district means property which is owned by a district and not used for school purposes, including, but not limited to, undeveloped property and property which contains school buildings that are not in use as a result of a school closure and which is not subject to any lease or agreement executed on or before July 1, 1974, for a term in excess of six years, in which any city containing a population of less than 100,000 had use of the property for park purposes on January 1, 1981, and had improved the property.

(d) Nothing in this section shall be construed to deny local agencies the opportunity to purchase at full market value all or part of the 70 percent of the total surplus school acreage which is not affected by this article.

SEC. 10. The State Allocation Board is hereby authorized to apportion funds from the State School Building Lease-Purchase Fund to the Windsor Union Elementary School District for the purchase of the Windsor Junior High School from the Healdsburg Union High School District in an amount not to exceed that which the board determines would otherwise reasonably be expended for the construction of a new facility for the 6th, 7th, and 8th grade pupils of the Windsor Union Elementary School District

SEC. 11. It is the intent of the Legislature, if this bill and Assembly Bill 758 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 17740 of the Education Code, and this bill is chaptered after Assembly Bill 758, that Section 17740 of the Education Code, as amended by Section 1 of Assembly Bill 758, be further amended on the effective date of this act in the form set forth in Section 2 5 of this act to incorporate the changes in Section 17740 proposed by this bill. Therefore, if this bill and Assembly Bill 758 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 758 is chaptered before this bill and amends Section 17740, Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

CHAPTER 1114

An act to amend Sections 600, 607, 1007, 1648, 1653, 1655, 2650, 3795, 5015, 5025, 5215, 5323, 5330, 10012, 14211, 17132, 22835, 23314, and 23531 of, and to add Sections 10012.7, 15272.5, and 23302.3 to, the Elections Code, and to amend Sections 23354, 23355, 23374.4, 23374.5, and 71180 of the Government Code, relating to elections.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 600 of the Elections Code is amended to read:

600. At least once, and more often if he deems it necessary, within each two-year period commencing on the first day of January in each odd-numbered year, the county clerk shall have printed a complete index, by precinct, to the affidavits of registration current at the date of printing. The county clerk shall keep a copy of the index on file as a public record for election, political research, and governmental purposes for a period of five years. The index shall contain the name, address, residence telephone number if furnished, and political affiliation of each voter, and also a ruled space to the left of each name, within which to write, in figures, the line number designating the position of the name of the voter on the roster of voters. The name shall include the given name and the middle name or initials, if any. At the affiant's option, the given name may be preceded by the designation "Miss," "Ms.," "Mrs." or "Mr." The index shall be printed in a size no smaller than eight-point roman type on eight-point body and shall be arranged in alphabetical order in accordance with the surnames of the voters A space of not less than one-quarter inch or one line of printing shall be left between the names of voters beginning with one letter of the alphabet and those starting with the next letter of the alphabet. Supplements of the same content and style may be printed as need for them appears.

SEC. 2. Section 607 of the Elections Code is amended to read:

607. If the county clerk uses data-processing equipment to store the information set forth in the affidavits of registration, he shall forward to the Secretary of State one copy of the data-processing tape file with the information A clerk not using data-processing storage shall forward to the Secretary of State one copy of the index setting forth such information Whether tape file or index they shall be sent at the following times:

(a) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election

(b) Not less than seven days prior to the primary election, with respect to voters who registered after the 60th day before the

election and before the 28th day prior to the election.

(c) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the General Election.

(d) Not less than seven days prior to the general election, with respect to voters who registered after the 60th day before the election and before the 28th day prior to the election.

(e) On or before May 1 of each odd-numbered year.

(f) On or before October 1 of each odd-numbered year.

(g) On the 135th day before each presidential primary and before each direct primary.

The Secretary of State may adopt regulations prescribing the format of the information contained on data-processing cards or tapes.

The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed 12.

The Secretary of State shall make the information on the data-processing tape files or printed indexes available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any referendum or initiative measure for which legal publication is made, and to any person for election or governmental purposes as determined by the Secretary of State.

SEC. 3. Section 1007 of the Elections Code is amended to read:

1007. (a) Upon receipt of any absentee ballot application signed by the voter, which arrives within the proper time, the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The official may make this signature check upon receiving the voted ballot, but the signature must be compared before the absent voter ballot is canvassed.

(b) If the official deems the applicant entitled to an absent voter's ballot he or she shall deliver by mail or in person the appropriate ballot

(c) If the official determines that an application does not contain all of the information prescribed in Section 1002 or 1006, or for any other reason is defective, and the election official is able to ascertain the voter's address, the official shall, within one working day of receiving the application, mail the voter an absent voter's ballot together with a notice. The notice shall inform the voter that the voter's absent voter's ballot shall not be counted unless the applicant provides the official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed absent voter's ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

If the voter substantially complies with the requirements

contained in the official's notice, the voter's ballot shall be counted.

SEC. 4. Section 1648 of the Elections Code is amended to read:

1648. If the precinct board members for any precinct have not been appointed or cannot serve, or the polling place has not been designated prior to an election, the clerk shall by written order, immediately appoint the precinct board members or designate the polling place for the precinct, as the case may require, and shall notify each precinct board member of such appointment.

If at this time the clerk cannot make suitable arrangements for a polling place in any precinct in which none has been designated, the clerk may designate a polling place in any contiguous precinct. Any precinct board member serving in such polling place shall be regarded as serving in the proper precinct within the meaning of this chapter.

SEC. 5. Section 1653 of the Elections Code is amended to read:

1653. Each member of a precinct board shall receive compensation for services a sum fixed by the board of supervisors of the county which sum shall be paid out of the treasury of the county in which the election is held. The inspector may receive more compensation than the other members of the precinct board. The additional compensation to the inspector is for services rendered in securing precinct board members and other duties which may be directed by the clerk.

SEC. 6. Section 1655 of the Elections Code is amended to read·

1655. No person shall be suspended or discharged from any service or employment because of absence while serving as an election officer on election day.

SEC. 7. Section 2650 of the Elections Code is amended to read:

2650. Each special election shall be held on one of the established election dates set by this division or on the date of any statewide special election except as provided in Section 2503.

SEC. 8. Section 3784 of the Elections Code is amended to read·

3784. Based on the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots and to permit the 10-calendar-day public examination as provided in Article 5 (commencing with Section 3795) for the particular election, the county clerk shall fix and determine a reasonable date prior to the election after which no arguments for or against any county measure may be submitted for printing and distribution to the voters as provided in this article Notice of the date fixed shall be published by the county clerk pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the county clerk.

SEC. 9. Section 3795 of the Elections Code is amended to read:

3795. Not less than 10-calendar days before the clerk submits the official election materials referred to in Sections 3713, 3714, 3781, 3783, and 3787 for printing, the clerk shall make a copy of such materials available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use

outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the clerk, himself or herself, may seek a writ of mandate or an injunction requiring any or all such materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest. In the case of the clerk bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 10. Section 5015 of the Elections Code is amended to read:

5015. Based on the time reasonably necessary to prepare and print the arguments and sample ballots and to permit the 10-calendar-day public examination as provided in Article 6 (commencing with Section 5025) for the particular election, the city clerk shall fix and determine a reasonable date prior to the election after which no arguments for or against any city measure may be submitted for printing and distribution to the voters as provided in this article. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the city clerk.

SEC. 11. Section 5025 of the Elections Code is amended to read:

5025. Not less than 10-calendar days before the clerk submits the official election materials referred to in Sections 4015, 4015.5, 4018, 5011, 5012, 5013, and 5014.5 for printing, the clerk shall make a copy of such material available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the clerk, himself or herself, may seek a writ of mandate or an injunction requiring any or all such materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in

question shall be named as real parties in interest. In the case of the clerk bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 12. Section 5215 of the Elections Code is amended to read:

5215. Not less than 10-calendar days before the clerk submits the official election materials referred to in Sections 5156, 5157, and 5157.5 for printing, the clerk shall make a copy of such materials available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any such material to be amended or deleted A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 13. Section 5323 of the Elections Code is amended to read·

5323. Based on the time reasonably necessary to prepare and print the arguments and to permit the 10-calendar-day public examination as provided in Section 5330, the person conducting the election shall fix and determine a reasonable date prior to the election after which no arguments for or against any school measure may be submitted to him or her for printing and distribution to the voters. Notice of the date fixed shall be published pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the person conducting the election.

SEC. 14. Section 5330 of the Elections Code is amended to read:

5330 Not less than 10-calendar days before the clerk submits the official election materials referred to in Sections 5321, 5322, and 5325 for printing, the clerk shall make a copy of such materials available for public examination in the clerk's office. Any person may obtain a copy of such materials from the clerk for use outside of the clerk's office. The clerk may charge a fee to any person obtaining a copy of the material, which fee shall not exceed the actual cost incurred by the clerk in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any or all such materials to be amended or deleted A peremptory writ of

mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The clerk shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 15. Section 10012 of the Elections Code is amended to read:

10012. Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself; provided, however, that the governing body of such local agency may authorize an increase in the limitations on words for such statement from 200 to 400 words. Such statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the clerk when his or her nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. Such statement shall be filed in the office of the clerk no later than the 60th day before the election, if it is for an election for which nomination papers are not required to be filed. It may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide such translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, and may require each candidate filing a statement to pay in advance to the local agency his or her pro rata share as a condition of having his or her statement included in the voter's pamphlet In the event of overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

The clerk shall reject any statement, which contains any obscene, vulgar, profane, scandalous, libelous or defamatory matter, or any

language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward, or which tends to cast ridicule or shame upon any person or group of persons by reason of sex, race, color, religion or manner of worship, or any language or matter the circulation of which through the mails is prohibited by Congress.

Nothing in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

The governing body of the local agency may adopt regulations to permit each candidate for elective office to prepare separately other materials to be sent to each voter in addition to the sample ballot and the voter's pamphlet. Such regulations may pertain to size, weight, form, physical composition, and content of such other materials and may specify that the cost of handling, packaging and mailing may be borne by the local agency authorizing the same or may be billed in whole or in part to the candidate submitting the materials Such regulations shall apply equally to all candidates, including incumbents. Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement or other materials sent to each voter. Such decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his or her representative at the time he or she picks up the nomination papers.

For purposes of this section, and Section 10012 5, the Board of Supervisors shall be deemed the governing body of judicial elections.

SEC. 16. Section 10012.7 is added to the Elections Code, to read:

10012.7. Notwithstanding the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the statements filed pursuant to Section 10012 shall remain confidential until the expiration of the filing deadline.

SEC. 17. Section 14211 of the Elections Code is amended to read:

14211. Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address The voter shall then write his or her name and residence address (or if the voter is unable to write shall have the name and residence address written by another person) on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article.

SEC. 18. Section 15272.5 is added to the Elections Code, to read·

15272.5. Notwithstanding Section 1400, if the clerk uses voting machines or vote tabulating devices to count absentee ballots as provided by Section 15272, the clerk may commence processing the

absentee ballots not earlier than 12:00 noon on the day before the election. However, the clerk shall not count or enter the ballots into the voting machine until election day.

SEC. 19. Section 17132 of the Elections Code is amended to read:

17132. The clerk shall retain in custody the package or packages described in Section 17022, except as provided in Section 17022.5. All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes. The package or packages shall be disposed of in the same manner as voted ballots.

SEC. 20. Section 22835 of the Elections Code is amended to read:

22835. In case of a municipal election on any measure, the city clerk shall publish a synopsis of the measure in the city pursuant to Section 6066 of the Government Code. If there is no newspaper of general circulation published and circulated in the city, the notice shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city. The notice shall be headed "Measure To Be Voted On" in conspicuous type and shall be substantially in the following form:

MEASURE TO BE VOTED ON

Notice is hereby given that the following measure is to be voted on at the _____ (general or special) municipal election to be held in the City of _____, on Tuesday, the _____ day of _____, 19__.

(Synopsis of measure or measures)

Dated _____

_____

City Clerk of the City of _____

The city clerk shall consolidate the notice of election and the notice of measure to be voted on into one notice.

SEC 21. Section 23302.3 is added to the Elections Code, to read:

23302.3. Notwithstanding any other provision of the law, if a statewide special election is called less than 88 days prior to the date of that election, a district, city, or other political subdivision may call for a special local election for the submission of any question, proposition, or office to be filled, to be consolidated with the statewide special election if the call is issued within four days from the date of issuance of the Governor's proclamation or the effective date of a statute calling for a statewide special election.

SEC. 22. Section 23314 of the Elections Code is amended to read:

23314. Whenever an election is to be held on the same day as a statewide election, including a statewide special election, the election may be consolidated with the statewide election. If consolidated, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, candidates

nominated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, and all other proceedings incidental to and connected with the election shall be regulated and done, in accordance with the provisions of the law regulating the statewide election.

The precincts used at the consolidated election shall be those used for statewide elections, and, where necessary, the county clerk may adjust precinct lines to coincide with the boundaries of the particular jurisdiction.

SEC. 23. Section 23531 of the Elections Code is amended to read:

23531. Absent voting shall be allowed and conducted as nearly as practicable in accordance with the provisions of Division 2 pertaining to general elections, except in those districts in which voting by proxy is allowed unless a particular district shall, by resolution pursuant to Section 23511.1, provide for an all-mail ballot election.

SEC. 24. Section 23354 of the Government Code is amended to read:

23354. All qualified electors of each affected county who have been voters of the county 29 days prior to the date of the election are entitled to vote at the election. Registration and transfers of registration shall be made and shall close in the manner and at the times provided by law for registration and transfers of registration for a primary election in the state.

SEC. 25. Section 23355 of the Government Code is amended to read:

23355. Ballots at the election shall contain the statement:

"For the new county of (giving name of proposed county). Opposite the statement, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against the adoption.

SEC. 26. Section 23374 4 of the Government Code is amended to read:

23374.4. All registered voters residing in the boundaries of the approved county, who have been registered voters of the approved county 29 days prior to the election provided for in this article are entitled to vote in such election Registration and transfers of registration shall be made and shall close in the manner and at the times provided by law for registration and transfers of registration for a general election in the state.

SEC. 27. Section 23374 5 of the Government Code is amended to read:

23374.5 Ballots at the election provided for in this article shall contain the statement:

"For _____ as county seat
(name of county seat as determined by commission)"

Opposite the statement, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

SEC. 28. Section 71180 of the Government Code is amended to read:

71180. (a) Any vacancy in the office of judge of a municipal court shall be filled by appointment by the Governor, but no vacancy shall be deemed to exist in any such office before the time fixed in Sections 71080, 71082, and 71083 for the selection of the judges of such court and the time fixed by law for their qualification. The appointee shall hold office for the remainder of the unexpired term of his predecessor and until his successor is elected and qualifies.

If the office to which any person so appointed was not previously occupied, he shall hold office until his successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to such appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.

(b) If a vacancy in the office of judge of a municipal court occurs between the last day candidacy declaration papers may be filed and the June direct primary election and that vacancy occurs because of the appointment of the incumbent judge to another office by the Governor, or because the incumbent has resigned, retired, died, or been removed from office in accordance with subdivision (b) or (c) of Section 18 of Article VI of the California Constitution, and if one or more qualified persons other than the incumbent have filed candidacy declaration papers for the office, no vacancy shall be deemed to exist for purposes of subdivision (a) and the election for the office of judge shall be postponed until the next November statewide election. If the Governor appoints the incumbent judge to another office within 59 days of the June direct primary election, and, as a result, the elections officer does not have sufficient time to remove the candidates' names from the ballot, the June direct primary election for the office shall not be deemed to have been held. At the next November statewide election, the candidate who receives the most votes shall be elected.

In order for a person's name to appear on the ballot at the next November statewide election the person shall file candidacy declaration papers and nomination papers in accordance with the provisions of Article 4 (commencing with Section 6489) of Chapter 5 of Division 6 of the Elections Code. No previously filed papers shall satisfy the requirements of this subdivision. Qualified persons who did not file nomination papers for the June direct primary election, as well as qualified persons who filed nomination papers for the June direct primary election, shall be permitted to file candidacy papers

for the November statewide election.

Persons who had previously paid the filing fee at the time of filing nomination papers for the June direct primary election shall not be required to pay a filing fee for the November statewide election.

SEC. 29. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act, with respect to the county clerks, which, in the aggregate, do not result in additional net costs.

CHAPTER 1115

An act to amend Section 69506 of, and to add Section 69517 to, the Education Code, relating to student financial aid programs.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 69506 of the Education Code is amended to read:

69506 Notwithstanding any other provision of law, the Student Aid Commission or any public postsecondary educational institution shall not consider the income of an applicant's parents in the determination of an applicant's financial need if the applicant meets all of the following requirements:

(a) Has not and will not be claimed as an exemption for state and federal income tax purposes by his or her parent in the calendar years aid is received and in any of the three calendar years prior to the award period for which aid is requested

(b) Has not and will not receive more than one thousand dollars ($1,000) per year in financial assistance from his or her parent in the calendar years in which aid is received and in any of the three calendar years before the award period for which aid is requested.

(c) Has not lived and will not live for more than six weeks in the home of his or her parent during the calendar year aid is received and in any of the three calendar years before the award period for which aid is requested.

Nothing in this section shall exempt any applicant from submitting parental income information pursuant to Section 69672, or from submitting such information solely because the applicant comes within the provisions of Section 211 of the Civil Code.

With respect to any action taken by the Student Aid Commission on or after August 1, 1981, the amendments to this section which became effective January 1, 1982, are deemed to have been operative on and after August 1, 1981

SEC. 2. Section 69517 is added to the Education Code, to read:

69517. The Student Aid Commission shall, with the assistance of the Attorney General's office, seek refunds on any awards to students in this chapter which resulted from the student or his or her parents, or both, reporting information concerning their status incorrectly, with the incorrect information leading to the establishment of the student's financial eligibility to receive an award.

SEC. 3 The amendments to Section 69506 of the Education Code made by Section 1 of this act are retroactive, and all awards made for terms, semesters, or quarters which began after August 1, 1981, shall be deemed to have been made as if the amendments to Section 69506 became operative August 1, 1981, and are hereby confirmed, ratified, and declared legally valid.

CHAPTER 1116

An act to amend Sections 69595, 70048, 73641, 73642, 73643, 73648, 73952, 73953, 73958, 74342, 74343, 74343.1, 74343.4, 74350, 74357, 74361, 74364, 74374, 74377, 74741, 74741.5, 74742, and 74743 of, and to add Sections 72114.1, 73959.1, and 73959.2 to, the Government Code, relating to courts.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 69595 of the Government Code is amended to read:

69595. In the County of San Diego there shall be 41 judges of the superior court; provided, that operative July 1, 1982, there shall be 42 judges of the superior court; and further provided, that at such time on or after July 1, 1982, as the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 43 judges of the superior court.

SEC. 1 5. Section 70048 of the Government Code is amended to read.

70048 (a) In a county with a population of 1,300,000 and under 1,400,000, as determined by the 1970 federal census, regular official reporters shall be paid at a salary rate established by joint action and approval of the board of supervisors and a majority of the judges of the court.

Except as provided herein, the initial hiring rate for each position shall be step A, provided further, however, the judges of the superior court may appoint any such court reporter at a higher initial step if in the opinion of the judges of the superior court an individual to be appointed has such experience and qualification as to entitle that individual to such higher initial step. A step advancement from step

A to step B may be granted on the first day of the month following the completion of 12 full months of service in the position. A person may advance to steps C, D, and E upon completion of successive 12-month periods of service. All merit increases as provided herein shall be made at the determination of the judges of the superior court A court reporter employed prior to November 15, 1977, and currently employed shall receive a monthly and annual salary at step E.

(b) Official phonographic reporters pro tempore shall be compensated at a rate established by joint action and approval of the board of supervisors and a majority of the judges of the court.

(c) Each reporter shall annually report, not later than April 15 of each year, to the Judicial Council and the board of supervisors:

(1) The quantity and types of transcripts prepared by them during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

(d) Each reporter shall cooperate with county personnel in any random job reviews for the purpose of confirming hours spent in attendance upon the courts for the purpose of reporting proceedings.

(e) During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

SEC. 2. Section 72114.1 is added to the Government Code, to read.

72114.1 (a) The marshal and all personnel of a marshal's office affected by a consolidation of court-related services under Section 72114 shall become members of such consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of such consolidated court-related services office

(b) Permanent employees of a marshal's office on the effective date of a consolidation under Section 72114 shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of a marshal's office on the effective date of a consolidation under Section 72114 shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(c) All county service or service in a marshal's office of employees

of a marshal's office on the effective date of a consolidation under Section 72114 shall be counted toward seniority in such court-related services office, and all time spent in the same, equivalent or higher classification shall be counted toward classification seniority.

(d) No employee of a marshal's office on the effective date of a consolidation under Section 72114 shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court services under this section.

SEC. 3. Section 73641 of the Government Code is amended to read:

73641. There shall be eight judges.

SEC. 4. Section 73642 of the Government Code is amended to read:

73642. There shall be one clerk-administrative officer who shall be appointed by the judges of the court. The salary of the clerk-administrative officer shall be 33 percent higher than that specified for the classification of assistant clerk-administrative officer of the El Cajon Judicial District. Appointment to such position shall be at step C of the range unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 5. Section 73643 of the Government Code is amended to read:

73643. The clerk-administrative officer may appoint with the approval of the judges:

(a) One assistant clerk-administrative officer. The assistant clerk-administrative officer shall receive a biweekly salary at a rate 17 percent below that specified for assistant clerk-administrative officer of the San Diego Judicial District

(b) One deputy clerk-administrative assistant I, II or III as the case may be A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service of San Diego County A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service of San Diego County.

(c) Three chief deputy clerks each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk of the San Diego Judicial District.

(d) Six supervising deputy clerks each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Sixteen deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(f) Fifty deputy clerks III, II or I, as the case may be. Each of the

deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the clerk-administrative officer, appointments to the deputy clerk I classification may be at any step within the salary range.

(g) Four deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County.

(h) One deputy clerk-administrative secretary who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(i) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County of San Diego.

(k) Any person specified in subdivision (f) who is regularly assigned and certified by the clerk-administrative officer as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate. The provisions of Section 74343.1, except as provided herein, shall apply to the attachés appointed pursuant to this section.

SEC. 6. Section 73648 of the Government Code is amended to read:

73648 (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any

increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, and in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the clerk-administrative officer and assistant clerk-administrative officer shall receive the same privileges and benefits as are received by the classification of chief probation officer of the classified civil service of the County of San Diego. All persons holding positions as chief deputy clerks, assistant chief deputy clerks, administrative assistant III, or administrative assistant II, shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave and deferred compensation benefits. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk-administrative officer from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk-administrative officer to a like permanent position in

such clerk-administrative officer's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk-administrative officer's office has been increased so as to make such temporary position a permanent position

SEC. 7. Section 73952 of the Government Code, as amended by Chapter 119 of the Statutes of 1981, is amended to read:

73952. There shall be one clerk-administrative officer, who shall be appointed by, and serve at the pleasure of, the judges of the court. The salary of the clerk-administrative officer shall be 33 percent higher than that specified for the classification of assistant clerk-administrative officer of the North County Judicial District. Appointment to such position shall be at step C of the salary schedule unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 8. Section 73953 of the Government Code, as amended by Chapter 119 of the Statutes of 1981, is amended to read:

73953. The clerk-administrative officer shall appoint:

(a) One assistant clerk-administrative officer, at the direction of a majority of the judges of the court, who shall serve at the pleasure of the judges. The salary of the assistant clerk-administrative officer shall be 17 percent below that specified for assistant clerk-administrative officer of the San Diego Judicial District.

(b) Two deputy clerks who shall be chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk.

(c) Two deputy clerks who shall be assistant chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk.

(d) Two supervising deputy clerks who shall receive the biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Twelve deputy clerks IV, each of whom shall receive the biweekly salary at a rate equal to that specified for the classification of superior court clerks in the classified service of San Diego County.

(f) Sixty deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive the biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive the biweekly salary at a rate 16 percent below that specified for deputy clerk III Each deputy clerk I shall receive the biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. Appointments to the deputy clerk I classification shall be at a salary range entrance step determined by the clerk-administrative officer

(g) Two deputy clerk data entry operators, each of whom shall receive the biweekly salary at a rate equal to that specified for data entry operators in the classified service of San Diego County.

(h) One deputy clerk-administrative secretary who shall receive a biweekly salary at a rate equal to that specified for administrative

secretary IV in the classified service of San Diego County. The comparable county classification to deputy clerk-administrative secretary for the purposes of privileges and benefits shall be administrative secretary IV in the classified service of San Diego County.

(i) One deputy clerk interpreter who shall receive the biweekly salary at the rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative assistant I, II, or III, as the case may be. The deputy clerk-administrative assistant I, II, or III, shall receive the biweekly salary at a rate equal to that specified for administrative assistant I, II, or III respectively, in the classified service of the County of San Diego.

(k) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County of San Diego.

(*l*) Any person specified in subdivision (f) who is regularly assigned and certified by the clerk-administrative officer as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked in a pay period. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(m) Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section.

SEC. 9. Section 73958 of the Government Code, as amended by Chapter 119 of the Statutes of 1981, is amended to read:

73958. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave,

leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan, and in the tuition refund and suggestion awards programs adopted by the Board of Supervisors of San Diego County. For purposes of this subdivision only, the clerk-administrative officer, and assistant clerk-administrative officer, shall receive the same privileges and benefits as are received by the classification of chief probation officer of the classified service of the County of San Diego. Chief clerks and assistant chief clerks shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes and privileges and benefits shall be effective on the same date as they are for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés, except for the clerk-administrative officer, the assistant clerk-administrative officer, and the judicial secretary, may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions, applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 10. Section 73959.1 is added to the Government Code, to read:

73959.1. By order entered in the minutes of this court, a majority of judges may appoint one judicial secretary who shall serve at the pleasure of the judges. The judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County. Privileges and benefits shall be equal to that of administrative secretary IV in the classified service of San Diego County.

SEC. 11. Section 73959.2 is added to the Government Code, to read:

73959.2. By order entered in the minutes of this court, a majority of judges may appoint one commissioner who shall serve at the pleasure of the judges. The commissioner shall receive a biweekly salary equal to, as determined by local rule of court, between 50 percent and 75 percent of a judge of a municipal court. The comparable court classification to commissioner for the purposes of privileges and benefits shall be deputy clerk IV in the North County Municipal Court.

SEC. 12. Section 74342 of the Government Code is amended to read:

74342. There shall be one clerk-administrative officer who shall be appointed by a majority of the judges of the court and who, notwithstanding the provisions of Section 74343.1, shall serve at the pleasure of the judges. He or she shall receive a biweekly salary at a rate 35 percent higher than that specified for the position of assistant clerk-administrative officer of the San Diego Judicial District.

SEC. 13. Section 74343 of the Government Code is amended to read:

74343. The clerk-administrative officer may appoint:

(a) One assistant clerk-administrative officer, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the clerk-administrative officer in the event that the clerk-administrative officer is absent or unavailable for any reason and who shall receive a biweekly salary at a rate 44 percent higher than that specified for the position of chief clerk.

(b) Five deputy clerks each of whom shall be chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk.

(c) Five deputy clerks each of whom shall be assistant chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk.

(d) Five supervising deputy clerks each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Forty-five deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of superior court clerks in the classified service in the County of San Diego.

(f) One deputy clerk data entry supervisor who shall receive a

biweekly salary at a rate equal to that specified for the classification of data entry supervisor in the classified service in the County of San Diego.

(g) One hundred sixty-five deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 16 percent below that specified for a deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of the County of San Diego. Appointments to the deputy clerk I classification may be at any step within the salary range at the discretion of the clerk-administrative officer.

(h) Twelve deputy clerk data entry operators who shall receive a biweekly salary at a rate equal to that specified for the classification data entry operators in the classified service in the County of San Diego.

(i) Four deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative secretary who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service in the County of San Diego.

(k) One deputy clerk-stenographer who shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego.

(*l*) One deputy clerk chief, administrative services or administrative assistant III as the case may be. A deputy clerk, chief-administrative services shall receive a biweekly salary at a rate equal to that specified for the classification of chief-administrative services in the classified service in the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service in the County of San Diego.

(m) One deputy clerk-administrative assistant III, II, or I as the case may be. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service in the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service in the County of San Diego. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service in the County of San Diego.

(n) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County

of San Diego.

(o) Any person specified in subdivision (g) who is regularly assigned and certified by the clerk-administrative officer as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Fifteen deputy clerks assigned to positions that the clerk-administrative officer has designated as requiring specialized skills and training, while serving in such capacities as a deputy clerk IV or below, shall receive a biweekly salary 5 percent higher than that which such deputy clerks were receiving prior to such assignment. This premium shall apply to time worked and not apply towards paid time off or to terminal pay.

SEC. 14. Section 74343.1 of the Government Code is amended to read:

74343.1. The salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel is adopted and by reference incorporated herein.

(a) In no event shall the salary of the clerk or any deputy clerk who occupied his or her position on the day prior to the effective date of this section be less than his or her salary on such day. The salaries and percentages prescribed herein shall be calculated on the E-step hourly rate of the salary ranges in the San Diego County Employee Information System Salary Schedule in Tenths of Percents. If the derived E-step hourly rate falls between two existing E-step hourly rates in the San Diego County Employee Information System Salary Schedule in Tenths of Percents, the higher of the two ranges will be used for salary purposes.

(b) Unless otherwise specifically provided, each person appointed or promoted to a position, the compensation of which is fixed by reference to the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel shall, for the first six months of service, receive biweekly the rate of compensation specified in step A of the salary schedule for the position to which he is appointed. Upon the first day of the pay period following six months continuous service in step A, the initial rate of compensation of such person shall be increased to step B of the salary schedule for the position occupied. Upon the first day of the pay period following six months continuous service in step B, the initial rate of compensation of such person shall be increased to step C of the salary schedule for the position occupied. On the first day of the pay period following six months of continuous service at step

C, such compensation shall be increased to step D of the salary schedule. On the first day of the pay period following 12 months of continuous service at step D, such compensation shall be increased to step E of the salary schedule.

The provisions of this subdivision shall not apply to any person employed on and after January 1, 1975, and any such person shall be entitled to receive the same step increases as set forth in the salary ordinance of the County of San Diego in effect July 1, 1974, for those persons employed by the County of San Diego on or after July 1, 1974.

(c) When any person in the service of the County of San Diego or in the service of another municipal court in San Diego County is appointed to a position in the service of the court compensated at a higher salary range than the salary range for the position relinquished or when any person in the service of the court is appointed or promoted to another position in such service compensated at a higher salary, he or she shall receive step A of such schedule if step A is at least one step higher than the salary received in the position relinquished; but if not, he or she shall receive initially that step schedule pertaining to such position which will provide a one-step increase in his or her compensation.

(d) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of clerk-administrative officer and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In determining the step of the salary schedule at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he or she was transferred.

(e) When any person in the service of the court is demoted to another position he or she shall receive compensation at the highest step of the salary schedule applicable to the position to which he or she is demoted which provides a salary not higher than that previously received by such person, except that if such demotion is due to disciplinary action, the appointing authority may specify any step rate of such schedule which provides compensation not higher than that last previously received by such person.

(f) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classifications in the civil service of San Diego County and whenever the salaries of such classifications in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classifications in the office of the clerk-administrative officer shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent

lower than the salary schedule specified in this article. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event that the salary of any of the San Diego County classifications listed in this section are adjusted by the board of supervisors on any day prior to the effective date of any amendments to this article enacted by the Legislature at the 1981–82 Regular Session of the Legislature, commensurate adjustments shall be applied to the salaries of the comparable classifications in the clerk-administrative officer's office, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1981–82 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1984. The comparable classifications are as follows:

Municipal court classification	County classification
Deputy clerk, chief clerk	Superior court clerk
Deputy clerk, assistant chief clerk	Superior court clerk
Deputy clerk I	Intermediate clerk
Deputy clerk II	Superior court clerk
Deputy clerk III	Superior court clerk
Deputy clerk IV	Superior court clerk
Supervising deputy clerk	Superior court clerk
Deputy clerk data entry supervisor	Data entry supervisor
Deputy clerk data entry operator	Data entry operator
Deputy clerk interpreter	Superior court clerk
Deputy clerk-stenographer	Administrative secretary III
Deputy clerk-administrative secretary	Administrative secretary IV
Deputy clerk-chief administrative services	Chief, administrative services
Deputy clerk-administrative assistant III	Administrative assistant III
Deputy clerk-administrative assistant II	Administrative assistant II
Deputy clerk-administrative assistant I	Administrative assistant I

SEC. 15. Section 74343.4 of the Government Code is amended to read:

74343.4. (a) The traffic referee shall receive a salary equal to 60 percent of the salary of a judge of the municipal court. He shall, after each year of service, receive an increase of 5 percent of the salary of a judge of the municipal court but in no event shall he receive more than 65 percent of the salary of a judge of the municipal court.

(b) The commissioner shall receive a salary equal to 75 percent of

the salary of a judge of the municipal court.

(c) With the approval of the judges of the court and the board of supervisors, each traffic referee and commissioner may be reimbursed for any payment he makes for his annual State Bar of California membership fee.

SEC. 16. Section 74350 of the Government Code is amended to read:

74350. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in Section 74341.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the clerk-administrative officer and assistant clerk-administrative officer shall receive the same privileges and benefits as are received by the classification of chief probation officer, of the classified service of the County of San Diego. All persons holding positions as chief clerks, assistant chief clerks, chief-administrative services, administrative assistant III, and administrative assistant II shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for the purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the

municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk-administrative officer from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk-administrative officer to a like permanent position in such clerk-administrative officer's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk-administrative officer's office has been increased so as to make such temporary position a permanent position.

SEC. 17. Section 74357 of the Government Code is amended to read:

74357. By order entered upon the minutes of the court, a majority of the judges of the Municipal Court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed five, who shall hold office during the pleasure of the judges of the court. One secretary shall be appointed by the majority of the judges of the court as the chief judicial secretary, who, while serving in that capacity, shall receive a biweekly salary at a rate 25 percent higher than that specified for judicial secretary. Appointment to such position shall be at step E.

Each judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego, commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

Whenever the salary of administrative secretary IV of the classified service of the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage on the same date, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1981–82 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1984.

Notwithstanding the provisions of Section 74350, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges

and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 17.5. Section 74361 of the Government Code is amended to read:

74361. There shall be one marshal for all municipal courts established in judicial districts in San Diego County who shall be appointed pursuant to this article. In no event shall the compensation of the marshal be less than 15 percent higher than that specified for the position of assistant marshal. Unless entitled to a higher range under the provisions of subdivision (c) of Section 74350, appointment to the position of marshal shall be made at the C step.

SEC. 18. Section 74364 of the Government Code is amended to read:

74364. The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel, which schedule is incorporated herein by reference:

(a) One assistant marshal. In no event shall the compensation of the assistant marshal be less than 15 percent higher than that specified for the position of captain.

(b) Four captains.

(c) Four lieutenants. A lieutenant, first employed prior to April 1, 1979, shall be compensated at a biweekly rate 2½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate.

(d) Fourteen sergeants. A sergeant, first employed prior to April 1, 1979, shall be compensated at a biweekly rate 2½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate.

(e) One hundred thirty-one deputy marshals. A deputy marshal who was employed as a deputy marshal in the San Diego County municipal courts or an equivalent classification in the San Diego County classified service prior to April 1, 1979, or a deputy marshal that laterally transferred from another California peace officer agency prior to January 1, 1980, shall be compensated at a biweekly rate 5 percent higher than prescribed in this section when in possession of a basic peace officers standards and training certificate; 10 percent higher than prescribed in this section when in possession of an intermediate peace officer standards and training certificate; and 12½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate. An employee who was employed as a deputy marshal or equivalent county classification on or after April 1, 1979, except those

employees who laterally transferred from another California peace officer agency prior to January 1, 1980, shall be paid twenty dollars ($20) per pay period when in possession of an intermediate peace officer standards and training certificate and, in addition, ten dollars ($10) per pay period when in possession of an advanced peace officer standards and training certificate.

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy, shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by said deputy.

The marshal may, at his discretion, replace a deputy marshal position by accepting a lateral transfer from another California peace officer agency. Said transferee must be actively employed in a position enumerated in Penal Code Section 830.1 or 830.2 prior to the transfer.

(f) One administrative secretary II. Each vacancy occurring in this position shall cause a corresponding reduction in the number of administrative secretaries II hereby authorized; provided, however, that each of such vacancies shall increase by one a position designated as senior typist.

(g) One chief, administrative services or administrative assistant III.

(h) Eighteen intermediate typists.

(i) Five senior typists.

(j) Twenty-four deputy marshal-cadets. In no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he may be appointed by the marshal to a position of deputy marshal, provided such a position is open, without further qualification or examination.

(k) One supervising clerk.

(*l*) One junior typists. Each vacancy occurring in this position shall cause a corresponding reduction in the number of junior typists hereby authorized; provided, however, that such vacancy shall increase by one, a position designated as intermediate typist under subdivision (h) of this section.

(m) Five legal procedures clerks III.

(n) Twenty-four legal procedures clerks II or I.

(o) Every person specified in subdivision (f), (h), (i), (j), (k), (*l*), (m), or (n) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. Every person specified in subdivision (f), (h), (i), (j), or (*l*) who is regularly assigned and certified by the marshal as working more than 50 percent of his or her time, or who is assigned more than 40 hours in any one pay period to operate a CRT machine, or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine,

transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(q) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary, administrative-personnel secretary, or bookkeeping machine operator, shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

(r) Two principal clerks.

(s) Two communications dispatchers. At the time the appointment to such positions are made, the marshal may designate two positions authorized in subdivision (h) to be abolished, and such positions shall thereafter cease to exist.

(t) Two administrative assistants III, II, or I.

(u) Notwithstanding any other provision of this article, when an employee provided for in this article is eligible for increased compensation as a result of possessing a peace officer standards and training certificate, such increased compensation shall be the biweekly rate specified in the Salary Ordinance of the County of San Diego for comparable classifications in the classified civil service of the County of San Diego.

SEC. 19. Section 74374 of the Government Code is amended to read:

74374. The hereinafter enumerated classes of positions in the marshal's office of the municipal courts in San Diego County are deemed to be equivalent in job, and salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the salary of a classification in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent classification in the marshal's office shall be adjusted in the same amount. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular classification, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classifications. Any salary adjustments made as a result of this section shall be effective only until January 1, 1984.

The equivalent classifications are as follows:

Municipal court marshal classification	County classification
Assistant marshal	Deputy sheriff-inspector
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant

Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Senior typist	Senior clerk-typist
Intermediate typist	Intermediate clerk-typist
Junior typist	Junior typist
Cadet	Revenue and recovery officer trainee
Supervising clerk	Supervising clerk
Administrative assistant III	Administrative assistant III
Administrative assistant II	Administrative assistant II
Principal clerk	Principal clerk
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I
Communications dispatcher	Communications dispatcher
Administrative assistant I	Administrative assistant I
Administrative secretary II	Administrative secretary II
Chief, administrative services	Chief, administrative services
Legal procedures clerk III	Legal procedures clerk III

Persons occupying positions in the above specified municipal court marshal classifications shall not be paid less salary than persons occupying positions in equivalent county classifications. In no event shall a deputy marshal receive less salary than that received by a deputy sheriff in the highest classification designated for deputy sheriffs by the County of San Diego. A change in title or designation for the position of top level deputy sheriff shall not affect the parity to this level granted to a deputy marshal.

SEC. 20. Section 74377 of the Government Code is amended to read:

74377. The first 18 months served by a deputy marshal appointee or the first 12 months served by any other appointee shall be considered probationary and the appointing power shall have the authority to dismiss without cause in the case of a new employee, or demote without cause in the case of a promoted employee during said probationary period.

SEC. 21. Section 74741 of the Government Code is amended to read:

74741. There shall be six judges; provided that at such time as the San Diego County Board of Supervisors finds there are sufficient funds for seven judges and adopts a resolution to that effect, there shall be seven judges.

SEC. 22. Section 74741.5 of the Government Code is amended to read:

74741.5. A commissioner who shall receive a salary equal to 75 percent of the salary of a judge of the municipal court.

SEC. 23. Section 74742 of the Government Code is amended to read.

74742. There shall be one clerk-administrative officer who shall

be appointed by the judges of the court. The salary of the clerk-administrative officer shall be 33 percent higher than that specified for the classification of assistant clerk-administrative officer of the South Bay Judicial District.

Appointment to such position shall be at step C of the range unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 24. Section 74743 of the Government Code is amended to read:

74743. The clerk-administrative officer may appoint with the approval of the judges:

(a) One assistant clerk-administrative officer. The assistant clerk-administrative officer shall receive a biweekly salary at a rate 17 percent below that specified for assistant clerk-administrative officer of the San Diego Judicial District.

(b) One deputy clerk-administrative assistant I, II or III, as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service of San Diego County. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service of San Diego County.

(c) One deputy clerk who shall be a chief clerk and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk in the San Diego Judicial District.

(d) Four supervising deputy clerks each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Eleven deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(f) Thirty-seven deputy clerks III, II or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the clerk-administrative officer, appointments to the deputy clerk I classification may be at any step within the salary range.

(g) Three deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County.

(h) One deputy clerk-administrative secretary who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(i) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County of San Diego.

(k) Any person specified in subdivision (f) who is regularly assigned and certified by the clerk-administrative officer as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate word processing equipment, or a CRT machine; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment, and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate. Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section.

SEC. 25. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1117

An act to amend Sections 10131.1, 10231, and 10237.2 of, to add Sections 10231.2, 10232, 10232.1, 10232.2, 10232.4, 10232.5, and 10236 to, to repeal Sections 10248.7, 10248.8, and 10248.9 of, and to repeal and add Section 10230 to, the Business and Professions Code, relating to real estate.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 10131.1 of the Business and Professions Code is amended to read:

10131.1. A real estate broker within the meaning of this part is

also a person who engages as a principal in the business of buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who makes agreements with the public for the collection of payments or for the performance of services in connetion with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

As used in this section, "in the business" means:

(a) The acquisition for resale to the public, and not as an investment, of eight (8) or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year, or

(b) The sale to or exchange with the public of eight (8) or more real property sales contracts or promissory notes secured directly or collaterally by liens on real property during a calendar year; provided, that no transaction negotiated through a real estate licensee shall be considered in determining whether a person is a real estate broker within the meaning of this section.

As used in this section, "sale", "resale", and "exchange" include every disposition of any interest in a real property sales contract or promissory note secured directly or collaterally by a lien on real property.

SEC. 2. Section 10230 of the Business and Professions Code is repealed.

SEC. 3. Section 10230 is added to the Business and Professions Code, to read:

10230. (a) The provisions of this article do not apply to the negotiation of a loan by or on behalf of a real estate broker in connection with a sale or exchange of real property in which the broker acted as the agent of one or more of the parties to the sale or exchange, nor to the sale or exchange by or on behalf of the broker of a promissory note created for the purpose of financing a real property sale or exchange transaction in which the broker acted as the agent of one or more of the parties to the real property sale or exchange regardless of the time of the sale or exchange of the promissory note in relationship to the time of the sale or exchange of the real property.

(b) Subdivision (a) shall not apply to the negotiation of loans nor to sales or exchanges of promissory notes in connection with the financing of a real property sale or exchange transaction in which the broker had a direct or indirect monetary interest as a party.

SEC. 4. Section 10231 of the Business and Professions Code is amended to read:

10231. Except as authorized by permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code), no person in doing any of the acts set forth in subdivision (d) of Section 10131, subdivision (e) of Section 10131, and Section 10131.1 shall accept any

purchase or loan funds or other consideration from a prospective purchaser or lender, or directly or indirectly cause such funds or other consideration to be deposited in an escrow except as to a specific loan or a specific real property sales contract or promissory note secured directly or collaterally by a lien on real property on which loan, contract or note the person has a bona fide authorization to negotiate or to sell or which has been bought and completely paid for by the licensee, or has an unconditional written contract which obligates him to purchase a specific real property sales contract or promissory note secured directly or collaterally by a deed of trust.

SEC. 5. Section 10231.2 is added to the Business and Professions Code, to read:

10231.2. (a) A real estate broker who, through express or implied representations that the broker or salespersons acting on the broker's behalf are engaging in acts for which a real estate license is required by subdivision (d) or (e) of Section 10131, proposes to solicit and accept funds, or to cause the solicitation and acceptance of funds, to be applied to a purchase or loan transaction in which the broker will directly or indirectly obtain the use or benefit of the funds other than for commissions, fees and costs and expenses as provided by law for the broker's services as an agent, shall, prior to the making of any representation or solicitation, or to the acceptance of any funds, submit the following to the Department of Real Estate not less than 24 hours before the earlier of the acceptance by or on behalf of the broker of any funds from a person solicited or the execution of any instrument obligating a person to make a loan or purchase:

(1) A true copy of the statement described in subdivision (b).

(2) A statement that the submittal is being made to the department pursuant to Section 10231.2.

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

(c) None of the provisions of subdivision (a) or (b) shall apply in the case of an offering of a security authorized pursuant to the provisions of Article 6 (commencing with Section 10237) or pursuant to applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

(d) In the case of a solicitation by a corporate real estate broker, the provisions of subdivisions (a) and (b) shall apply if the funds solicited are intended for the direct or indirect use or benefit of an

officer or director of the corporation or of a person with a 10 percent or greater ownership interest in the corporation.

SEC. 6. Section 10232 is added to the Business and Professions Code, to read:

10232. (a) Except as otherwise expressly provided, the provisions of Sections 10232.1 to 10232.5, inclusive, are applicable to every real estate broker who engages in any of the activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1, and who intends or reasonably expects in any successive 12 months to negotiate a combination of 20 or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than two million dollars ($2,000,000).

Persons under common management, direction, or control in conducting activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1 shall be considered as one person for the purpose of applying the above criteria.

(b) The negotiation of any combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than five hundred thousand dollars ($500,000) in any three successive months or any combination of 10 or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than one million dollars ($1,000,000) in any successive six months shall create a rebuttable presumption that the broker intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the criteria of subdivision (a).

(c) Loans negotiated and promissory notes sold by a broker under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code) shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b).

(d) If two or more real estate brokers who are not under common management, direction, or control, cooperate in the negotiation of a loan or the sale or exchange of a promissory note or real property sales contract and share in the compensation for their services, the dollar amount of the transaction shall be allocated according to the ratio that the compensation received by each broker bears to the total compensation received by all brokers for their services in negotiating the loan or sale or exchange.

(e) A real estate broker who on the effective date of this section satisfies the criteria of subdivision (a) or (b) shall, within 30 days thereafter, notify the Department of Rea. Estate in writing of that fact. A broker who first meets any of the criteria of subdivision (a) or (b) after the effective date of this section shall notify the department in writing within 30 days after such a determination is made.

SEC. 7. Section 10232.1 is added to the Business and Professions

Code, to read:

10232.1. (a) A real estate broker who meets the criteria of Section 10232 shall, prior to the use of any proposed advertisement in connection with the conduct of activities described in subdivisions (d) and (e) of Section 10131 and Section 10131.1, submit a true copy thereof to the Department of Real Estate for clearance. If disapproval of the proposed advertisement is not communicated by the department to the broker within 10 calendar days after receipt of the copy of the proposed advertisement by the department, the proposed advertisement shall be deemed approved, but the department shall not thereby be estopped from disapproving a later publication or other use of the same, or similar advertising.

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

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

(b) "Advertisement" does not include a letter or brochure which is:

(1) Restricted in distribution to other real estate brokers and to persons for whom the broker has previously acted as agent in arranging a loan secured by real property or in the purchase, sale, or exchange of a deed of trust or real property sales contract; and

(2) Restricted in content to the identification and a description of the terms of loans, mortgages, deeds of trust, and real property sales contracts offered for funding or purchase through the broker as agent.

(c) Subdivision (a) is not applicable to advertising that is used exclusively in connection with an offering authorized by permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

SEC. 8. Section 10232.2 is added to the Business and Professions Code, to read:

10232.2. A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall annually file the reports referred to in subdivisions (a) and (d) with the Department of Real Estate within 90 days after the end of the broker's fiscal year or within such additional time as the Real Estate Commissioner may allow for filing for good cause:

(a) The report of a review by a licensed California independent public accountant of trust fund financial statements, conducted in accordance with generally accepted accounting practices, which

shall include within its scope the following information for the fiscal year relative to the business activities of the broker described in subdivisions (d) and (e) of Section 10131:

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

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

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

(b) A broker who meets the criteria of Section 10232, but who, in carrying on the activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year, accepted for the benefit of a person to whom the broker is a trustee, any payment or remittance in a form convertible to cash by the broker, need not comply with the provisions of subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the broker's fiscal year or, within such additional time as the commissioner may allow for a filing for good cause, a notarized statement under penalty of perjury on a form provided by the department attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash during the fiscal year.

(c) A report of the aspects of the business conducted by the broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in Section 10131.1, enumerated below:

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

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

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

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

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

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

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

(e) If the broker fails to file either of the reports required under subdivisions (a) and (c) within the time permitted herein, the commissioner may cause an examination and report to be made and may charge the broker one and one-half times the cost of making the examination and report.

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

SEC. 9. Section 10232.4 is added to the Business and Professions Code, to read:

10232.4. (a) In making a solicitation to a particular person and in negotiating with that person to make a loan secured by real property or to purchase a real property sales contract or a note secured by a deed of trust, a real estate broker who meets the criteria of Section 10232 shall deliver to the person solicited the applicable completed statement described in Section 10232.5 as early as practicable before he or she becomes obligated to make the loan or purchase and before the receipt by or on behalf of the broker of any funds from that person. The statement shall be signed by the prospective lender or purchaser and by the real estate broker, or by a real estate salesperson licensed to the broker, on the broker's behalf. When so executed, an exact copy shall be given to the prospective lender or purchaser, and the broker shall retain a true copy of the executed statement for a period of four years.

(b) The requirement of delivery of a disclosure statement pursuant to subdivision (a) shall not apply with respect to the following persons:

(1) The prospective purchaser of a security offered under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) of this chapter or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code) which requires that each prospective purchaser of a security be given a prospectus or other form of disclosure statement approved by the department issuing the permit.

(2) The seller of real property who agrees to take back a promissory note of the purchaser as a method of financing all or a part of the purchase of the property.

(3) The prospective purchaser of a security offered pursuant to and in accordance with a regulation duly adopted by the Commissioner of Corporations granting an exemption from qualification under the Corporate Securities Law of 1968 for the offering of one of the conditions of the exemption is that each prospective purchaser of the security be given a disclosure statement prescribed by the regulation before the prospective purchaser becomes obligated to purchase the security.

SEC. 10. Section 10232.5 is added to the Business and Professions Code, to read:

10232.5. (a) If the real estate broker is performing acts described in subdivision (d) of Section 10131 in negotiating a loan to be secured by a lien on real property or on a business opportunity, the statement required to be given to the prospective lender shall include, but shall not necessarily be limited to, the following information:

(1) Address or other means of identification of the real property that is to be the security for the borrower's obligation.

(2) Estimated fair market value of the securing property, and if the broker is relying on an appraisal in estimating the fair market value, the date that the appraisal was made and the name and employment of the person who made the appraisal.

(3) Age, size, type of construction and a description of improvements to the property if contained in the appraisal or as represented to the broker by the prospective borrower.

(4) Identity, occupation, employment, income, and credit data about the prospective borrower or borrowers as represented to the broker by the prospective borrower or borrowers.

(5) Terms of the promissory note to be given to the lender.

(6) Pertinent information concerning encumbrances which constitute liens against the securing property which have priority over the lien that is to secure the promissory note to be created in favor of the prospective lender.

(7) Provisions for servicing of the loan, if any, including disposition of the late charge and prepayment penalty fees paid by the borrower.

(8) Detailed information concerning any proposed arrangement under which the prospective lender along with persons not otherwise associated with him or her will be joint beneficiaries or obligees.

(9) If the solicitation is subject to the provisions of Section 10231.2, a detailed statement of the intended use and disposition of the funds being solicited including an explanation of the nature and extent of the benefits to be directly or indirectly derived by the broker.

(b) If the real estate broker is performing acts described in subdivision (e) of Section 10131 or in Section 10131.1 in negotiating the sale of real property sales contract or promissory note secured directly or collaterally by a lien on real property, the statement required to be given to the prospective purchaser by Section 10232.4 shall include, but shall not necessarily be limited to, the following information:

(1) Address or other means of identification of the real property that is the security for the trustor's or vendee's obligation.

(2) Estimated fair market value of the real property, and if the broker is relying on an appraisal in estimating the fair market value, the date that the appraisal was made and the name and employment of the person who made the appraisal.

(3) Age, size, type of construction and a description of

improvements to the real property if known by the broker.

(4) Information available to the broker relative to the ability of the trustor or vendee to meet his or her contractual obligations under the note or contract including the trustor's or vendee's payment history under the note or contract.

(5) Terms of the contract or note including the principal balance owing.

(6) Provisions for servicing of the note or contract, if any, including disposition of late charge, prepayment penalty or other fees or charges paid by the trustor or vendee.

(7) Detailed information concerning any proposed arrangement under which the prospective purchaser along with persons not otherwise associated with him or her will be joint beneficiaries or obligees.

(8) A statement as to whether the dealer is acting as a principal or as an agent in the transaction with the prospective purchaser.

SEC. 11. Section 10236 is added to the Business and Professions Code, to read:

10236. The commissioner in his or her discretion may honor requests from interested persons for interpretive opinions with respect to any provision of this article or Article 6 (commencing with Section 10237) or with respect to any regulation for implementation of provisions of this article or Article 6.

No provision of this article or of Article 6 imposing any liability applies in the case of an act done or omitted in good faith in conformity with a written interpretive opinion of the commissioner or an opinion of the Attorney General notwithstanding that the opinion may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

SEC. 12. Section 10237.2 of the Business and Professions Code is amended to read:

10237.2. As used in this article "sale" or "sell" includes every issuance, creation for resale, disposition or attempt to dispose of any interest in a real property security for value and includes all of the following, whether done directly or by circular letter, advertisement, radio or television broadcast or otherwise: an offer to sell, an attempt to sell, a solicitation of a sale, a contract of sale or an exchange.

SEC. 13. Section 10248.7 of the Business and Professions Code is repealed.

SEC. 14. Section 10248.8 of the Business and Professions Code is repealed.

SEC. 15. Section 10248.9 of the Business and Professions is repealed.

SEC. 16. Sections 5, 9, and 10, of this act shall become operative on January 1, 1982.

CHAPTER 1118

An act to add Section 14040 to the Government Code, relating to transportation.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 14040 is added to the Government Code, to read:

14040. The department may provide by contract with a railroad corporation that any tracks or signaling devices constructed, improved, repaired, or acquired with funds made available by the state on property owned or leased by the railroad corporation shall become the property of the railroad corporation.

CHAPTER 1119

An act to amend Section 3302 of the Food and Agricultural Code, to amend Section 404 of the Government Code, and to amend Sections 5833 and 5834 of the Public Resources Code, relating to the California Exposition and State Fair.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 3302 of the Food and Agricultural Code is amended to read:

3302. No changes shall be made in the uses of the flood plain on California Exposition and State Fair property until the board has adopted a management plan for the flood plain area which complies with the law concerning Bushy Lake Preservation in Chapter 9 (commencing with Section 5830) of Division 5 of the Public Resources Code and with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 2. Section 404 of the Government Code is amended to read:

404. (a) No person shall represent, either directly or indirectly, that the State of California is sponsoring or endorsing a world's fair or exhibition unless the representation has been specifically authorized by law. Violation of this section is a misdemeanor.

(b) The Board of Directors of the California Exposition and State Fair and its employees, as directed by the board, Members of the California State Legislature, and constitutional officers shall be

exempt from the provisions of subdivision (a).

SEC. 3. Section 5833 of the Public Resources Code is amended to read:

5833. The California Exposition and State Fair Board of Directors shall preserve, for public day use and enjoyment, the California Exposition flood plain in a manner consistent with the definition of a state park in accordance with the provisions of Section 5019.53, except that the parking of public and private vehicles may be permitted only during the State Fair and only on the flood plain land abutting the riverside toe of the levee as it exists on January 1, 1977, beginning at least 400 feet east of the Bushy Lake area and extending not more than 1,500 feet along the toe of such levee eastward of the Bushy Lake area and extending not more than a distance of 300 feet riverward from such levee.

SEC. 4. Section 5834 of the Public Resources Code is amended to read:

5834. The California Exposition and State Fair Board of Directors shall preserve the Bushy Lake area in accordance with the provisions of Section 5019.71, except that it may allow group picnics and vehicles found essential for the picnics in an area designated by it on the north side of Bushy Lake, commonly known as "picnic island."

CHAPTER 1120

An act to amend Sections 25102, 25103, 25214, 25232.2, 25240, 25242, 25243, 25244, 25246, 25530, and 25532 of, to add Sections 25535 and 25536 to, and repeal Section 25201 of, the Corporations Code, relating to corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to such offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful. The rights of all parties to this agreement are expressly conditioned upon

such qualification being obtained."; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of such securities is qualified under this law.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of such act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to such offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of such securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) which meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not

specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision; provided, however, that the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 10 persons, provided all of the following requirements have been met:

(1) All such stock shall be evidenced by certificates which shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule of the commissioner restricting transfer of such stock in such manner as the rule provides.

(2) The offer and sale of such stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(3) The consideration to be received by the issuer for the stock to be issued shall consist of (i) only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and such enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of such enterprise immediately prior to such proposed issuance was in the same proportions as the shares of stock are to be issued, or (ii) only cash or cancellation of indebtedness for money borrowed or both upon the initial organization of the issuer, provided all such stock is issued for the same price per share, or (iii) only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders, or (iv), in a case where after the proposed issuance there will be only one owner of the stock of the issuer, any legal consideration.

(4) No promotional consideration has been given, paid, or incurred in connection with such issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other

persons, takes the initiative in founding and organizing the business or enterprise of an issuer, for services rendered in connection with such founding or organizing.

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of such member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. Such notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in such form as the commissioner by rule prescribes, appointing the commissioner or his successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation which has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued such stock.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer, provided the purchaser

represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25110 or 25130.

SEC. 2. Section 25103 of the Corporations Code is amended to read:

25103. The following transactions are exempted from the provisions of Section 25110 and Section 25120:

(a) Any negotiations or agreements prior to general solicitation of shareholders' approval, and subject to such approval, of a change in the rights, preferences, privileges, or restrictions of or on outstanding securities or a merger, consolidation or sale of corporate assets in consideration of the issuance of securities.

(b) Any change in the rights, preferences, privileges, or restrictions of or on outstanding securities, unless the holders of at least 25 percent of the outstanding shares or units of any class of securities which will be directly or indirectly affected substantially and adversely by such change have addresses in this state according to the records of the issuer.

(c) Any exchange incident to a merger, consolidation, or sale of corporate assets in consideration of the issuance of securities of another corporation, unless at least 25 percent of the outstanding shares of any class, any holders of which are to receive securities in the exchange, are held by persons who have addresses in this state according to the records of the corporation of which they are

shareholders.

(d) For the purposes of subdivision (b) and subdivision (c) of this section, (1) any securities held to the knowledge of the issuer in the names of broker-dealers or nominees of broker-dealers and (2) any securities controlled by any one person who controls directly or indirectly 50 percent or more of the outstanding securities of that class shall not be considered outstanding. The determination of whether 25 percent of the outstanding securities are held by persons having addresses in this state, for the purposes of subdivision (b) and subdivision (c) of this section, shall be made as of the record date for the determination of the security holders entitled to vote on or consent to the action, if approval of such holders is required, or if not as of the date of directors' approval of such action.

(e) Any change (other than a stock split or reverse stock split) in the rights, preferences, privileges, or restrictions of or on outstanding shares, except the following if they materially and adversely affect any class of shareholders: (1) to add, change, or delete assessment provisions; (2) to change the rights to dividends thereon; (3) to change the redemption provisions; (4) to make them redeemable; (5) to change the amount payable on liquidation; (6) to change, add, or delete conversion rights; (7) to change, add, or delete voting rights; (8) to change, add, or delete preemptive rights; (9) to change, add, or delete sinking fund provisions; (10) to rearrange the relative priorities of outstanding shares; (11) to impose, change, or delete restrictions upon the transfer of shares in the articles of incorporation or bylaws; (12) to change the right of shareholders with respect to the calling of special meetings of shareholders; and (13) to change, add, or delete any rights, preferences, privileges, or restrictions of, or on, the outstanding shares or memberships of a mutual water company or other corporation organized primarily to provide services or facilities to its shareholders or members. Changes in the rights, preferences, privileges or restrictions of or on outstanding shares do not materially and adversely affect any class of shareholders within the meaning of this subdivision if they arise from (i) the addition to articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the conversion of an existing corporation to a close corporation pursuant to subdivision (b) of Section 158, (ii) the deletion from the articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the voluntary termination of close corporation status pursuant to subdivisions (c) and (e) of Section 158, (iii) the involuntary cessation of close corporation status pursuant to subdivision (e) of Section 158, or (iv) the termination of a shareholders' agreement pursuant to subdivision (b) of Section 300.

(f) Any stock split or reverse stock split, except the following: (1) any stock split or reverse stock split if the corporation has more than one class of shares outstanding and the split would have a material effect on the proportionate interests of the respective classes as to voting, dividends or distributions; (2) any stock split of a stock which

is traded in the market and its market price as of the date of directors' approval of the stock split adjusted to give effect to the split was less than two dollars ($2) per shares; and (3) any reverse stock split if the corporation has the option of paying cash for any fractional shares created by such reverse split and as a result of such action the proportionate interests of the shareholders would be substantially altered. Any shares issued upon a stock split or reverse stock split exempted by this subdivision shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

(g) Any change in the rights of outstanding debt securities, except the following if they substantially and adversely affect any class of securities: (1) to change the rights to interest thereon; (2) to change their redemption provisions; (3) to make them redeemable; (4) to extend the maturity thereof or to change the amount payable thereon at maturity; (5) to change their voting rights; (6) to change their conversion rights; (7) to change sinking fund provisions; and (8) to make them subordinate to other indebtedness.

SEC. 3. Section 25201 of the Corporations Code is repealed.

SEC. 4. Section 25214 of the Corporations Code is amended to read:

25214. (a) It is unlawful for any person, as to whom an order suspending or barring employment or control is in effect pursuant to Section 25213, willfully to become or to be employed by any broker-dealer or investment adviser, contrary to the terms of such order, without the consent of the commissioner; and it is unlawful for any broker-dealer to permit a person as to whom an order is in effect pursuant to Section 25213 or 25232.1 to become or to remain a person employed by the broker-dealer, contrary to the terms of such order, without the consent of the commissioner, if such broker-dealer knew, or in the exercise of reasonable care should have known, of such order.

(b) Any person as to whom an order suspending or barring employment or control is issued pursuant to Section 25213 may petition the commissioner for reinstatement or reduction of penalty, or for modification of such order, as provided in and subject to the provisions of Section 11522 of the Government Code. The commissioner may, at any time and with the consent of such person without hearing, modify such order.

SEC. 5. Section 25232.2 of the Corporations Code is amended to read:

25232.2. (a) It is unlawful for any person, as to whom an order suspending or revoking the person's certificate as an investment adviser is in effect pursuant to Section 25232 or as to whom an order suspending or barring employment is in effect pursuant to Section 25232.1, willfully to become or to be employed by any investment adviser, broker-dealer or commodity adviser, without the consent of the commissioner, and it is unlawful for any investment adviser to permit a person as to whom an order is in effect pursuant to Section

25212.1 or 25232.1 to become or to remain employed by the investment adviser, without the consent of the commissioner, if such investment adviser knew, or in the exercise of reasonable care should have known, of such order.

(b) Any person as to whom an order suspending or barring employment with or participation is issued pursuant to Section 25232.1 may petition the commissioner for reinstatement or reduction of penalty as provided in and subject to the provisions of Section 11522 of the Government Code.

SEC. 6. Section 25240 of the Corporations Code is amended to read:

25240. Every applicant for a certificate as a broker-dealer or an investment adviser (other than a California corporation) shall file with the commissioner, in such form as the commissioner by rule prescribes, an irrevocable consent appointing the commissioner or the commissioner's successor in office to be the person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the person or the person's successor, executor, or administrator, which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous application under this law (or under any prior law if the application states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by the commissioner, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at the person's last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

SEC. 7. Section 25242 of the Corporations Code is amended to read:

25242. (a) Surrender of a certificate as a broker-dealer or investment adviser becomes effective 30 days after receipt of an application to surrender such certificate or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If such a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines.

(b) If the commissioner finds that any broker-dealer or investment adviser is no longer in existence, or has ceased to do business as a broker-dealer or investment adviser, or is subject to an adjudication of mental incompetence or to the control of a

committee or conservator or guardian, or cannot be located after reasonable search, the commissioner may by order summarily revoke the certificate of such broker-dealer or investment adviser.

(c) The commissioner may summarily suspend or revoke the certificate of a broker-dealer or investment adviser if he (1) fails to pay any fee required by Section 25608 or imposed pursuant to Section 25217, 25218 or 25236 within 10 days after notice by the commissioner that such fee is due and unpaid, (2) fails to file any report required under Section 25241 within 10 days after notice by the commissioner that such report is due, (3) fails to maintain any bond required by subdivision (e) of Section 25216 or by Section 25237, or (4) fails to file an application pursuant to subdivision (a) of Section 25211 when required by subdivision (c) of that section, within the time specified therein or within 10 days after notice by the commissioner that such application is required, whichever last occurs.

SEC. 8. Section 25243 of the Corporations Code is amended to read:

25243. It is unlawful for any person holding a certificate as a broker-dealer or investment adviser under this part to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved or that the person's abilities or qualifications have in any respect been passed upon by the commissioner. Nothing in this section prohibits a statement (other than in a paid advertisement) that a person holds a certificate under this law, if such statement is true in fact and if the effect of such licensing is not misrepresented.

SEC. 9. Section 25244 of the Corporations Code is amended to read:

25244. Any person whose certificate as a broker-dealer or investment adviser has been suspended or revoked shall immediately surrender such certificate to the commissioner.

SEC. 10. Section 25246 of the Corporations Code is amended to read:

25246. It is unlawful for any agent or broker-dealer to require, as a condition to the purchase or sale of securities for and in the name of a married person, that the prior consent or authorization of the spouse of that person be obtained.

SEC. 11. Section 25530 of the Corporations Code is amended to read:

25530. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, he may in his discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets, or such other ancillary relief may

be granted as appropriate. The court may not require the commissioner to post a bond.

A receiver or conservator appointed by the superior court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners, trustees or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver or conservator, by reason of their exercising such powers or performing such duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) of this section a claim for ancillary relief, including but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award such additional relief.

SEC. 12. Section 25532 of the Corporations Code is amended to read:

25532. (a) If in the opinion of the commissioner the sale of any security is subject to qualification under this law and it is being or has been offered or sold without first being qualified, the commissioner may order the issuer or offeror of such security to desist and refrain from the further offer or sale of such security unless and until qualification has been made under this law.

(b) If in the opinion of the commissioner any person is acting as a broker-dealer or investment adviser in violation of Section 25210 or 25230, the commissioner may order such person to desist and refrain from such activity unless and until the person has been licensed as such under this law.

(c) If, after an order has been made under subdivision (a) or (b), a request for hearing is filed in writing by the person to whom such order was directed, a hearing shall be held in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the powers granted thereunder; unless such hearing is commenced within 15 business days after the request is made (or the person affected consents to a later date), such order is rescinded.

SEC. 13. Section 25535 is added to the Corporations Code, to read:

25535. (a) Any person who violates any provision of this division shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

(b) As applied to the penalties for acts in violation of this division,

the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.

SEC. 14. Section 25536 is added to the Corporations Code, to read:

25536. (a) The commissioner may take such actions as are authorized by Section 13a-2 of the federal Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) as amended before or after the effective date of this section.

(b) Nothing in this section shall be construed as a limitation on the powers of the commissioner under this division or any other law administered by the commissioner.

SEC. 15. The provisions of this act shall become operative on November 1, 1981.

SEC. 16. The Commissioner of Corporations shall adopt emergency regulations to interpret and implement the provisions of this act by November 1, 1981.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Small businesses and the residential construction industry in this state are incurring severe problems in raising operating capital. The provisions of this act will eliminate regulation of specified securities transactions which will encourage capital formation for small businesses and residential construction in California. In order for the provisions of this act to apply to pending transactions and transactions which will be developed before the end of the year, and to permit such transactions to be consummated during the 1981 tax year, it is necessary for this act to go into effect immediately.

CHAPTER 1121

An act to amend Sections 4220 and 4416 of the Business and Professions Code, relating to pharmacy, and making an appropriation therefor.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 4220 of the Business and Professions Code is amended to read:

4220. "Laboratory" means a research, teaching, or testing laboratory not engaged in the sale of drugs but using dangerous drugs for scientific or teaching purposes. Every laboratory shall maintain an established place of business and keep purchase records.

Every laboratory shall be subject to the jurisdiction of the board.

SEC. 2. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the following schedule:

(a) The fee for a permit to conduct a nongovernmental pharmacy shall be fixed by the board at an amount not to exceed ninety-five dollars ($95) until January 1, 1985, and on and after January 1, 1985, at an amount not to exceed seventy-five dollars ($75) for each pharmacy.

(b) The annual fee for renewal of the permit to conduct a nongovernmental pharmacy shall be fixed by the board at an amount not to exceed ninety-five dollars ($95) until January 1, 1985, and on and after January 1, 1985, at an amount not to exceed seventy-five dollars ($75) for each pharmacy.

(c) The fee for any applicant for registration as a pharmacist shall be fixed by the board at an amount not to exceed one hundred dollars ($100).

(d) The fee for an initial license shall be fixed by the board at an amount not to exceed the renewal fee fixed by the board pursuant to subdivision (g).

(e) The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(f) The fee for the reissuance of a certificate shall be fixed by the board at an amount not to exceed thirty dollars ($30).

(g) The biennial renewal fee for a registered pharmacist may be fixed by the board at an amount not to exceed one hundred dollars ($100) until January 1, 1985, and on and after January 1, 1985, at an amount not to exceed seventy-five dollars ($75).

(h) The fee for a wholesaler shall be fixed by the board at an amount not to exceed three hundred dollars ($300).

(i) The fee for a hypodermic license and renewal shall be fixed by the board at an amount not to exceed twenty-five dollars ($25).

(j) The penalty for failure to pay any renewal fee may be fixed by the board at an amount not to exceed 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(k) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, except as provided by subdivision (f), which has been lost or destroyed or which must be reissued because of a change in the information appearing thereon is thirty dollars ($30).

(*l*) The fee for an application for exemption under Section 4050.6 shall be fixed by the board at an amount not to exceed fifty dollars ($50). Such fee shall be paid at the time the application is filed and shall not be refunded. If, after investigation or examination of the person or persons upon the basis of whose qualifications the exemption is sought, the board finds that the applicant is entitled to

the exemption, it shall issue to him, upon payment of an additional fee fixed by the board at an amount not to exceed fifty dollars ($50), a certificate of exemption. Such certificate shall be renewed annually on or before the 31st day of December upon payment of a renewal fee fixed by the board at an amount not to exceed fifty dollars ($50).

(m) The fee for registration under Section 4084.5 shall be fixed by the board at an amount not to exceed twenty dollars ($20). The fee for annual renewal of such registration shall not exceed ten dollars ($10).

(n) The fee for an out-of-state drug distributor's license issued pursuant to Section 4084.6 shall be fixed by the board at an amount not to exceed the reasonable costs of the board for the issuance of such license, which in no event shall exceed three hundred dollars ($300). The fee for annual renewal of such license shall not exceed three hundred dollars ($300).

(o) The fee for registration of providers of continuing education shall be set by the board not to exceed fifty dollars ($50).

(p) The biennial fee for renewal for registration of providers of continuing education shall be fixed by the board at an amount not to exceed fifty dollars ($50).

(q) The fee for evaluation of continuing education courses for accreditation shall be set by the board not to exceed forty dollars ($40) per course hour.

(r) The fee for evaluation of applications submitted by graduates of foreign colleges of pharmacy or colleges of pharmacy not recognized by the board shall be set by the board not to exceed one hundred dollars ($100).

SEC. 3. The California State Board of Pharmacy shall submit a report to the Joint Legislative Budget Committee on or before January 1, 1983, and on or before January 1, 1984, outlining steps taken the previous year to reduce unnecessary or non-cost-effective expenditures, to limit expenditures within available revenues, and to prioritize activities in a cost-effective manner.

CHAPTER 1122

An act to amend Section 7065 of, and to repeal and add Section 7065.1 to, the Business and Professions Code, relating to contractors.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 7065 of the Business and Professions Code is amended to read:

7065. Under rules and regulations adopted by the board and approved by the director, the registrar shall investigate, classify, and

qualify applicants for contractors' licenses by written examination. Contractors' licenses are to be issued to individual owners, copartnerships, and corporations. An individual owner may qualify by examination for a contractor's license upon the appearance of the owner or a qualifying individual appearing as a responsible managing employee on behalf of the owner. A copartnership may qualify by examination for a contractor's license upon the appearance of a copartner or a qualifying individual appearing as a responsible managing employee. A corporation may qualify by examination for a contractor's license upon the appearance of a qualifying individual appearing either as a responsible managing officer or a responsible managing employee.

SEC. 2. Section 7065.1 of the Business and Professions Code is repealed.

SEC. 3. Section 7065.1 is added to the Business and Professions Code, to read:

7065.1. (a) Notwithstanding Section 7065, the registrar may waive an examination for a contractor's license if the qualifying individual has previously qualified for and holds an active license, which is in good standing, in the same classification as the classification being applied for; or if the qualifying individual has, for five of the seven years immediately preceding the application for licensure, been a member of the personnel of a licensee who held an active license, which was in good standing, in the same classification as the classification being applied for.

(b) In addition, the registrar may waive an examination for a contractor's license for a licensed corporation which is seeking to replace its qualifying individual, if the new qualifying individual is an employee of that corporation and has been employed under the following conditions:

(1) For five of the seven years immediately preceding the application for licensure, the qualifying individual has been continually employed by the corporation in a supervisory capacity in the same classification as the classification being applied for.

(2) For five of the seven years immediately preceding the application for licensure, the corporation has held a license in good standing in the same classification as the classification being applied for.

(c) For purposes of this section, employees of a corporation shall include, but not be limited to, the officers of a corporation.

CHAPTER 1123

An act to add Section 13.2 to the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951), relating to the Lake County Flood Control and Water Conservation District.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 13.2 is added to the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951), to read:

Sec. 13.2. Notwithstanding any other provision of law, benefit assessments levied pursuant to Section 13.1 or any other provision of this act may be collected by the county tax collector by way of the tax bills of the county. Any assessments so collected shall appear as a separate item on the tax bill, shall be collected at the same time and in the same manner as county property taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. The county may deduct from the revenue so collected for the district an appropriate amount for the billing and collection services rendered to the district.

CHAPTER 1124

An act to add Sections 7028.6, 7028.7, 7028.8, 7028.9, 7028.10, 7028.11, 7028.12, 7028.13, and 7044 to, and to repeal Section 7044 of, the Business and Professions Code, relating to contractors.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 7028.6 is added to the Business and Professions Code, to read:

7028.6. The Registrar of Contractors is hereby empowered to issue citations containing orders of abatement and civil penalties against persons acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage.

SEC. 2. Section 7028.7 is added to the Business and Professions Code, to read:

7028.7. If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage, and the person is not otherwise exempted from the provisions of this chapter, the registrar may issue a citation to such person. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation may contain an order of abatement and an assessment of a civil penalty in an amount

not to exceed three thousand dollars ($3,000). With the approval of the Contractors' State License Board the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall promulgate regulations covering the assessment of a civil penalty which shall give due consideration to the gravity of the violation, the good faith of the person cited, and any history of previous violations. The sanctions authorized under this section shall be separate from and in addition to all other remedies either civil or criminal.

SEC. 3. Section 7028.8 is added to the Business and Professions Code, to read:

7028.8. Service of a citation issued under Section 7028.7 may be made by certified mail at the last known business address or residence address of the person cited.

SEC. 4. Section 7028.9 is added to the Business and Professions Code, to read:

7028.9. A citation under Section 7028.7 shall be issued by the registrar within three years after the act or omission which is the basis for the citation.

SEC. 5. Section 7028.10 is added to the Business and Professions Code, to read:

7028.10. Any person served with a citation under Section 7028.7 may appeal to the registrar within 15 working days from the receipt of such citation with respect to violations alleged, scope of the order of abatement, or amount of civil penalty assessed.

SEC. 6. Section 7028.11 is added to the Business and Professions Code, to read:

7028.11. If within 15 working days from receipt of the citation, the person cited fails to notify the registrar that he or she intends to appeal the citation, the citation shall be deemed a final order of the registrar and not subject to review by any court or agency. The 15-day period may be extended by the registrar for good cause.

SEC. 7. Section 7028.12 is added to the Business and Professions Code, to read:

7028.12. If the person cited under Section 7028.7 timely notifies the registrar that he or she intends to contest the citation, the registrar shall afford an opportunity for a hearing. The registrar shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation or directing other appropriate relief. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

SEC. 8. Section 7028.13 is added to the Business and Professions Code, to read:

7028.13. After the exhaustion of the review procedures provided for in Sections 7028.10 to 7028.12, inclusive, the registrar may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply

with the order of abatement. The application, which shall include a certified copy of the final order of the registrar, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

SEC. 9. Section 7044 of the Business and Professions Code is repealed.

SEC. 10. Section 7044 is added to the Business and Professions Code, to read:

7044. This chapter does not apply to any of the following:

(a) An owner of property, building or improving structures thereon, or appurtenances thereto, who does such work himself or herself or through his or her own employees with wages as their sole compensation; provided that such structure, or structures, with or without the appurtenances thereto is not intended or offered for sale.

(b) An owner of property, building or improving structures thereon, or appurtenances thereto, who contracts for such a project with a contractor or contractors licensed pursuant to this chapter.

(c) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:

(1) The work is performed prior to sale.

(2) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.

(3) The homeowner has not availed himself or herself of the exemption in this subdivision on more than two structures more than once during any three-year period.

In all actions brought under this chapter, proof of the sale or offering for sale of any such structure by the owner-builder within one year after completion of same constitutes a rebuttable presumption affecting the burden of proof that such structure was undertaken for purposes of sale. Proof of the sale or offering for sale of two or more structures by the owner-builder within one year after completion constitutes a conclusive presumption that the structures were undertaken for purposes of sale.

In addition to all other remedies, any (1) licensed contractor, or association of contractors, (2) labor organization, (3) consumer affected by the violation, (4) district attorney, or (5) the Attorney General, shall be entitled to seek injunctive relief prohibiting any violation of this chapter by an owner-builder who is neither licensed nor exempted from licensure by this section or any other section according to the provisions specified in Section 7028.3 or Section 7028.4. The plaintiff in any such action shall not be required to prove irreparable injury and shall be entitled to attorneys' fees and all costs incurred in the prosecution of such action, provided the plaintiff is the prevailing party. The defendant in any such action, shall be entitled to attorneys' fees and all costs incurred in the defense against such action, provided the defendant is the prevailing party.

The registrar pursuant to Section 7090 may take disciplinary action as provided in this chapter against any person whenever the grounds

or cause for disciplinary action arose upon any project undertaken by him or her as a licensee licensed pursuant to this chapter.

Any person, firm, or corporation which has violated Section 7028 by engaging in contracting work as an owner-builder without having a license or an exemption from licensure under this section or any other section shall not be entitled to become a licensee under this chapter for a period of one year following the violation.

CHAPTER 1125

An act to add Section 594.1 to the Penal Code, relating to aerosol paint.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 594.1 is added to the Penal Code, to read:

594.1. (a) It shall be unlawful for any person, firm, or corporation, except a parent or legal guardian, to sell or give or in any way furnish to another person, who is in fact under the age of 18 years, any aerosol container of paint larger than six ounces (net weight of contents) that is capable of defacing property without first obtaining bona fide evidence of majority and identity.

For purposes of this subdivision, "bona fide evidence of majority and identity" is any document evidencing the age and identity of an individual which has been issued by a federal, state, or local governmental entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the armed forces.

(b) It shall be unlawful for any person under the age of 18 years to purchase an aerosol container of paint larger than six ounces (net weight of contents) that is capable of defacing property.

(c) Every retailer selling or offering for sale in this state aerosol containers of paint capable of defacing property shall post in a conspicuous place a sign in letters at least three-eighths of an inch high stating: "Any person who maliciously defaces real or personal property with paint is guilty of vandalism which is punishable by a fine, imprisonment, or both."

(d) It is unlawful for any person to carry on his or her person and in plain view to the public an aerosol container of paint larger than six ounces (net weight of contents) while in any posted public facility, park, playground, swimming pool, beach or recreational area, other than a highway, street, alley or way, unless he or she has first received valid authorization from the governmental entity which has jurisdiction over the public area.

As used in this subdivision "posted" means a sign placed in a reasonable location or locations stating it is a misdemeanor to possess a spray can of paint larger than six ounces in such public facility, park, playground, swimming pool, beach or recreational area without valid authorization.

(e) It is unlawful for any person under the age of 18 years to possess an aerosol container of paint larger than six ounces (net weight of contents) for the purpose of defacing property while on any public highway, street, alley, or way, or other public place, regardless of whether that person is or is not in any automobile, vehicle, or other conveyance.

(f) Violation of any provision of this section is a misdemeanor.

SEC. 2. It is the intent of the Legislature in enacting this act to preempt all local government regulations relating to sales and possession of aerosol containers of paint larger than six ounces (net weight of contents).

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1126

An act to add Section 25208.4 to the Government Code, relating to counties.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. The Legislature finds and declares that county boards of supervisors have vast responsibilities, and are required to exercise professional expertise in numerous areas of local government, including, but not limited to, real property assessments, land use regulations, labor relations, social welfare administration, and public finance.

In order to adequately prepare newly elected county supervisors for their legislative, executive, and quasi-judicial responsibilities, the Legislature intends that, under this act, counties be permitted to authorize training and orientation for such purposes, but only when authorized by an appropriate local ordinance limiting the funds for such purposes.

SEC. 2. Section 25208.4 is added to the Government Code, to

read:

25208.4. The board of supervisors of a county may expend county funds for the training and orientation of persons elected to, but who have not yet assumed office as, a member of the board of supervisors, including the payment of course fees, travel and per diem expenses, course materials, and consultant services, as the board deems proper and beneficial to the exercise of supervisorial duties by newly elected supervisors.

The provisions of this section shall be implemented by ordinance adopted by the board of supervisors. The ordinance shall provide those procedures that the board determines are necessary. The ordinance shall also include a requirement that the supervisor-elect request the training and orientation.

CHAPTER 1127

An act to amend Sections 42402, 42403, and 42405 of the Health and Safety Code, relating to air pollution.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. The Legislature finds that vigorous enforcement of state and local air pollution regulations is important in providing cleaner air to the citizens of the state. The Legislature intends that, in carrying out this policy, enforcing agencies institute no civil penalty action for violations which fall within the range of error of measurement for each contaminant and enforcing agencies are encouraged to adopt guidelines to carry out this intent.

SEC. 2. Section 42402 of the Health and Safety Code is amended to read:

42402. (a) Any person who violates Section 41700 or 41701, or any rule or regulation of a district or of the state board issued pursuant to this part, shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day in which the violation occurs. Any action brought under this section for recovery of a civil penalty shall preclude prosecution under Section 42400 for the same offense.

(b) There shall be no liability under subdivision (a), if the person accused of the violation alleges by affirmative defense and establishes that the violation is caused by an act which was not the result of intentional or negligent conduct.

SEC. 3. Section 42403 of the Health and Safety Code is amended to read:

42403. The civil penalties prescribed in Sections 42401 and 42402 shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by

any district attorney, or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

In determining such amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the following:

(a) The extent of harm caused by the violation.
(b) The nature and persistence of the violation.
(c) The length of time over which the violation occurs.
(d) The frequency of past violations.
(e) The record of maintenance.
(f) The unproven or innovative nature of the control equipment.
(g) Corrective action, if any, taken by the defendant.

SEC. 4. Section 42405 of the Health and Safety Code is amended to read:

42405. In an action brought pursuant to Section 42403 by the Attorney General on behalf of a district, one-half of the penalty collected shall be paid to the treasurer of the district on whose behalf judgment was entered, and one-half of the penalty collected shall be paid to the State Treasurer for deposit in the General Fund.

If the action is brought by the Attorney General on behalf of the state board, the entire penalty collected shall be paid to the State Treasurer for deposit in the General Fund.

If the action is brought by a district attorney or by an attorney for a district, the entire amount of the penalty collected shall be paid to the treasurer of the district on whose behalf judgment was entered.

CHAPTER 1128

An act to amend Section 2 of Chapter 297 of the Statutes of 1976, relating to genetic diseases.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 2 of Chapter 297 of the Statutes of 1976 is amended to read:

Sec. 2. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure pursuant to grants or contracts with facilities having research experience for programs by such facilities for basic research on lupus erythematosus. The State Department of Health Services may enter into such grants or contracts.

Such grants or contracts are to be approved and such programs are to be monitored by a board composed of a person appointed by the Secretary of the Health and Welfare Agency, a person appointed by

the Speaker of the Assembly, and a person appointed by the President pro Tempore of the Senate. By unanimous vote, the board may, by contract, retain the services of a part-time consultant or one of its members to monitor the research programs, analyze grant applications, perform duties prescribed by the board, and coordinate the functions of the board. The contract shall be funded from appropriations other than the appropriation made to carry out basic research on lupus erythematosus, and shall not exceed nineteen thousand dollars ($19,000) and shall not increase by an amount greater than cost-of-living adjustments reflecting any increases or decreases in the cost of living for years subsequent to the 1981 fiscal year. The cost-of-living adjustment shall be based on changes in the average of the separate Consumer Price Indices (all items) for Los Angeles-Long Beach and San Francisco-Oakland as published by the United States Bureau of Labor Statistics. Total expenses of the board, including travel expenses for the consultant, shall not exceed an amount equal to 5 percent of the amount appropriated for lupus erythematosus research. Except for the one employee assigned to perform the duties specified in this section, the board shall employ no other employee.

With regards to grants, the State Department of Health Services shall comply with advance payment schedules adopted by the board, provided that the research is being performed at a campus site of the University of California. The payment schedule shall not be more frequently than quarterly, and payments shall be spread out equally over the term of the project. The first payment shall coincide with the actual commencement of the research project and the department shall have at least a 30-day notice before the first payment shall be required to be made.

CHAPTER 1129

An act to amend Section 14170 of the Welfare and Institutions Code and to amend Section 2 of, and to add Section 2.5 to, Chapter 19 of the Statutes of 1978, relating to Medi-Cal.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 14170 of the Welfare and Institutions Code is amended to read:

14170. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by it. The department shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data

submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

Notwithstanding any other provision of law, skilled nursing facilities and intermediate care facilities which have received and are receiving funds for salary increases pursuant to Section 2 of Chapter 19 of the Statutes of 1978 shall maintain payroll records for examination by auditors from the department from the period beginning March 1978 until the records have been audited, or until December 31, 1985, whichever occurs first.

SEC. 1.5. Section 14170 of the Welfare and Institutions Code is amended to read:

14170. (a) Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by it. The department shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

(b) Notwithstanding the issuance of a consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises pursuant to Section 1250.8 of the Health and Safety Code, each physical plant on separate premises shall have a separate provider number and shall file separate cost reports for purposes of determining reasonable

costs for services.

(c) Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

(d) Notwithstanding any other provision of law, skilled nursing facilities and intermediate care facilities which have received and are receiving funds for salary increases pursuant to Section 2 of Chapter 19 of the Statutes of 1978 shall maintain payroll records for examination by auditors from the department from the period beginning March 1978 until the records have been audited, or until December 31, 1985, whichever occurs first.

SEC. 2. Section 2 of Chapter 19 of the Statutes of 1978 is amended to read:

Sec. 2. (a) The Legislature hereby finds and declares that a high rate of turnover among staff in intermediate care facilities and skilled nursing facilities diminishes the quality of care rendered to patients in those facilities. The Legislature further finds that the turnover among employees of those facilities is substantially attributable to the fact that the wages paid those employees are generally lower than the wages paid employees of other health care institutions in similar job classifications It is the intent of the Legislature that Medi-Cal reimbursement rates for skilled nursing facilities and intermediate care facilities, to the extent feasible, be set at levels sufficient to allow those employees to be paid at wages which are sufficient to reduce turnover among such employees, in order to improve the level and quality of patient care.

(b) The Legislature further finds that the rates for wages contained in this act were developed with recognition of the costs of increased wages and related benefits. It is the intent of the Legislature that the funds resulting from the Medi-Cal rate increases provided in this section be used for wage increases and for costs of normal benefit increases related to the wage and salary increases.

(c) Notwithstanding any other provision of law, the State Director of Health Services shall establish and implement regulations effective March 1, 1978, that establish a payment rate for intermediate care facilities and skilled nursing facilities as defined in Section 1250 of the Health and Safety Code, which is sufficient to provide an increase of two dollars and twenty-eight cents ($2.28) per patient-day with respect to skilled nursing facilities and one dollar and eighty-four cents ($1.84) per patient-day with respect to intermediate care facilities, for wages and benefits of nonadministrative employees. The increase required by this section shall be in addition to any future mandatory increases required by federal or state law. The rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit increase required by this section attributable to Medi-Cal patients. The portion of those additional costs shall be the same as the ratio of

Medi-Cal patients to the total patients in the facility.

(d) Each skilled nursing facility or intermediate care facility shall certify that funds received pursuant to this section for the period commencing March 1, 1978, to and including June 30, 1978, are expended for employee wages and benefits, except if the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility or an intermediate care facility exceeds three dollars and ninety-seven cents ($3.97) per hour on the effective date of this section, the funds received pursuant to regulations adopted pursuant to this section shall be used to ensure the continued delivery of quality care in that facility. The base, from which employee wages and benefits are increased pursuant to this section, shall be the facility payroll for the month of December, 1977, but including only nonovertime hours worked by covered employees, plus any amount received pursuant to Section 1439.7 of the Health and Safety Code. For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal patient-days recorded by the facility in the month of December, 1977, shall be multiplied by the amount per patient-day specified in subdivision (c) of this section.

(e) The director shall inspect relevant payroll and personnel records of skilled nursing facilities and intermediate care facilities which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (c) of this section to insure that the wage and benefit increases provided for have been implemented.

(f) Any facility which is paid under the rate provided for in which the director finds has not made the wage and benefit increases provided for shall be liable to the employees for the amount of funds paid to the facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits. The facility shall make payment of the outstanding amounts to the state for appropriate distribution, plus an amount equal to 10 percent of the funds not so distributed, to be retained by the state as a penalty.

(g) On or before July 1, 1978, and annually thereafter, each skilled nursing facility or intermediate care facility shall certify to, and in the manner prescribed by, the director, all of the following:

(1) All nonadministrative employees of the facility employed less than three months receive at least an entry level wage amounting to the prevailing federal minimum wage rate plus 50 percent of the average hourly wage increase established pursuant to this section for that facility during the period March through June, 1978

(2) All nonadministrative employees of the facility employed three months or more receive at least the prevailing federal minimum wage rate plus the average hourly wage increase established pursuant to this section for that facility during the period March through June, 1978; provided, however, that no employee then employed shall receive a wage less than that which that person

received pursuant to this section for the period March through June, 1978, after July 1, 1978.

(3) Any wage increase required pursuant to subdivision (a) of Section 1338 of the Health and Safety Code is in addition to any minimum wages provided in this subdivision.

SEC. 3. Section 2.5 is added to Chapter 19 of the Statutes of 1978, to read:

Sec. 2.5. (a) The Labor Commissioner is hereby authorized to audit payroll and personnel records of skilled nursing facilities and intermediate care facilities for the purposes of ensuring compliance with the wage levels provided for in this chapter.

(b) The Labor Commissioner is hereby authorized to recover from the skilled nursing facility or the intermediate care facility any wages less than the minimum provided for in this chapter. The recovered funds shall be provided to the employees who were underpaid.

(c) The Labor Commissioner is hereby authorized to impose any other penalties within his or her powers against any skilled nursing facility or intermediate care facility that is in violation of the wage requirements of this chapter. The amount of any penalties already paid to the State Department of Health Services pursuant to this chapter shall be deducted from the amount of any unpaid penalties imposed by the Labor Commissioner pursuant to this chapter. The amount of any penalties already paid to the Labor Commissioner pursuant to this chapter shall be deducted from the amount of any unpaid penalties imposed by the State Department of Health Services pursuant to this chapter.

(d) Any evidence of failure to pay wage rates as provided for by this chapter shall be provided to the Labor Commissioner.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1913 are both chaptered and become effective January 1, 1982, both bills amend Section 14170 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 1913, that the amendments to Section 14170 proposed by both bills be given effect and incorporated in Section 14170 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 1913 are both chaptered and become effective January 1, 1982, both amend Section 14170, and this bill is chaptered after Assembly Bill 1913, in which case Section 1 of this act shall not become operative.

CHAPTER 1130

An act to amend Sections 17052.6, 17202, and 24343 of, and to add and repeal Section 18009.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) (1) In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subdivision (b) (1)), there shall be allowed as a credit against the "net tax" (as defined in paragraph (2)) imposed by this part for the taxable year an amount equal to 3 percent of the employment-related expenses (as defined in subdivision (b) (2)) paid by such individual during the taxable year.

(2) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credits for personal exemption provided for in Section 17054 and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(3) The credit provided by paragraph (1) shall be reduced by 2 percent for each one hundred dollars ($100) of adjusted gross income in excess of fifteen thousand dollars ($15,000).

(b) For purposes of this section—

(1) The term "qualifying individual" means—

(A) A dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a credit under Section 17054(c),

(B) A dependent of the taxpayer who is physically or mentally incapable of caring for himself.

(C) The spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

(2) (A) The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:

(i) Expenses for household services, and

(ii) Expenses for the care of a qualifying individual.

(B) Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1) (A).

(c) The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(1) Two thousand dollars ($2,000) if there is one qualifying individual with respect to the taxpayer for such taxable year, or

(2) Four thousand dollars ($4,000) if there are two or more qualifying individuals with respect to the taxpayer for such taxable

year.

(3) The amount of employment-related expenses shall be reduced by any payments, reimbursements, or contributions for child care received during the taxable year by the taxpayer from his employer as provided in Section 17202 or 24343.

(d) (1) Except as otherwise provided in this subdivision, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(A) In the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

(B) In the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

(2) In the case of a spouse who is a student or a qualified individual described in subparagraph (C) of paragraph (1) of subdivision (b), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

(A) One hundred sixty-six dollars ($166) if subdivision (c) (1) applies for the taxable year, or

(B) Three hundred thirty-three dollars ($333) if subdivision (c) (2) applies for the taxable year. In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

(e) For purposes of this section—

(1) An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

(2) If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subdivision (a) only if the taxpayer and his spouse file a joint return for the taxable year.

(3) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(4) If—

(A) An individual who is married and who files a separate return—

(i) Maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(ii) Furnishes over half of the cost of maintaining such household during the taxable year, and

(B) During the last six months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married.

(5) If—

(A) A child (as defined in Section 17054(c)(4)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

(B) Such child is in the custody of one or both of his parents for more than one-half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subdivision (b)(1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

(6) No credit shall be allowed under subdivision (a) for any amount paid by the taxpayer to an individual—

(A) With respect to whom, for the taxable year, a credit under subdivision (c) of Section 17054 (relating to credit for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

(B) Who is a child of the taxpayer (within the meaning of paragraph (4) of subdivision (c) of Section 17054) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

(7) The term "student" means an individual who during each of five calendar months during the taxable year is a full-time student at an educational organization.

(8) The term "educational organization" means an educational organization described in Section 17215.1(b)(2).

(f) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

SEC. 2. Section 17202 of the Revenue and Taxation Code is amended to read:

17202. (a) There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered, including, but not limited to, any payments, reimbursements, or contributions to employees for child care. For purposes of this section, "child care" means programs designed to provide or facilitate the provisions of care and nurture for children under the age of 15 while their parents or guardians are working or in training;

(2) Traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a

trade or business; and

(3) 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 he has no equity.

For purposes of this subdivision, the place of residence of a Member of Congress (including any delegate and resident commissioner) within the state, congressional district, territory, or possession which he represents in Congress shall be considered his home, but amounts expended by such members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of three thousand dollars ($3,000).

For purposes of this subdivision, the place of residence of a Member of the Legislature within the district which he represents shall be considered his tax home.

(b) No deduction shall be allowed under subdivision (a) for any contribution or gift which would be allowable as a deduction under Sections 17214, 17215, 17216, and 17216.2 were it not for the percentage limitations, the dollar limitations, or the requirements as to the time of payment, set forth in such sections.

(c) (1) No deduction shall be allowed under subdivision (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, 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. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud.

(2) No deduction shall be allowed under subdivision (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a state (but only if such state law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud. However, a deduction shall not be disallowed under this paragraph, if, with respect to a payment described herein, the taxpayer in a court of competent jurisdiction

is acquitted of making an illegal bribe, kickback or payment.

(3) No deduction shall be allowed under subdivision (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of federal funds under a state plan approved under such act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer.

(d) No deduction shall be allowed under subdivision (a) for any fine or similar penalty paid to a government for the violation of any law.

(e) If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subdivision (a) for two-thirds of any amount paid or incurred—

(1) On any judgment for damages entered against the taxpayer under Section 4 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under such Section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1971, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(f) For special rule relating to expenses in connection with subdividing real property for sale, see Sections 18197 to 18199, inclusive.

SEC. 2.5. Section 17202 of the Revenue and Taxation Code is amended to read:

17202. (a) There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered, including, but not limited to, any payments, reimbursements, or contributions to employees for child care. For purposes of this section, "child care" means programs designed to provide or facilitate the provisions of care and nurture for children under the age of 15 while their parents or guardians are working or in training;

(2) Traveling expenses (including amounts expended for meals

and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

(3) 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 he has no equity.

For purposes of this subdivision, the place of residence of a Member of Congress (including any delegate and resident commissioner) within the state, congressional district, territory, or possession which he represents in Congress shall be considered his home, but amounts expended by such members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of three thousand dollars ($3,000).

For purposes of this subdivision, the place of residence of a Member of the Legislature within the district which he represents shall be considered his tax home.

(b) No deduction shall be allowed under subdivision (a) for any contribution or gift which would be allowable as a deduction under Sections 17214, 17215, 17216, and 17216.2 were it not for the percentage limitations, the dollar limitations, or the requirements as to the time of payment, set forth in such sections.

(c) (1) No deduction shall be allowed under subdivision (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, 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 The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud.

(2) No deduction shall be allowed under subdivision (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a state (but only if such state law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud. However, a deduction shall not

be disallowed under this paragraph, if, with respect to a payment described herein, the taxpayer in a court of competent jurisdiction is acquitted of making an illegal bribe, kickback or payment.

(3) No deduction shall be allowed under subdivision (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of federal funds under a state plan approved under such act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer.

(d) No deduction shall be allowed under subdivision (a) for any fine or similar penalty paid to a government for the violation of any law.

(e) If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subdivision (a) for two-thirds of any amount paid or incurred—

(1) On any judgment for damages entered against the taxpayer under Section 4 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under such Section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1971, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(f) For special rule relating to expenses in connection with subdividing real property for sale, see Sections 18197 to 18199, inclusive.

(g) (1) The deduction allowed by subdivision (a) shall include all the ordinary and necessary expenses (including, but no limited to, traveling expenses described in paragraph (2) of subdivision (a) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

(A) In direct connection with appearances before, submission of statements to, or sending communications to, the committees, or individual members, of Congress or of any legislative body of state, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the taxpayer, or

(B) In direct connection with communication of information between the taxpayer and an organization of which he or she is a member with respect to legislation or proposed legislation of direct interest to the taxpayer and to that organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities described in subparagraphs (A) and (B) carried on by that organization.

(2) The provisions of paragraph (1) shall not be construed as allowing the deduction of any amount paid or incurred (whether by the way of contribution, gift, or otherwise)—

(A) For participation in, or intervention in, any political campaign on behalf of any candidate for public office, or

(B) In connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums.

SEC. 3. Section 18009.5 is added to the Revenue and Taxation Code, to read:

18009.5. (a) A credit shall be allowed against the taxes imposed under this part, minus all credits provided by this part other than credits which are refundable, for the amount of "interest payable", as defined in subdivision (b).

(b) For the purposes of this section, "interest payable" means interest required to be paid pursuant to Section 18009 with respect to taxes due under Section 18008 resulting from credits and refunds of Alaska personal income taxes for the 1979 income year. The amount of interest as to which the credit applies is the amount of interest which accrued from April 15, 1980, until April 15, 1981.

(c) The Franchise Tax Board shall compute the credit provided by this section, advise each qualified taxpayer of the amount of the credit, and automatically credit the taxpayer's state income tax account with the tax credit amount.

This section shall remain in effect only until January 1, 1985, and on that date is repealed.

SEC. 4. 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, including, but not limited to, any payments, reimbursements, or contributions to employees for child care. For purposes of this section, "child care" means programs designed to provide or facilitate the provisions of care and nurture for children under the age of 15 while their parents or guardians are working or in training.

(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.

(3) Traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business.

(b) (1) No deduction shall be allowed under subdivision (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, 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. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud.

(2) No deduction shall be allowed under subdivision (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a state (but only if such state law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud. However, a deduction shall not be disallowed under this paragraph, if, with respect to a payment described herein, the taxpayer in a court of competent jurisdiction is acquitted of making an illegal bribe, kickback or payment.

(3) No deduction shall be allowed under subdivision (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of federal funds under a state plan approved under such act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer.

(c) No deduction shall be allowed under subdivision (a) for any contribution or gift which would be allowable as a deduction under Sections 24357, 24358, and 24359 were it not for the percentage limitations, or the requirements as to the time of payment, set forth

in such sections.

(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) No deduction shall be allowed under subdivsion (a) for any fine or similar penalty paid to a government for the violation of any law.

(f) If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or its plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subdivision (a) for two-thirds of any amount paid or incurred—

(1) On any judgment for damages entered against the taxpayer under Section 4 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under such Section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1971, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill 1827 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 17202 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 1827, that Section 17202 of the Revenue and Taxation, as amended by Section 7.5 of Assembly Bill 1827, be further amended on the effective date of this act in the form set forth in Section 2.5 of this act to incorporate the changes in Section 2 proposed by this bill. Therefore, if this bill and Assembly Bill 1827 are both chaptered and become effective on or before January 1, 1982, and Assembly Bill 1827 is chaptered before this bill and amends Section 17202, Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1131

An act to amend Sections 857, 859, 900.5, 924, 1011.5, 1215.2, 1215.4, 1401, 1750, 1751, 5051, 10493, 11090, 11131, 11401, 11504, 11520.5, 11693.5, 11715, 11715.5, 11716, 12161, and 12389 of, to add Sections 1751.7, 10506.2, and 12970 to, to add Article 10 (commencing with Section 12640 20) to Chapter 2A of Part 6 of Division 2 of, and to repeal Sections 858, 12970, and 12971 of, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 857 of the Insurance Code is amended to read:

857. The commissioner shall charge and collect the following fees:

(a) For filing an original or supplemental application, or any amendments thereto, for a permit to issue securities, one thousand five hundred dollars ($1,500), except for applications for a permit to issue securities evidencing any change in rights, preferences, privileges, or restrictions on outstanding securities, or for applications for a permit to issue securities evidencing only a share dividend or a share split.

(b) For filing an application for a permit to issue securities evidencing any change in the rights, preferences, privileges, or restrictions on outstanding securities, two hundred dollars ($200).

(c) For filing an application for a permit to issue securities evidencing a share dividend or a share split, five hundred dollars ($500).

(d) For filing an application for any other kind of permit, such as an application, for the issuance of a preorganizational or a negotiating permit, an application for a permit to issue options for securities, but not for the securities themselves, or any application for an amendment to an existing permit to issue securities, one hundred dollars ($100).

(e) An original or supplemental application shall not be amended after the permit sought thereby or by amendment thereto has been issued or denied.

SEC. 2. Section 858 of the Insurance Code is repealed.

SEC. 3. Section 859 of the Insurance Code is amended to read:

859. The commissioner shall also collect the following fees:

(a) For filing any application for a broker's certificate, one hundred dollars ($100) for the first office or location plus fifty dollars ($50) for each additional office or location.

(b) For filing any application for an agent's certificate, fifty dollars ($50).

(c) For an examination, audit, or investigation, the actual amount of expenses reasonably incurred in the performance of the work, plus the following:

(1) If made by an employee of the commissioner, the actual amount of the compensation paid to such employee for that time.

(2) The amount of the usual cost to the state of typing, transcribing or otherwise preparing any written report of such examination, audit or investigation that may reasonably be needed in the discharge of the commissioner's duties.

SEC. 4. Section 900.5 of the Insurance Code is amended to read:

900.5. The commissioner shall charge and collect one hundred dollars ($100) in advance as a fee for the first filing each year of a statement under this article. Only one such fee shall be charged or collected from any one insurer in any one calendar year.

SEC. 5. Section 924 of the Insurance Code is amended to read:

924. The commissioner shall collect the sum of two hundred fifty dollars ($250) from any admitted insurer that fails to make and file in his office within the time prescribed by law any statements or stipulations required by this code. After the first month, he shall also collect an additional penalty of three hundred dollars ($300) for each and every month or fractional part of a month thereafter that such insurer continues to transact the business of insurance until such statements and stipulations are filed.

SEC. 6. Section 1011.5 of the Insurance Code is amended to read:

1011.5. The consent described in Section 1011(c) shall be obtained by filing an application with the commissioner in a form to be prescribed by him accompanied by such additional information concerning the insurer, its condition and affairs as the commissioner requires.

A fee of two thousand two hundred fifty dollars ($2,250) shall be paid to the commissioner for the filing of the application.

SEC. 7. Section 1215.2 of the Insurance Code is amended to read:

1215.2. (a) No person shall make a tender offer for, or a request or invitation for tenders of, or enter into an agreement to exchange securities for or acquire in the open market, any voting security, or any security convertible into a voting security, of a domestic insurer or of any other person controlling a domestic insurer, if such other person is not substantially engaged either directly or through its affiliates in any businesses other than that of insurance, if, as a result of the consummation thereof, such person would, directly or indirectly, acquire control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer, unless, at the time copies of the offer or purchase or request or invitation are first published or sent or given to security holders or the agreement or transaction is entered into, as the case may be, such person has filed with the commissioner, and has sent to such insurer, a statement containing such of the following information, and such additional information, as the commissioner may by rule or regulation prescribe as necessary or appropriate in

the public interest or for the protection of policyholders or shareholders:

(1) The background and identity of all persons by whom or on whose behalf the purchases or the exchange, merger, or other acquisition of control are to be effected;

(2) The source and amount of the funds or other consideration used or to be used in making the purchases or in effecting the exchange, merger, or other acquisition of control, and, if any part of such funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the purchases or effecting the exchange, merger, or other acquisition of control, a description of the transaction and the names of the parties thereto. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing such statement so requests, the name of the lender shall not be made available to the public;

(3) Any plans or proposals which such persons may have to liquidate such insurer, to sell its assets or merge it with any person, or to make any other major change in its business or corporate structure or management;

(4) The amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person which are beneficially owned, and the amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person concerning which there is a right to acquire beneficial ownership, by each such person and by each affiliate of each such person, together with the name and address of each such affiliate;

(5) Information as to any contracts, arrangements, or understandings with any person with respect to any securities of such insurer or such controlling person, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities of such insurer or such controlling person made by or on behalf of any such person, and a copy of any such agreement to exchange or otherwise acquire securities or to merge with or otherwise to acquire control of such insurer, shall be filed with the commissioner and sent to such insurer as a part of such statement and shall contain such of the information contained in such statement as the commissioner may by rule or regulation prescribe. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request, and copies of any amendment to any such agreement, shall contain such information

as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders, and shall be filed with the commissioner and sent to such insurer not later than the time copies of such material are first published or sent or given to security holders or such amendment is entered into.

(b) If the person required to file the statement referred to in subdivision (a) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to: (1) each partner of such partnership or limited partnership, (2) each member of such syndicate or group, and (3) each person who controls such partner or member. If a person referred to in (1), (2), or (3) of this subdivision is a corporation or the person required to file the statement referred to in subdivision (a) is a corporation, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to such corporation and each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation.

(c) If any tender offer, request, or invitation for tenders, or agreement to exchange or otherwise acquire securities or to merge or otherwise acquire control referred to in subdivision (a) of this section, is proposed to be made by means of a registration statement under the federal Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the federal Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subdivision (a) may file that registration statement with the commissioner as full satisfaction of the requirement in subdivision (a)

(d) The purchases, exchanges, mergers, or other acquisitions of control referred to in subdivision (a) of this section may not be made until the commissioner either approves the purchases, exchanges, mergers, or other acquisitions of control within 60 days after the statement required by subdivision (a) has been filed with him or fails to disapprove such purchases, exchanges, mergers, or other acquisitions of control within such 60 day period. The commissioner may disapprove any such transaction within such 60-day period if he finds any of the following:

(1) After the change of control the domestic insurer referred to in subdivision (a) could not satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(2) The purchases, exchanges, mergers, or other acquisitions of control would substantially lessen competition in insurance in this state or create a monopoly therein,

(3) The financial condition of an acquiring person is such as might jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders;

(4) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are not fair and reasonable to policyholders;

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, or the public to permit them to do so.

(e) The commissioner shall require the payment of two thousand dollars ($2,000) as a fee for filing an application under this section, the amount to accompany the application.

(f) The provisions of this section shall not apply to any offer for or request or invitation for tenders of any voting securities, or any agreement to exchange securities for or otherwise acquire control, if, and to the extent that, the commissioner, by rule or regulation or by order, shall exempt the same from the provisions of this section as not comprehended within the purposes thereof.

SEC. 8. Section 1215.4 of the Insurance Code is amended to read:

1215.4. (a) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. Such exemption from registration for such foreign insurers shall not apply to any commercially domiciled insurer within this state, as provided in Section 1215.13. Any insurer which is subject to registration under this section shall register within 60 days after the effective date of this article or 15 days after it becomes subject to registration, whichever is later, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Every insurer subject to registration shall file a registration statement on a form provided by the commissioner, which shall contain current information about the following:

(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling such insurer;

(2) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchanges of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management and service contracts and all cost-sharing arrangements, other than cost-allocation arrangements based upon generally accepted accounting principles;

(vi) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(3) Other matters as may be included in registration forms adopted by the National Association of Insurance Commissioners, to the extent required by the commissioner.

(c) No information need be disclosed on the registration statement filed pursuant to subdivision (b) of this section if such information is not material for the purposes of this article.

(1) Unless the commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments made within the immediately preceding 12 months involving, in the net aggregate, one-half of 1 percent or less of an insurer's admitted assets, or 5 percent or less of an insurer's surplus as to policyholders, determined by whichever is greater, as of the 31st day of December next preceding, shall not be deemed material for purposes of this section.

(2) Unless the commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments made within the immediately preceding 12 months involving in the net aggregate more than either 5 percent of the insurer's admitted assets or 25 percent of the insurer's surplus as to policyholders, determined by whichever is the lesser, as of the 31st day of December next preceding shall be deemed material transactions of an extraordinary type

(d) Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within 15 days after the end of the month in which it learns of each such change or addition. However, subject to this subdivision, each registered insurer shall so report all dividends and other distributions to shareholders promptly upon the declaration thereof. Material transactions which are of the extraordinary type, as defined in paragraph (2) of subdivision (c), shall not be consummated without prior approval of the commissioner. The commissioner shall require the payment of one thousand dollars ($1,000) as a fee for the approval of the forms filed pursuant to this subdivision. The payment shall accompany the filing of the form.

(e) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(f) The commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(g) The commissioner may allow any insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subdivision (a) of this section and to file all information and material required to be filed under this article.

(h) The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule, regulation, or order shall exempt the same from the provisions of this section as not comprehended within the purposes of this section.

(i) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer, as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(j) The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this article.

SEC. 9. Section 1401 of the Insurance Code is amended to read:

1401. If an exchange has a surplus of admitted assets over all liabilities in a sum equal to 1½ times the minimum paid-in capital required of incorporated insurers issuing policies on a reserve basis and doing the same classes of insurance, then the Insurance Commissioner, upon written request, shall issue his certificate stating such fact. Subscribers at an exchange so certified shall have no liability for assessment on policies issued while such certificate remains in effect. Whenever the commissioner finds such fact does not exist, he shall revoke and require the surrender of his certificate. Upon revocation of such certificate no policy shall thereafter be issued nor be permitted to remain in force beyond the date fixed for the next payment of premium without written endorsement thereon providing for assessment liability in accordance with the terms of this chapter.

SEC. 10. Section 1750 of the Insurance Code is amended to read:

1750. The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of natural persons to be licensed or to be named on or added to the license by the amounts specified as to each such license multiplied by the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of such period as one year for such purpose, as follows:

(a) Insurance agent, twenty-five dollars ($25).

(b) Insurance broker, thirty-six dollars ($36).

(c) Insurance solicitor, eighteen dollars ($18).

(d) Life agent, resident, twenty-five dollars ($25).

(e) Life agent, nonresident, twenty-nine dollars ($29).

(f) Variable contract agent, thirty-one dollars ($31).

SEC. 11. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require in advance a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as insurance agent, insurance broker, resident life agent, and nonresident life agent shall be the same as those set forth in Section 1750 for the license fees for such licenses.

(b) Application for endorsement removing from any life agent's, insurance agent's or insurance broker's license issued to an organization the name of any natural person named thereon, five dollars ($5).

(c) First amendment to an application, five dollars ($5); a second and each subsequent amendment to an application, ten dollars ($10).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, seventeen dollars and fifty cents ($17.50) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, or a license as a variable contract agent, seventeen dollars and fifty cents ($17.50) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section seventeen dollars and fifty cents ($17.50) for each person to be reexamined

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 of this chapter, twelve dollars and fifty cents ($12.50) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 of this chapter twenty dollars ($20), except that there shall be no fee when such name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility

for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, sixty-five dollars ($65).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational institution, or by a private nonprofit educational institution, sixty-five dollars ($65).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, thirty-five dollars ($35).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) of this chapter or Section 1760.5 or 1765, except when such bond constitutes part of an original application filing, ten dollars ($10).

(*l*) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) of this division or Sections 12280 and 12280.2, ten dollars ($10).

(m) An application or request for clearance and cancellation notice of a current licensee of record, ten dollars ($10).

(n) An amended action notice purusant to subdivision (e) of Section 1704, two dollars and fifty cents ($2.50).

SEC. 12. Section 1751.7 is added to the Insurance Code, to read:

1751.7. The commissioner may periodically publish a newsletter containing summaries of rules, regulations, interpretative opinions, and such other information as he deems important to the proper conduct of the insurance business in this state by persons and organizations licensed under this chapter. All costs of the publication shall be covered by and included in license fees paid by persons licensed under this chapter. The fees shall be reviewed annually for sufficiency for this purpose, and shall be increased or decreased as necessary. The amount of the fees to be utilized for this purpose shall be set forth as a separate line item in the department's annual budget.

SEC. 13. Section 5051 of the Insurance Code is amended to read:

5051. Upon the payment in advance of two thousand five hundred dollars ($2,500) cash, lawful money of the United States, to the commissioner for all services to be rendered by him in the matter of organization of the insurer, such persons shall file with the commissioner a declaration of their intention to incorporate for the purposes expressed in Section 5050 The declaration shall be signed by all of such persons, and shall contain a copy of the articles of incorporation proposed to be adopted.

SEC. 14. Section 10493 of the Insurance Code is amended to read:

10493. Any incorporated or unincorporated benefit and relief association organized before January 15, 1951, may procure a certificate of exemption from the commissioner if it complies with

all of the following:

(a) All of the other requirements of this article.

(b) As respects life or disability or life and disability insurance transacted by it, it is of an entirely nonprofit nature.

(c) Any one of the following requirements as to membership and purpose:

(1) It is composed of and its membership limited to the appointive officers and employees of a public school district or districts and/or the pupils of any such district or districts, or of any private school or schools.

(2) It is composed of and its membership limited to the appointive officers and employees of a municipal playground system, or the systems of two or more municipalities united in a league, federation or other association for the purpose of promoting intercity competitions or other activities, and/or the participants in dancing, recreational, sporting, educational, social and/or theatrical activities sponsored and/or directed by such system or systems and carried on through the use of any of the facilities of such system or systems.

(3) Its membership in this state is 1,000 or more and it is either an organization of a purely religious or benevolent character or its membership is limited to the members of such an organization.

(4) It is composed of and its membership is limited to the members of another organization which other organization is of a purely religious or benevolent character and has a total membership in this state of not less than 1,000.

(5) It is a domestic organization, lodge, society or order which prior to September 19, 1947, provided life or disability benefits or both such benefits to its members and

(A) Is of a charitable, benevolent or beneficent character or becomes such within one year from September 4, 1951, and in both instances is thereafter of such character, and

(B) Operates in such a manner that the payment of such benefits even though it be one of the express purposes of such organization, lodge or order, is as a matter of fact incidental to its charitable, benevolent or beneficent purposes or within one year from September 4, 1951, operates in such a manner and in both instances thereafter operates in such a manner.

(6) Officers and employees of a common employer, and related dependents of such officers and employees, comprising wives, husbands and unmarried dependent children under 19 years of age, and living in the same household.

(d) Pays a filing fee in the amount of six hundred dollars ($600).

SEC. 15. Section 10506.2 is added to the Insurance Code, to read:

10506.2. (a) The commissioner shall require the payment in advance of one thousand dollars ($1,000) as a fee for the examination and analysis of documents required by law to be filed with the commissioner by domestic or foreign insurers in connection with changes to an application and qualification to write variable contracts.

(b) The commissioner shall require the payment in advance of three hundred dollars ($300) as a fee for the review, examination, and analysis of documents required to be filed by insurers issuing variable life insurance policies.

(c) The commissioner shall require the payment in advance of one thousand five hundred dollars ($1,500) as a fee for the examination and analysis involved in approving transfers of assets pursuant to subdivision (f) of Section 10506.

SEC. 16. Section 11090 of the Insurance Code is amended to read:

11090. Subject to the annual fee provisions as provided herein, every certificate of authority issued to a fraternal benefit society shall be for an indefinite term and shall expire with the expiration or termination of the corporate existence of the holder thereof unless sooner revoked by the commissioner. The commissioner shall require the payment of two thousand five hundred dollars ($2,500) in lawful money of the United States, in advance as a fee for filing an application for each original certificate of authority authorizing any fraternal benefit society to transact insurance in this state. Each society possessing a certificate of authority of indefinite term shall owe and pay an annual fee of one hundred fifty dollars ($150) in lawful money of the United States in advance on account of such certificate until its final expiration or revocation. Such fee shall be for annual periods commencing on July 1st of each year, and ending on June 30th of each year, and shall be due on each March 1st and shall be delinquent on and after each April 1st. A duly certified copy or duplicate of such certificate of authority shall be prima facie evidence that the holder is a fraternal benefit society within the meaning of this chapter.

SEC. 17. Section 11131 of the Insurance Code is amended to read:

11131. Every society transacting business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the commissioner, file with the commissioner, in such form as he may require, a statement under oath of its president, secretary or treasurer, or corresponding officers, of its affairs, financial condition and operations during the calendar year ending on the thirty-first day of December last preceding. Such statement shall contain items showing the reserve liabilities on all outstanding certificates classified according to the various mortality standards and interest assumptions for such certificates. The commissioner is authorized and empowered to address any additional inquiries to any such society in relation to its doings or condition, or any other matter connected with its transaction relative to the business contemplated by this chapter, and such officers of such society, as the commissioner may require, shall promptly reply in writing, and under oath, if so required to all such inquiries.

SEC. 18. Section 11401 of the Insurance Code is amended to read:

11401. Such an association shall not operate or do business in this state without a certificate of authority. The commissioner shall issue

a certificate of authority to any such association unless he determines, after examination, that t does not comply with the provisions of this chapter. The filing fee for the application for the certificate of authority shall be five hundred dollars ($500).

SEC. 19. Section 11504 of the Insurance Code is amended to read:

11504. No corporation shall establish, maintain or operate a nonprofit service plan as authorized by the provisions of this chapter unless it shall first have procured a certificate of authority from the Insurance Commissioner of this state for the establishment, maintenance and operation of said hospital service plan. The filing fee for an application for a certificate of authority shall be four thousand dollars ($4,000).

SEC. 20. Section 11520.5 of the Insurance Code is amended to read:

11520.5. No person shall transact in this state the business described in this chapter without first procuring a certificate of authority from the commissioner for such purpose. Application for such certificate shall be made on a form prescribed by the commissioner accompanied by a filing fee of five thousand seven hundred forty-five dollars ($5,745). Such certificate shall not be granted until the applicant conforms to the requirements of this chapter and the laws of this state prerequisite to its issue. After such issue the holder shall continue to comply with the requirements of this chapter and the laws of this state. Where a hearing is held under this section the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commissioner shall have all of the powers granted therein.

Subject to the annual fee provisions herein, every certificate of authority issued or held under this chapter shall be for an indefinite term and, unless sooner revoked by the commissioner, shall terminate upon occurrence of any of the following:

(a) Upon the holder's ceasing to exist as a separate entity.

(b) Upon the winding up or dissolution, or expiration or forfeiture of the corporate existence of a corporate holder thereof.

(c) Upon winding up or dissolution of a holder not a corporation.

(d) In any event upon surrender by the holder of its certificate of authority and cancellation of the same by the commissioner.

The commissioner shall not cancel a surrendered certificate of authority until he is satisfied by examination, or otherwise, that the former holder has discharged its annuity liabilities to residents of this state or satisfactorily reinsured the same.

Notwithstanding the preceding provisions for a certificate of authority of indefinite term, each holder of a certificate of authority under this chapter shall owe and pay in advance to the commissioner in lawful money of the United States an annual fee of fifty dollars ($50) on account of such certificate of authority until its final termination or revocation. Such fee shall be for annual periods commencing on July 1st of each year and ending on June 30th of each

year and shall be due on each March 1st and shall be delinquent on and after each April 1st.

Each holder of a certificate of authority shall also be subject to the payment in advance of the following fees, as appropriate:

(1) One hundred dollars ($100) for each amended certificate of authority caused by a change of the name of the holder.

(2) Seventy-five dollars ($75) for the services and expenses of the commissioner in connection with the filing of amended articles by a holder.

(3) Three hundred dollars ($300) for all services and expenses of the commissioner in connection with the withdrawal of a holder of a certificate of authority under this chapter.

SEC. 21. Section 11693.5 of the Insurance Code is amended to read:

11693.5. The commissioner shall collect the sum of two hundred fifty dollars ($250) from any admitted workers' compensation insurer that fails to file in his office within the time prescribed by law any such workers' compensation bond, or deposit of securities in lieu thereof, required by this code. He shall also collect an additional three hundred dollars ($300) for each and every month or fractional part of a month thereafter that such workers' compensation insurer continues to transact the business of workmen's compensation insurance until such bond or deposit of securities in lieu thereof is filed.

SEC. 21.3. Section 11715 of the Insurance Code is amended to read:

11715. (a) Any worker's compensation insurer may, in lieu of and for the same purpose as the bond required by Section 11690, and upon payment of the fee prescribed in this article, deposit cash instruments, approved letters of credit, or approved interest-bearing securities or approved stocks readily convertible into cash, or investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation. The deposit shall be made from time to time as demanded by the commissioner and may be made with the State Treasurer, or a bank, savings and loan association, or trust company pursuant to the approval of the commissioner under such rules and regulations as he shall promulgate. The deposit shall be maintained at a deposit value of not less than twenty-five thousand dollars ($25,000), nor less than the reserves required of such insurer to be maintained under any of the provisions of Article 1 (commencing with Section 11550), Chapter 1, Part 3, Division 2, relating to loss reserves on worker's compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11699.

(b) Any worker's compensation insurer electing to bring itself within the provisions of subdivision (a) by submitting securities, stock, investment certificates, or share deposits registered in a depositor's name, shall execute and deliver in duplicate to the

commissioner a power of attorney in favor of the commissioner for the purposes specified in Section 11690, supported by a resolution of the depositor's board of directors. The power of attorney and directors' resolution shall be on forms approved by the commissioner, shall provide that the power of attorney cannot be revoked or withdrawn without the consent of the commissioner, and shall be acknowledged as required by law.

(c) The commissioner shall require payment of one hundred fifty dollars ($150) in advance as a fee for the initial filing and the first semiannual review of each letter of credit specified in subdivision (a). In addition, each worker's compensation insurer depositing a letter of credit shall pay an annual fee of one hundred dollars ($100) in advance on account of such letter until its expiration or revocation. Such fee shall be for annual periods commencing each January 1 and shall be due and payable on the following April 1.

(d) The commissioner shall require payment of one hundred dollars ($100) in advance as a fee for the initial filing of a deposit agreement with a bank, savings and loan association, or trust company on deposits made pursuant to subdivision (a). An additional fee of one hundred dollars ($100) shall be payable for each amendment, supplement, or other change to the deposit agreement. In addition, the commissioner shall require the payment of fifty dollars ($50) in advance for receiving and processing deposit schedules pursuant to this section. An additional fee of twenty-five dollars ($25) shall be payable for each withdrawal, substitution, or any other change in the deposit.

SEC. 21.5. Section 11715.5 of the Insurance Code is amended to read:

11715.5. The fees for filing a schedule of securities with the State Treasurer, and making a deposit of the same, and for each withdrawal, substitution, or any other change in the securities comprising this deposit with the State Treasurer, shall be paid to the commissioner for the costs of review and approval of deposits, and shall be the same as are prescribed by Article 11 (commencing with Section 939) of Chapter 1 of Part 2 of Division 1.

All other reasonable charges made by the State Treasurer for servicing securities deposited with him shall be paid to him by the insurer which has deposited the security, and shall not be charged to the Insurance Commissioner.

SEC. 21.7. Section 11716 of the Insurance Code is amended to read:

11716. The deposit shall be security for the payment of the insurer's obligations on worker's compensation insurance transacted in this state in the same manner as is provided in this article for the use of the bond. The deposit shall not be withdrawn except upon the written order of the commissioner to use the proceeds thereof in payment of worker's compensation claims, or pursuant to the regulation of the commissioner, but shall be forthwith payable by the State Treasurer or the bank, savings and loan association, or trust

company approved by the commissioner to the commissioner upon such order. No deposit so placed with a bank, savings and loan association, or trust company shall be subject to any lien or claim asserted by it or be subject to any disposition obligation, demand, liability, cause of action, judgment, or other claim, or cost or expense attendant thereon, other than as is permitted by the commissioner. Irrespective of any other provisions of this code the deposit shall be retained by the State Treasurer or the bank, savings and loan association, or trust company approved by the commissioner and only released in accordance with the provisions of this article or pursuant to regulations of the commissioner.

SEC. 22. Section 12161 of the Insurance Code is amended to read:

12161. Application for a certificate of authority shall be made on a form prescribed by the commissioner, accompanied by a filing fee of one thousand seven hundred fifty dollars ($1,750). Such certificate shall not be granted until the applicant conforms to the requirements of this part and the laws of this state prerequisite to its issue. After such issue the holder shall continue to comply with the requirements of this part and the laws of this state.

SEC. 23. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business Number of documents	Amount of required minimum net worth
Less than 50,000	$ 75,000
50,000 to 100,000	120,000
100,000 to 500,000	200,000
500,000 to 1,000,000	300,000
1,000,000 or more	400,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title

plant provided the value ascribed to such asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of such plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which such plant is currently maintained, less 1/10th thereof for each succeeding year or part thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used title plant system during the period of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one hundred seventy-five dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant approved by the commissioner specifically for the particular company. Approval of an auditor for a particular company shall not be deemed to be a licensing of the auditor nor approval of the auditor for any other company or any other purpose. Any such approval, or the renewal thereof, shall automatically expire on the first day of January in the fifth calendar year following the date of original or renewal approval. The fee for filing an application for such approval or the renewal thereof shall be seventeen dollars and fifty cents ($17.50). The fee for filing the audit shall be two hundred sixty-five dollars ($265).

The commissioner may deny or revoke approval or renewal of approval of an auditor for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license;

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective;

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant; or

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) All funds deposited with the company in connection with any escrow shall be deposited in a bank or savings and loan association in a separate trust account, and such funds shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the company. Such funds shall not be subject to any debts of the company and shall be used only to fulfill the terms of the individual escrow under which the funds were accepted and none of such funds shall be used until all conditions of the escrow have been met.

Bona fide drafts executed by persons fully responsible financially may at the option of the company, be deemed the equivalent of funds already cleared into such bank or savings and loan association deposit unless another law of this state prohibits such persons from tendering such drafts to escrow holders for the purpose of closing escrows.

Any interest received on funds deposited with the company in connection with any escrow which are deposited in a bank or savings and loan association shall be paid over to the depositing party to the escrow and shall not be transferred to the account of the company.

(2) It shall maintain record of all receipts and disbursements of escrow funds.

(3) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation,

the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an application for a change of name shall be one hundred dollars ($100). Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 23. Article 10 (commencing with Section 12640.20) is added to Chapter 2A of Part 6 of Division 2 of the Insurance Code, to read:

Article 10. Fees

12640.20. The commissioner shall collect in advance a fee of four hundred dollars ($400) from each mortgage guaranty insurer for the examination and analysis of the reinsurance contracts, final prospectus, and private placement memorandum filed with the commissioner after the issuance of a pool insurance policy.

SEC. 25. Section 12970 of the Insurance Code is repealed.

SEC. 26. Section 12970 is added to the Insurance Code, to read:

12970. The commissioner shall require the payment in advance of a fee for copying microfilm records in the amount of twenty-five

cents ($0.25) per page.

SEC. 27. Section 12971 of the Insurance Code is repealed.

SEC. 28. The increase in fees contained in Sections 1750 and 1751 of the Insurance Code, as amended by this act, shall be effective January 1, 1982, and are for the purpose of funding the provisions of Section 1751.7 of the Insurance Code, as added by this act. All moneys received by the Insurance Commissioner from these increased fees during the 1981–82 fiscal year shall be prorated on a monthly basis for the validity period of a license issued or renewed during that fiscal year. Any such moneys applicable to the 1982–83 fiscal year and beyond are hereby appropriated from the State General Fund for transfer by the State Controller to the Insurance Fund on July 1, 1982.

SEC. 29. Sections 1 to 9, inclusive, and Sections 13 to 27, inclusive, of this act shall become operative July 1, 1982.

CHAPTER 1132

An act to amend Sections 731, 732, 733, 744, 745, 11273, 11316, 11336, 11337, 11338, 11339 and 11340 of, and to add Section 11341 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 731 of the Revenue and Taxation Code is amended to read:

731. Each year between the first day of March and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where a petition for reassessment of the unitary property may be filed. The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing the declaration of intent to petition.

SEC. 2. Section 732 of the Revenue and Taxation Code is amended to read.

732. Each year between the first day of March and the last day of July, upon valuing the nonunitary property of an assessee, the board shall mail to the assessee at its address shown in the records of the board a notice stating the amount of the assessed value of the assessee's nonunitary property. The notice shall advise the assessee of the date by which and the place where a declaration of intent to

petition for reassessment, and the date by which and place where a petition for reassessment of the nonunitary property may be filed. The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing of the declaration of intent to petition.

SEC. 3. Section 733 of the Revenue and Taxation Code is amended to read:

733. If the assessee fails to file a declaration of intent to file a petition for reassessment within the period specified in the notice mailed by the board in accordance with Section 731 or Section 732, an assessment of unitary or nonunitary property of the assessee shall become final at the expiration of the period specified. If the assessee files a petition for reassessment within the period specified for filing a declaration of intent to petition, no declaration of intent need be filed.

If, after a declaration of intent to file a petition has been timely filed, a timely petition for reassessment is not filed with the board, an assessment of unitary or nonunitary property of an assessee shall become final at the expiration of the period specified for filing a petition in the notice given in accordance with Section 731 or Section 732.

The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

SEC. 4. Section 744 of the Revenue and Taxation Code is amended to read:

744. (a) The board shall notify the petitioner of its decision on a petition for reassessment by mail and shall make written findings and conclusions if requested at or prior to the commencement of the hearing. The findings shall fairly disclose the board's determination of material factual issues and shall contain a statement of the method or methods of valuation used by the board in valuing the property. Decisions of the board on petitions for reassessment of both unitary and nonunitary property shall be completed on or before December 31.

(b) When the value of an assessee's unitary or nonunitary property is determined, after a hearing on a petition for reassessment, to be different from the value originally adopted by the board, the board shall determine the year in which the corrected value is to be entered on the roll. The correct value may be entered on the roll for the fiscal year in which the determination is made, or the difference between the original and the corrected value may be entered as an increase or decrease in the assessment for the succeeding fiscal year. If the corrected value is entered on the roll for the fiscal year in which it is determined, and the board roll has been transmitted to the county auditors, the board shall make the corresponding changes in allocations and transmit the roll

corrections to the county auditor.

(c) If the amount of the correction is to be entered on the roll for the succeeding fiscal year, an amount is to be added in lieu of interest. If the correction results in a reduction in assessed value, there shall be added to the reduction, in lieu of interest, 9 percent of the difference between the original assessed value and the reduced assessed value. If the correction results in an increase in assessed value, there shall be added to the increase, in lieu of interest, 9 percent of the difference between the original assessed value and the increased assessed value.

SEC. 5. Section 745 of the Revenue and Taxation Code is amended to read:

745. The assessment of the unitary property of an assessee shall be allocated to assessments on the roll prepared by the board among the taxing jurisdictions in which parts of the unitary property are situated. The assessment of the nonunitary property of an assessee shall be placed on the assessment roll prepared by the board.

SEC. 6. Section 11273 of the Revenue and Taxation Code is amended to read:

11273. If any person required to file a report fails to file it on or before April 30 or such time as extended by the board, a penalty of 10 percent of the assessed value shall be added to the assessment.

If the assessee establishes to the satisfaction of the board that the failure to file the property statement timely was due to a reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for filing a declaration of intent to petition for reassessment.

SEC. 7. Section 11316 of the Revenue and Taxation Code is amended to read:

11316. If the board makes an assessment pursuant to Section 11311, 11314, or 11315 due to the negligence of the taxpayer, a penalty of 10 percent of the value of the estimated or escape assessment shall be added to the assessment. If the estimated or escape assessment is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the value of the estimated or escape assessment shall be added to the assessment. A willful failure to file a report as required by Article 2 (commencing with Section 11271) of this chapter shall be deemed to be a willful attempt to evade the tax.

If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for filing a declaration of intent to petition for reassessment.

SEC. 8. Section 11336 of the Revenue and Taxation Code is amended to read:

11336. On or before August 1 the board shall complete the assessment of all property required to be assessed and shall notify the assessees thereof. This notice shall include an announcement of the statutory period during which, and the place at which, a declaration of intent to petition for reassessment and a petition for reassessment may be filed.

SEC. 9. Section 11337 of the Revenue and Taxation Code is amended to read:

11337. Between August 1 and August 21, the assessments made by the board shall be open for inspection by all persons interested.

SEC. 10. Section 11338 of the Revenue and Taxation Code is amended to read:

11338. (a) On or before August 21, the owner or the lessee of any property assessed may file a declaration of intent to petition the board for reassessment. If the owner or lessee fails to file a declaration of intent to petition the board for reassessment on or before August 21, the assessment of the board shall be final.

(b) If a declaration of intent to petition has been timely filed, the owner or assessee may file a petition for reassessment on or before September 20. If the petition is not filed on or before September 20, or, if the period is extended by the board, by October 5, the assessment of the board shall be final.

(c) The board may extend the period for filing a petition until October 5 provided a written request for the extension is filed with the board on or before September 20.

(d) The board shall hear the applicant on such petition on or before January 31.

SEC. 11. Section 11339 of the Revenue and Taxation Code is amended to read:

11339. (a) Any assessment made outside of the regular assessment period may be the subject of a petition for reassessment. A declaration of intent to petition shall be filed within 20 days of the notice of assessment and a petition for reassessment may be filed on or before the 30th day following the date by which the declaration of intent must be filed provided the declaration of intent was timely filed.

(b) The board may extend the deadline for filing a petition for a period not to exceed 15 days, provided a written request for the extension is filed with the board on or before the expiration of the period for which the extension may be granted.

(c) If a declaration of intent is not timely filed, or, after a declaration of intent has been filed, a petition for reassessment is not timely filed, the assessment of the board shall be final. The board may consider a petition which is not timely filed to be a claim for refund.

(d) The board shall hear the applicant on such petition within 90 days of the date on which the petition was filed.

SEC. 12. Section 11340 of the Revenue and Taxation Code is amended to read:

11340. Every petition for reassessment filed under Section 11338

or Section 11339 shall be in writing and shall state the specific grounds upon which the petition is founded. The petition shall include a statement of the petitioner's opinion of value of the private railroad cars assessed.

Any petition that does not meet the requirements of this section shall be deemed invalid and shall not be acted upon by the board. A petition timely filed but deemed invalid may be amended or supplemented and refiled within such time as the board may prescribe; provided, however, that no amendment of a petition filed under Section 11338 may be filed later than December 31.

SEC. 13. Section 11341 is added to the Revenue and Taxation Code, to read:

11341. (a) The board shall render its decision on the petition for reassessment within 45 days of the date of the hearing on the petition, and shall mail notice of its decision to the applicant.

(b) If the board determines that the amount of the assessment should be increased, the notice shall advise the applicant of the amount of additional tax that is due, and the date by which payment must be made. If the additional tax is not paid within 15 days following the date on which notice is mailed, it is delinquent, and a penalty of 10 percent of the amount of the additional tax shall be added thereto, plus interest on the amount of the additional tax at the rate of ¾ of 1 percent per month, or fraction thereof, from the date on which the additional tax became due until the date of payment.

(c) If the board determines that the amount of the assessment should be reduced, the notice shall advise the applicant of the amount of the tax that will be refunded or credited. The board shall proceed to refund or credit the overpayment in the manner prescribed in Section 11551, and interest shall be added to the credit or refund in the amount provided in Section 11555.

CHAPTER 1133

An act to amend Sections 19701, 19703, and 19704 of the Business and Professions Code, and to repeal Section 2 of Chapter 366 of the Statutes of 1977, relating to mule racing.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 19701 of the Business and Professions Code is amended to read:

19701. Notwithstanding any other provision of law, a mule racing meeting may be conducted by the 18th District Agricultural Association.

SEC. 2. Section 19703 of the Business and Professions Code is amended to read:

19703. The board, in cooperation with American Mule Association representatives, shall adopt rules governing, permitting, and regulating mule racing and wagering on the races under the parimutuel system. Such wagering shall be conducted only by a person licensed under this chapter to conduct a mule racing meeting, and only within the inclosure, and on the dates for which mule racing has been authorized.

SEC. 3. Section 19704 of the Business and Professions Code is amended to read:

19704. The board shall issue a license for owners, trainers, jockeys, and other participants in mule racing. The license shall be limited to mule races only.

SEC. 4. Section 2 of Chapter 366 of the Statutes of 1977 is repealed.

CHAPTER 1134

An act to amend Sections 135, 605, 1255.3, 1266, 1274.3, 1274.8, 4003, 4553, and 4555 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 135 of the Unemployment Insurance Code is amended to read:

135. (a) "Employing unit" means any individual or type of organization which has in its employ one or more individuals performing services for it within this state, and includes but is not limited to, the following individuals and organizations:

(1) Any individual or type of organization or public entity which elects coverage pursuant to any provision of this division.

(2) Any joint venture, partnership, association, trust, estate, joint stock company, insurance company, corporation whether domestic or foreign, community chest, fund, or foundation.

(3) Any public entity. As used in this section, "public entity" means the State of California (including the Trustees of the California State University and Colleges), any instrumentality of this state (including the Regents of the University of California), any political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit

system pursuant to any provision of the Education Code), entities receiving state money to conduct county fairs and agricultural fairs pursuant to Sections 25905 and 25906 of the Government Code and which perform no other functions, any public authority, public agency, or public corporation of this state, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions.

(4) Any instrumentality of the United States required to make payments under this division.

(5) The receiver, trustee in bankruptcy, trustee or successor thereof, and the legal representative of a deceased person.

(b) All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this division.

SEC. 2. Section 605 of the Unemployment Insurance Code is amended to read:

605. (a) Except as provided by Section 634.5, "employment" for the purposes of this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) of this division includes all service performed by an individual (including blind and otherwise handicapped individuals) for any public entity, if such service is excluded from "employment" under the Federal Unemployment Tax Act solely by reason of paragraph (7) of Section 3306(c) of that act.

(b) As used in this section, "public entity" means the State of California (including the Trustees of the California State University and Colleges, and the California Industries for the Blind), any instrumentality of this state (including the Regents of the University of California), any political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit system pursuant to any provision of the Education Code), entities receiving state money to conduct county fairs and agricultural fairs pursuant to Sections 25905 and 25906 of the Government Code and which perform no other function, any public authority, public agency, or public corporation of this state, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions.

SEC. 3. Section 1255.3 of the Unemployment Insurance Code is amended to read:

1255.3 (a) Except as provided by subdivision (c), the amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or

other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week.

(b) The provisions of subdivision (a) shall be operative only during such time as Section 3304 of the Federal Unemployment Tax Act requires that state unemployment insurance laws contain such provisions as a condition of certification of state unemployment insurance laws by the Secretary of Labor.

(c) The provisions of subdivision (a) shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if both of the following are met:

(1) Such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period or chargeable employer.

(2) In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar periodic payment.

(d) The provisions of subdivision (a) shall not apply to that portion of any pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment.

SEC. 4. Section 1266 of the Unemployment Insurance Code is amended to read:

1266. Experience has shown that the ability of a large number of the population of California to compete for jobs in the labor market is impaired by advancement in technological improvements, the widespread effects of automation and relocation in our economy, and foreign competition as set forth in petitions certified under the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.) It is the policy of this State to assist such individuals by providing unemployment compensation or extended duration benefits during a period of retraining to fit them for new jobs and thus avoid their being forced to remain in a job classification where work opportunities no longer exist or are diminishing.

SEC. 5. Section 1274.3 of the Unemployment Insurance Code is amended to read:

1274.3. A determination of potential eligibility for benefits under this article shall be issued to an unemployed individual if the director finds that:

(a) The individual has been unemployed for four or more continuous weeks, or the individual is unemployed because work opportunities in the individual's job classification are impaired by

advancement in technological improvements, the effects of automation and relocation in the economy, and foreign competition as set forth in petitions certified under the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.).

(b) One of the substantial causes of the individual's continuous unemployment is a lack of sufficient demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience and that the lack of employment opportunities is expected to continue for an extended period of time, or, if the individual's occupation is one for which there is a seasonable variation in demand in the labor market, that the lack of demand for the individual's skills is the result of a decline in demand, expected to continue for an extended period of time and is not the result of a seasonal fluctuation.

(c) The training or retraining course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the labor market area in this state in which the individual intends to seek work and there is not a substantial surplus of workers with requisite skills in the occupation in that area.

(d) The training or retraining course of instruction is one approved by the director and can be completed within one year.

(e) The training or retraining course is prescribed for the primary purpose of training the applicant in skills that will allow him or her to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of any degree from a college, community college, or university.

(f) The individual can be reasonably expected to complete the training or retraining successfully.

SEC. 6. Section 1274.8 of the Unemployment Insurance Code is amended to read:

1274.8. Notwithstanding any other provision of this article, no payment of benefits during a period of training or retraining as described in this article shall be made to any individual for any week or part of any week with respect to which he or she is entitled to receive training or retraining benefits, allowances or stipends pursuant to the provisions of any federal law, including, but not limited to, the Comprehensive Employment and Training Act of 1973, as amended, providing for the payment of such benefits, but excluding costs of training paid pursuant to the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.).

SEC. 7. Section 4003 of the Unemployment Insurance Code is amended to read:

4003. (a) The provisions and definitions of terms in the "Federal-State Extended Unemployment Compensation Act of 1970," as amended by the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35), apply to this part. "Federal-state extended benefits" means benefits payable under this part.

(b) Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977, the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made as provided in subsection (e) of Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the Unemployment Compensation Amendments of 1976 (P.L. 94-566), as if (i) paragraph (1) of such subsection (e) did not contain subparagraph (A) thereof, and (ii) the figure "4 per centum" in subparagraph (B) of paragraph (1) of such subsection (e) were "5 per centum."

SEC. 8. Section 4553 of the Unemployment Insurance Code is amended to read:

4553. An unemployed individual is disqualified for federal-state extended benefits if the individual, without good cause, refused to accept suitable work when offered to the individual, or failed to apply for suitable work when referred by a public employment office.

(a) For purposes of this section, the term "suitable work" means any work which is within the individual's capabilities.

(b) An individual shall not be disqualified under this section if any of the following apply:

(1) The gross average weekly remuneration payable to the individual for the position offered or to which referred, does not exceed the individual's weekly benefit amount plus the amount of any additional benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week.

(2) The position was not offered to such individual in writing and was not listed with a public employment office.

(3) The provisions of subdivision (a), (b), or (c) of Section 1259 or the provisions of Article 1 5 (commencing with Section 1266) or Article 1.8 (commencing with Section 1274) of Chapter 5 of Part 1 apply.

(4) The position pays less than the federal or state minimum wage, whichever is higher.

(5) The department determines that the individual's prospects for obtaining work in his or her customary occupation within a reasonably short period are good.

(c) If the department makes a determination described in paragraph (5) of subdivision (b), the determination of whether any work is "suitable work" and whether there is a disqualification from benefits with respect to the individual shall be made in accordance with subdivision (b) of Section 1257, Sections 1258, 1258.5, and 1259, and subdivision (b) of Section 1260.

SEC. 9. Section 4555 of the Unemployment Insurance Code is amended to read:

4555. If an individual is disqualified for federal-state extended benefits under Section 4553 or 4554 pursuant to a determination

transmitted to him or her by the department, the individual shall be ineligible to receive federal-state extended benefits:

(a) Beginning with the week in which the disqualifying act occurs, and

(b) Continuing until the individual has, during at least four weeks subsequent to the week in which the disqualifying act occurred, performed services in bona fide employment for which remuneration is earned equal to or in excess of four times the individual's weekly benefit amount.

CHAPTER 1135

An act to amend Sections 40652, 40666, and 40692 of the Vehicle Code, relating to administrative adjudication of traffic infractions.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 40652 of the Vehicle Code is amended to read:

40652. For the purpose of this chapter, the following terms shall have the following meanings, unless the context clearly requires otherwise:

(a) "Admission" means that the party charged with a traffic safety violation admits to having committed the traffic safety violation.

(b) "Admission with explanation" means that the party charged with a traffic safety violation admits to having committed the traffic safety violation, but demands an informal hearing in order to explain the surrounding circumstances so as to mitigate the sanctions that may be imposed pursuant to this chapter.

(c) "Board" means the Traffic Adjudication Board.

(d) "Denial" means that the person charged with a traffic safety violation denies all or part of the traffic safety violation alleged in the notice to appear and demands a full hearing

(e) "Denial with waiver of full hearing" means that the person charged with a traffic safety violation denies all or part of the traffic safety violation alleged in the notice to appear and demands an informal hearing.

(f) "Full hearing" is a hearing at which the person charged with a traffic safety violation, the citing officer, and any witnesses are present.

(g) "Hearing officer" means a person authorized by the board to conduct hearings pursuant to this chapter.

(h) "Informal hearing" means that the person charged with a traffic safety violation waives the right to confront the citing officer and any witnesses. The waiver shall include a stipulation by the

person charged that the information appearing on the notice to appear, or on the complaint in the event of an arrest by a private person, may be received as evidence with the same effect as if the officer or such private person were present to testify.

(i) "Monetary sanction" is a sanction imposed for the purpose of modifying and improving driver behavior and traffic safety. "Monetary sanction" does not include moneys collected as a penalty assessment.

(j) "No contest" means the person charged with a traffic safety violation neither admits nor denies the traffic safety violation alleged in the notice to appear. For procedural purposes, a no contest answer shall have the same effect as an admission. The no contest answer may not be used as an admission in any subsequent civil action.

(k) "Penalty assessments" are moneys collected as provided in subdivision (k) of Section 40666.

(*l*) "Traffic adjudication office" is a location designated by the board for the conduct of administrative hearings pursuant to this chapter.

(m) "Traffic safety violation" includes any act or omission which constitutes an infraction, as specified in this code or under any local ordinance or resolution adopted pursuant to this code. A finding that a traffic safety violation has occurred is an administrative violation and shall not be deemed an adjudication of a crime. Nothing in this chapter shall be construed to mean that an act which constitutes a traffic safety violation is not also a crime.

SEC. 2. Section 40666 of the Vehicle Code is amended to read:

40666. The board shall do all of the following:

(a) Adopt rules and regulations, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, governing those matters which are within its jurisdiction and which may be necessary to effectuate the purposes of this chapter.

(b) Arrange for the Office of Administrative Hearings to provide hearing officers necessary to hear and determine cases arising under this chapter. At least one-half of the hearing officers shall be attorneys with at least one year experience. The remainder shall have legal training, as a minimum, in the areas of evidence, constitutional law, criminal law, administrative law, and shall pass a written test accordingly. Additional minimum qualifications may be established by the State Personnel Board. The appointments shall conform to civil service regulations.

(c) Subject to civil service rules and regulations, the board shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint other persons necessary to discharge the functions of the board as provided in this chapter.

(d) Hear and consider, within the limitations of, and in accordance with, the procedures provided in this chapter, all appeals from decisions of hearing officers.

(e) The board may issue subpoenas and subpoenas duces tecum.

(f) After considering existing bail schedules, adopt a schedule of monetary and nonmonetary sanctions for traffic safety violations; provided, however, that no monetary sanction may exceed the maximum fine established for offenses declared to be infractions pursuant to Chapter 1 (commencing with Section 42000) of Division 18. The schedule of monetary sanctions shall include guidelines setting forth the circumstances under which the hearing officers, in the interest of traffic safety and equality of justice, may reduce the sanction for a traffic safety violation by as much as 50 percent or increase the sanction by as much as 25 percent. These increased or decreased sanctions shall be prescribed in an effort to improve the driving behavior of the person to whom the sanction is applied or to take into account mitigating circumstances. In addition, at the request of any county board of supervisors, the Traffic Adjudication Board may allow increases or decreases of not more than 25 percent from the monetary sanctions established in the schedule of sanctions for that county when the Traffic Adjudication Board has reasonable cause to believe that the deviation will further traffic safety efforts, including, but not limited to, accident reduction programs, better driving programs, or rewards for reduced accident or citation levels. No deviation may be calculated so as to permit a monetary sanction for a traffic safety violation to exceed the maximum fine established for an equivalent infraction or for the purpose of raising revenue.

(g) Give due consideration, in the establishment of the schedules of sanctions, to the amount of use or mileage traveled in the operation of a motor vehicle.

(h) Prescribe, by regulation, the form for the notice to appear to be used for all traffic safety violations pursuant to this chapter and to establish procedures for administrative controls over the disposition thereof.

(i) Submit an annual report to the Governor and the Legislature, including, but not limited to, the past year's accomplishments, identification of problems, and recommendations for future legislation.

(j) The board shall reimburse the department for all administrative staff services provided thereto and not exempted by another statute.

(k) Levy a penalty assessment on all monetary sanctions for traffic safety violations, except for violations relating to parking or registration or violations by pedestrians or bicyclists. The amount of the penalty assessment shall be determined pursuant to Section 42050 of this code or Section 1464 of the Penal Code.

SEC. 3. Section 40692 of the Vehicle Code is amended to read:

40692. (a) In addition to the answer options provided in Section 40691, the cited person may, prior to the commencement of the hearing, request that the matter be adjudicated as an infraction by a court by signing a written promise to appear on a form approved by the Judicial Council. If the cited person requests that the matter be adjudicated as an infraction by the court, the board shall file the

promise to appear and the notice to appear with the court for prosecution. If the matter is adjudicated by the court as an infraction, the board shall take no action on the traffic safety violation.

(b) When a cited person requests court adjudication pursuant to subdivision (a), and an exact and legible duplicate copy of the notice to appear has been prepared in accordance with this chapter on a form approved by the Judicial Council and has been filed in the court of the judicial district in which the alleged violation occurred, the notice to appear constitutes a complaint to which the cited person may enter a plea. If the cited person has signed a promise to appear in court on a form approved by the Judicial Council, specifying the location and time for appearance, and if the cited person fails to appear or post bail within the time specified in the promise to appear, or any continuance thereof, a warrant may be issued on the notice to appear.

CHAPTER 1136

An act to amend Sections 44252, 44332, 44631, 44632, 44636, 44638, 44670.4, 44670.5, 44671.4, 44680.4, 44680 91, and 44830 of, to add Sections 44252.5, 45344.5, and 45361.5 to, the Education Code, relating to schools, and making an appropriation therefor

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 44252 of the Education Code is amended to read:

44252. (a) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(b) Commencing on March 1, 1982, the Commission for Teacher Preparation and Licensing shall not issue initially any credential, permit, or certificate to any person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language.

(c) The Superintendent of Public Instruction shall adopt an appropriate state assessment instrument to measure proficiency in these basic skills. In adopting the instrument, the superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The board shall also include representatives of local school boards, school administrators, parents, and postsecondary institutions.

The superintendent shall adopt any normed test that the superintendent determines will sufficiently test basic skills for purposes of this section.

The superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to insure the effective implementation of this provision.

(d) The commission shall compile data regarding the rate of passing the state assessment instrument to measure proficiency in basic skills by persons who have been trained in various institutions of higher education. The data shall be available to members of the public and particularly to persons who intend to enroll in teacher education programs.

SEC. 2. Section 44252.5 is added to the Education Code, to read:

44252.5. (a) The commission shall administer the state basic skills assessment instrument pursuant to Sections 44252 and 44830 at existing centers administered by the commission. A fee shall be charged to individuals being assessed to cover the costs of the assessment, including the costs of developing, administering, and grading the test instrument. The commission shall establish the amount of this fee. However, the fee shall not exceed thirty dollars ($30). The commission shall collect the fee from the individuals being assessed, and reimburse the State Department of Education for any costs the department incurs in the process of adopting the assessment instrument and overseeing the implementation of these provisions.

(b) Any individual who passes the state assessment instrument to measure proficiency in basic reading, writing, and mathematics skills, as adopted by the Superintendent of Public Instruction shall be considered proficient in these skills, and shall not be required to be reassessed by this instrument for purposes of meeting the proficiency requirements of Sections 44252 and 44830. An individual who passes a proficiency test in basic skills in another state shall be considered to meet the proficiency requirements of this section only if the commission determines that the test covers the same skills as the state assessment instrument and that the test is equivalent to the state instrument in difficulty.

SEC. 3. Section 44332 of the Education Code is amended to read:

44332. Except where such service is provided by a school district authorized to register certification documents pursuant to Section 44332.5, each county or city and county board of education may issue temporary certificates for the purpose of authorizing salary payments to certified employees whose credential applications are being processed or to personnel employed in children's centers or other preschool educational programs whose permit applications are being processed, if the individual has demonstrated proficiency in basic reading, writing, and mathematic skills. The applicant for such a temporary certificate shall make a statement under oath that he has duly filed his application for a credential or permit together with the required fee and that to the best of his knowledge no reason exists why he should not be issued a certificate or permit. Such certificate or permit shall be valid for not more than 120 schooldays, and only until the credential or permit originally requested is either issued or

denied by the commission.

SEC. 4. Section 44631 of the Education Code is amended to read:

44631. It is the intent of the Legislature that professional development and program improvement centers be established throughout the state to offer comprehensive in-service training programs to strengthen the instructional techniques of classroom teachers in kindergarten and grades 1 through 12, inclusive. It is also the intention of the Legislature that the professional development and program improvement centers may provide staff development activities pursuant to a systematic assessment of pupil and personnel needs, including needs of pupils who have not mastered basic reading, writing, and mathematic skills, improve the teacher's skills in diagnosing learning disabilities of pupils, and develop corrective programs of instruction. It is the further intention of the Legislature that the center include the principal and other school administrative personnel in the training program.

It is also the intention of the Legislature that in sparsely populated areas, involving long distances, in which the establishment of professional development and program improvement centers is not feasible, the in-service teacher training shall be provided under joint programs between school districts and county superintendents of schools to strengthen the instructional techniques of classroom teachers in kindergarten and grades 1 through 12.

It is the further intention of the Legislature that all district, state, and federal resources related to teacher training be integrated and coordinated with in-service training programs established by this article in order to improve the educational achievement of pupils enrolled in both categorical aid programs and regular instructional programs.

SEC. 5. Section 44632 of the Education Code is amended to read:

44632. As used in this article:

(a) "Center" means a professional development and program improvement center which is a school designated as such upon application of a school district by the State Board of Education. It is a school in which a program under either Title I of the Elementary and Secondary Education Act of 1965, the Miller-Unruh Basic Reading Act (Chapter 2 (commencing with Section 54100) of Part 29 of Division 4 of this title), the Educationally Disadvantaged Youth Programs (Chapter 1 (commencing with Section 54000) of Part 29 of Division 4 of this title), or the Early Childhood Education Program (Article 10 (commencing with Section 49530) of Chapter 9 of Part 27 of Division 4 of this title) is in operation.

(b) "Satellite school" means any other school or schools in the district designated as such by the district and approved by the State Board of Education. Satellite schools shall be named in accordance with the priority measures established by Section 44636.

(c) "Program" means a professional development and program improvement center program established pursuant to this article.

(d) "Joint program" shall mean a program undertaken through

joint agreement by two or more school districts or county superintendents of schools joined together for the purpose of providing in-service training to administrators and teachers teaching kindergarten and grades 1 through 12.

SEC. 6. Section 44636 of the Education Code is amended to read:

44636. (a) Satellite schools shall be designated and approved as those schools which meet all of the following criteria:

(1) The schools which have designated one or more master teachers to act as resource teachers in reading and mathematics and to work with other teachers in the strengthening of instructional techniques and program improvements.

(2) The schools which have the largest concentration of teachers who will assure the district that they will continue to teach in the satellite schools for the second school year following their participation in the center program.

(b) Priority shall be given to those schools which have the largest concentration of pupils whose achievement scores in reading or mathematics, or both, fall below the first quartile, as measured by the latest administered standardized achievement test in reading or mathematics, or both.

SEC. 7. Section 44638 of the Education Code is amended to read:

44638. The designated agent of any joint program may apply to establish a program of in-service and preservice training for classroom teachers in lieu of applying to establish a center pursuant to Section 44635. The application shall contain a detailed plan cooperatively developed with a teacher training institution and shall include all of the following:

(a) A description of the training program for all school personnel to be trained through the program, including administrative and auxiliary personnel and, if appropriate, replacement teachers

(b) A description of the in-service program to be provided the staff of satellite schools on a regular rotational basis until all staff members of the satellite schools have participated in the in-service training program. Staff of satellite schools shall include specialist teachers in reading and mathematics regularly employed with such schools, and administrative and auxiliary personnel, and teacher aides.

(c) A description of procedures to be used for the identification of master teachers at the center based on demonstrated ability by the district in cooperation with the institution of higher education

(d) A description of the program for followup training to be provided to personnel of satellite schools which have had training in the centers

(e) A description of how all existing in-service training programs of the district funded from local, state, and federal sources will be integrated with the professional development and program improvement programs authorized by this article, including a specific statement of the local, state, and federal resources for district in-service training programs that will be utilized in the

implementation of this program.

(f) Priority shall be given to those schools of the participating districts which have (1) the largest concentration of pupils whose reading achievement scores fall in the first quartile, as measured by the most recently administered standardized achievement test in reading, (2) the largest concentration of pupils whose mathematic achievement scores fall in the first quartile as measured by the most recently administered standardized achievement test in mathematics, and (3) the largest concentration of teachers who will assure the district that they will continue to teach in the schools for the second school year following their participation in the program.

SEC. 8. Section 44670.4 of the Education Code is amended to read:

44670.4. Local staff development programs shall be designed by certificated personnel, including the school principal, consistent with rules and regulations adopted by the school district governing board and with school improvement objectives established annually through a process which involves teachers and other school personnel, the principal, parents and other community members; and in secondary schools, students. Such improvement objectives shall address, but need not be limited to, the general objectives specified in Section 44670.3 and the capacity of school personnel to provide the services required of them.

SEC. 9. Section 44670.5 of the Education Code is amended to read:

44670.5. Existing school level staff development programs required by state and federal laws shall be consolidated with local staff development programs established pursuant to this article to the extent permitted by federal law. Local staff development programs shall:

(a) Provide opportunities for all school personnel to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs. Such identification shall address, but need not be limited to, the general objectives specified in Section 44670.3.

(b) Be designed and implemented under the direction of classroom teachers and other participating school personnel, including the school principal, in consultation with resource centers established pursuant to Article 2 of this chapter as necessary. Classroom teachers selected by teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel to be established pursuant to this article.

(c) Allow for diversity in development activities, including but not limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools.

(d) Be conducted during time which is set aside for such purpose throughout the school year, including, but not limited to, time on a continuing basis when participating school personnel are released from their regular duties.

(e) Be evaluated and modified on a continuing basis by participating school personnel with the aid of outside personnel as necessary.

(f) Include the school principal and other administrative personnel as active participants in one or more staff development activities implemented pursuant to this article.

(g) Make available followup activities to assist participating staff in using newly acquired skills on the job.

SEC. 10. Section 44671.4 of the Education Code is amended to read:

44671.4. Federal and state funds appropriated or apportioned for the purposes of this article shall not be used to supplant funds currently expended by school districts for the purpose of administering or conducting staff development programs.

Priority in funding shall be given to programs established pursuant to this article before January 1, 1981, if the participants and the Superintendent of Public Instruction determine that the staff development activities conducted under a particular program were effective.

Priority in funding shall be given to those schools which submit high quality proposals to involve the largest percentage of personnel at the school or within participating departments in ongoing staff development activities. Lowest funding priority shall be given to programs designed for the primary purpose of granting a degree or a credential to participating staff.

No school shall receive funds under this chapter if such school receives funds under Chapter 1147 of the Statutes of 1972 or Chapter 6 (commencing with Section 52000) of Part 28 of Division 4.

SEC. 11. Section 44680.4 of the Education Code is amended to read:

44680.4. Each center shall be operated by a resource center policy board established pursuant to Public Law 94-482 of 1976. The membership of the board shall include:

(a) Classroom teachers selected by teachers. Teacher representatives shall reflect the makeup of elementary and secondary teachers to be served by such center.

(b) Persons designated by the governing boards of school districts served by such center, including at least one parent of an elementary or secondary pupil and at least one school principal.

(c) At least one representative of institutions of higher education maintaining a department of education and located in or adjacent to the area served by the center selected by such institutions In the event that more than one such representative is selected, the additional representative or representatives shall not represent the same segment of postsecondary education.

Teacher representatives shall compose the majority of the board, pursuant to federal law.

SEC. 12. Section 44680.91 of the Education Code is amended to read

44680.91. Federal and state funds appropriated or apportioned for the purposes of Article 1 (commencing with Section 44670) or Article 2 (commencing with Section 44680) shall not be used to supplant funds currently expended by school districts, county superintendents of schools, and public institutions of higher education for the purpose of administering or conducting staff development programs.

No more than 4 percent of the funds appropriated for the purposes of Article 1 or Article 2 of this chapter shall be expended by districts or county superintendents to administer local staff development programs established pursuant to Article 1 (commencing with Section 44670) of this chapter.

No more than 10 percent of the funds appropriated for the purpose of establishing resource centers shall be expended for capital outlay, including acquisition and improvement of fixed assets and purchase and replacement of equipment.

Priority in funding resource centers shall be given to centers established pursuant to this article before January 1, 1981, if the participants and the Superintendent of Public Instruction deem the center effective in staff development activities.

Federal and state funds appropriated or apportioned for the purposes of Article 1 (commencing with Section 44670) and Article 2 (commencing with Section 44680) may be used to provide grants to teachers, not to exceed one thousand dollars ($1,000) per grant, for staff development activities consistent with Sections 44670.3, 44670.4, and 44670.5.

SEC. 13. Section 44830 of the Education Code is amended to read:

44830. (a) Governing boards of school districts shall employ for positions requiring certification qualifications, only persons who possess the qualifications therefor prescribed by law. It shall be contrary to the public policy of this state for any person or persons charged, by the governing boards, with the responsibility of recommending such persons for employment by the boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, or national origin of the applicants for such employment.

(b) Commencing on March 1, 1982, no certificated person shall be hired initially to serve in any school district on a permanent, temporary, or substitute basis, unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language.

(1) The superintendent, in conjunction with the commission and local governing boards, shall take steps necessary to insure the effective implementation of this subdivision.

(2) Demonstration of proficiency in reading, writing, and mathematics by any person pursuant to Section 44252 shall satisfy the requirements of this subdivision.

(3) If a certificated person does not pass a proficiency assessment in basic skills pursuant to this section, he or she shall be given one year to master these basic skills, and then shall be given one

additional opportunity to be reassessed. Failure to pass an assessment in basic skills on the second opportunity shall be grounds for dismissal under procedures established in Article 3 (commencing with Section 44930) of Chapter 4.

(c) Nothing in this section shall require a person employed solely for purposes of teaching adults in an apprenticeship program, approved by the Apprenticeship Standards Division of the Department of Industrial Relations, to pass the state proficiency assessment instrument as a condition of employment.

SEC. 14. Section 45344.5 is added to the Education Code, to read:

45344.5. Commencing on March 1, 1982, no person employed and assigned to work in an instructional setting shall receive compensation for work as an instructional aide unless the person has demonstrated proficiency in basic reading, writing and mathematics skills up to or exceeding that required by the employing district for high school seniors under Section 51216 if the employing district educates high school students. If the employing district is an elementary school district, the aide shall demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors under Section 51216 in the high school district which includes all or the largest portion of the elementary district.

If an instructional aide does not demonstrate a proficiency in basic skills pursuant to this section, he or she shall be given two years to master these basic skills, and shall be given one additional opportunity to be reassessed. Failure to pass an assessment in basic skills during the two-year period shall be grounds for dismissal under procedures established in Article 1 (commencing with Section 45100) of Chapter 5.

A school district may charge aides, including prospective aides, taking the district's proficiency test, a fee to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars ($7).

The school district governing board, at a public meeting, may grant an exemption to this requirement to any person, for a period of up to one year, if the board deems that the exemption is in the best interest of the pupils enrolled in the district. This one-year exemption may be extended two times. No individual shall be exempted from these requirements for more than three years.

This section shall not apply to aides who receive two consecutive annual satisfactory performance evaluations, which include, among other things, assessment of basic reading, writing, and mathematics skills.

SEC. 15. Section 45361.5 is added to the Education Code, to read:

45361.5. Commencing on March 1, 1982, no person employed and assigned to work in an instructional setting shall receive compensation for work as an aide for instructional purposes unless

the person has demonstrated proficiency in basic reading, writing, and mathematics skills up to or exceeding that required by the employing district for high school seniors under Section 51216 if the employing district educates high school students. If the employing district is an elementary school district, the aide shall demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required of high school seniors under Section 51216 in the high school district which includes all or the largest portion of the elementary school district.

If an aide for instructional purposes does not demonstrate a proficiency in basic skills pursuant to this section, he or she shall be given two years to master these basic skills, and shall be given one additional opportunity to be reassessed. Failure to pass an assessment in basic skills during the two-year period shall be grounds for dismissal under procedures established in Article 1 (commencing with Section 45100) of Chapter 5.

A school district may charge a fee to aides, including prospective aides, taking the district proficiency test pursuant to the requirements of this section to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars ($7).

The school district governing board, at a public meeting, may grant an exemption to this requirement to any person, for a period of up to one year, if the board deems that the exemption is in the best interest of the students enrolled in the district. This one-year exemption may be extended two times. No individual shall be exempted from these requirements for more than three years.

This section shall not apply to aides who receive two consecutive annual satisfactory performance evaluations, which include, among other things, assessment of basic reading, writing, and mathematics skills.

SEC. 16. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1137

An act to amend and renumber Section 17052.8 of, and to amend Sections 17208.7 and 23601.5 of, the Revenue and Taxation Code, and to amend Section 7 of Chapter 904 of the Statutes of 1980, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 17052.8, as added to the Revenue and Taxation Code by Chapter 904 of the Statutes of 1980, is amended and renumbered to read:

17052.4. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h)), an amount equal to the amount determined in paragraph (2) (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the energy conservation measures are installed may claim the credit in the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures.

(4) If energy conservation measures serve two or more dwelling

units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

In the case of a taxpayer who qualifies for a refund provided for under this subdivision, whose credits exceed tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17053.5, 17061, and 18551.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000) in the taxable year in which the credit provided in this section is claimed.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined) in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost"

shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by

a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18555.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption. storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J) shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1983.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(8) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any

expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (6) of subdivision (h).

SEC. 1.5. Section 17052.8 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended and renumbered to read:

17052.4. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (h), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the energy conservation measures are installed may claim the credit in the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures.

(4) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

In the case of a taxpayer who qualifies for a refund provided for under this subdivision, whose credits exceed tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17053.5, 17061, and 18551.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation

measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy

conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061 (relating to excess state disability insurance withheld), Section 18555.1 (relating to income tax withheld), and Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(6) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy

savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J) shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1983.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(8) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a

finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year .

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (6) of subdivision (h).

SEC. 2. Section 17208.7 of the Revenue and Taxation Code is amended to read:

17208.7. For property used in a trade or business or held for production of income, there shall be allowed as a depreciation deduction, a reasonable allowance for the cost of energy conservation measures over a 36-month period.

SEC. 3. Section 23601.5 of the Revenue and Taxation Code is amended to read:

23601.5. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measure is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit, provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measures were installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit in the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the home.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the year in which the energy conservation measures were installed, may in any subsequent year claim energy conservation measures installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measure.

(4) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be

reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation

measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d).

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act and recommended as the result of an audit conducted under the auspices

of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings before there is an operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings·

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J) shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1983.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the income year in which the energy conservation measure was installed or any prior income year.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to any energy

conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (5) of subdivision (f).

SEC. 3.5. Section 23601.5 of the Revenue and Taxation Code, as added by Chapter 904 of the Statutes of 1980, is amended to read:

23601.5. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit, provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measures were installed, however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit in the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the year in which the energy conservation measures were installed, may in any subsequent year claim energy conservation measures installed in that year

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measure.

(4) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units

served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(5) Taxpayers who partially own and partially lease on premises in California energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. Such credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum

franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 40 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes and individual units of apartments, condominiums, cooperatives, or other similar

multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(H) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling;

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system;

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting;

(vi) Insulation for floors and walls.

(I) For existing dwellings before there is an operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide

energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights;

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency;

(iii) Storm or thermal windows or doors for the exterior of dwellings, ventilation cooling, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Heat pumps and water heating heat pumps (including those which use air, water or earth as a source or sink of heat) which replace electric resistance heaters, or are used in conjunction with a solar energy system.

(v) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(vi) Insulation of floors and walls.

(J) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Ventilation cooling.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes

(vi) Load management devices.

(vii) Insulation of floors and walls.

(viii) Water heating heat pumps which replace electric resistance water heaters

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1985

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), and (J) shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1983

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to

the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such a RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January, 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the income year in which the energy conservation measure was installed or any prior income year.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (G) of paragraph (5) of subdivision (f).

SEC. 4. Section 7 of Chapter 904 of the Statutes of 1980 is amended to read:

Sec. 7. The provisions of Sections 1, 3, 4 and 5 of this act, which respectively add Sections 17052.4, 17208.7, 23601.5, and 24349.7 to the Revenue and Taxation Code, shall have no force or effect in the computation of taxes or taxable years and income years which begin after December 31, 1986; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987. The provisions of Sections 1, 3, 4, 5, 6 and 6.5 of this act shall remain in effect only until January 1, 1987, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 554 are both chaptered and become effective on or before

January 1, 1982, both bills amend Sections 17052.8 and 23601.5 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill 554, that Sections 17052.8 and 23601.5 of the Revenue and Taxation Code, as amended by Sections 1 and 3 of Senate Bill 554, be further amended on the effective date of this act in the form set forth in Sections 1.5 and 3.5 of this act to incorporate the changes in Sections 1 and 3 proposed by this bill. Therefore, if this bill and Senate Bill 554 are both chaptered and become effective on or before January 1, 1982, and Senate Bill 554 is chaptered before this bill and amends Sections 17052.8 and 23601.5, Sections 1.5 and 3.5 of this act shall become operative on the effective date of this act and Sections 1 and 3 of this act shall not become operative.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 1, 1.5, and 2 shall be applied to taxable years beginning on and after January 1, 1981, and Section 3 or 3.5 shall be applied to income years beginning on and after January 1, 1981.

CHAPTER 1138

An act to amend and renumber the heading of Chapter 11 (commencing with Section 7500) of, to amend and renumber Sections 7500, 7501, 7502, 7503, 7504, 7505, 7510, 7511, and 7512 of, to add Chapter 11 (commencing with Section 7500) to, to repeal Section 7505.2 of, and to repeal Chapter 11.5 (commencing with Section 7512) of, Division 3 of the Business and Professions Code, and to amend Section 4 of, and to repeal Section 3 of, Chapter 772 of the Statutes of 1978, relating to repossessors, and making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. The heading of Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code is amended and renumbered to read:

CHAPTER 11.5. PRIVATE DETECTIVES

SEC. 2. Section 7500 of the Business and Professions Code is amended and renumbered to read:

7512. This chapter may be cited as the Private Investigator Act.

SEC. 3. Section 7501 of the Business and Professions Code is amended and renumbered to read:

7512.1. As used in this chapter, "director" means the Director of Consumer Affairs, unless the context indicates otherwise.

SEC. 4. Section 7502 of the Business and Professions Code is amended and renumbered to read:

7512.2. As used in this chapter, "person" includes any individual, firm, company, association, organization, partnership, and corporation.

SEC. 5. Section 7503 of the Business and Professions Code is amended and renumbered to read:

7512.3. As used in this chapter, "bureau" means the Bureau of Collection and Investigative Services.

SEC. 6. Section 7504 of the Business and Professions Code is amended and renumbered to read:

7512.4. As used in this chapter, "licensee" means a person licensed under this chapter and includes, but is not limited to, private investigator, private patrol operator, repossessor, alarm company operator, and armored contract carrier.

SEC. 7. Section 7505 of the Business and Professions Code is amended and renumbered to read:

7512.5. As used in this chapter, "manager" means the individual under whose direction, control, charge, or management the business of a licensee is operated.

SEC. 8. Section 7510 of the Business and Professions Code is amended and renumbered to read:

7512.6. The Bureau of Collection and Investigative Services succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Private Investigators and Adjusters.

SEC. 9. Section 7511 of the Business and Professions Code is amended and renumbered to read:

7512.7. The director shall administer and enforce the provisions of this chapter.

SEC. 10. Section 7512 of the Business and Professions Code is amended and renumbered to read:

7512.8. The director may, in accordance with the State Civil Service Act and subject to the provisions of Section 159.5, appoint and fix the compensation of such inspectors, investigators, and other personnel as may be necessary for the administration and enforcement of this chapter.

SEC. 11. Chapter 11 (commencing with Section 7500) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 11. REPOSSESSORS

Article 1. General Provisions

7500. This chapter of the Business and Professions Code constitutes the chapter on repossessors. It may be cited as the "Repossessors Act."

7500.1. The following terms as used in this chapter have the meaning expressed in this article.

(a) "Person" includes any individual, partnership, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Collection and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Collection and Investigative Services.

(f) "Licensee" means any individual, partnership, or corporation licensed under this chapter as a repossession agency.

(g) "Qualified certificate holder" or "qualified manager" is a person who is in active control or management of, and who is a director of, the licensee's place of business.

(h) "Employee" means a person registered under this chapter.

(i) "Services" means any duty or labor to be rendered by one person for another.

(j) "Dangerous drugs" means any controlled substance as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(k) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slingshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol or revolver or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(*l*) "Combustibles" means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

(m) "Health hazard" means any personal effects which if retained would produce an unsanitary or unhealthful condition.

(n) "Advertisement" means any written or printed communication, including a directory listing, except a free telephone directory listing which does not allow space for a license number

(o) "Assignment" means an authorization by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery, personal property, including, but not limited to, personal property registered under the Vehicle Code which has been sold under a security agreement that contains a repossession clause.

(p) "Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt, by furnishing the creditor with a resource to be used in case of failure in the principal obligation.

(q) "Legal owner" means a person holding a security interest in personal property which has been sold, leased, or rented under a security agreement.

(r) "Private building" means and includes any dwelling, outbuilding, or other enclosed structure.

(s) "Secured area" means and includes any fenced and locked

area.

(t) "Violent act" means any act which results in bodily harm or injury to any party involved.

(u) "Personal property" means any vehicle, boat, recreational vehicle, motor home, appliance, or other property which has been sold under a security agreement.

(v) "Personal effects" means any property contained within repossessed personal property which is not the property of the legal owner.

7500.2. A repossession agency means and includes any person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property, including, but not limited to, personal property registered under the provisions of the Vehicle Code which has been sold under a security agreement, except for any person registered pursuant to Article 7 (commencing with Section 7506).

7500.3. A repossession agency shall not include any of the following:

(a) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of the Currency of the United States.

(b) Any person organized, chartered, or holding a license or authorization certificate to make loans pursuant to the laws of this state or the United States who is subject to supervision by any official or agency of this state or the United States.

(c) An attorney at law in performing his or her duties as an attorney at law.

(d) The legal owner of personal property which has been sold under a security agreement.

(e) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties.

(f) A person employed exclusively and regularly by one employer in connection with the affairs of that employer only, and where there exists an employer-employee relationship.

Article 2. Administration

7501. There is in the Department of Consumer Affairs a Bureau of Collection and Investigative Services. The bureau is under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

7501.1. The Governor shall appoint a chief of the bureau at a salary to be fixed in accordance with Section 12080.3 of the Government Code. The chief shall serve under the direction and supervision of the director.

7501.2. Every power and duty granted to or imposed upon the director under this chapter may be delegated to the chief, except that the director may not delegate authority to adopt or otherwise

act upon any proposed decision of a hearing officer after a hearing under the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The chief may delegate any power or duty granted to or imposed upon him or her under this chapter to the deputy chief, to the assistant chief, or to any inspection, investigation, or auditing personnel of the bureau.

7501.3. The director, in accordance with the State Civil Service Act, and Section 159.5, may appoint and fix the compensation of such clerical, inspection, investigation, and auditing personnel, as well as an assistant chief, as may be necessary to carry out the provisions of this chapter. Except as otherwise provided in Section 159.5, all personnel shall perform their respective duties under the supervision and direction of the chief.

7501.4. The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of repossession who fail to obtain licenses and shall gather evidence of violations and furnish that evidence to the prosecuting officers of any county or city for the purpose of prosecuting all violations occurring within their jurisdiction.

The chief, with the approval of the director, may require the attendance of witnesses and examine under oath all persons whose testimony he or she requires, relative to the affairs of a licensee or to the subject matter of any examination, investigation, or hearing.

7501.5. It shall be the duty of the chief to initiate and conduct investigations into the business and affairs of licensees on the chief's own motion.

7501.6. The director may establish and enforce such rules and regulations as may be reasonable and necessary for the examination and licensing of applicants, for the conduct of licensees, and for the general enforcement of various provisions of this chapter in the protection of the public.

7501.7. If, upon investigation, the director determines that a licensee, a qualified certificate holder, or a registrant is in violation of Section 7508.1, 7508.2, 7508.3, 7508.4, or 7508.5, the director may issue a citation to the licensee, qualified certificate holder, or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific references to the provision of law determined to have been violated, and shall be delivered by certified mail to the licensee's, qualified certificate holder's, or registrant's address of record. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine not to exceed two thousand five hundred dollars ($2,500).

A citation or fine assessment shall inform the licensee, qualified certificate holder, or registrant that if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the director within 20 days of the issuance of the

citation or assessment, as appropriate. Any request for reconsideration received in writing by the director within the 20 days shall stay the 20 days allowed to request a hearing while the director reconsiders the fine assessment. Upon decision, the director shall notify the licensee, qualified certificate holder, or registrant in writing whether the fine assessment has been withdrawn or the fine assesssment has been reaffirmed. If the fine assessment has been reaffirmed, the director shall again inform the licensee, qualified certificate holder, or registrant in writing that he or she has 20 days to request a hearing. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the licensee, qualified certificate holder, or registrant neither requests a hearing nor pays the assessed fine within 30 days of the assessment, the director shall suspend the license, qualification certificate, or registration of the person 30 days after the assessment

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

7501.8. (a) When considering the denial of a license, registration, or certificate under Section 7503.5, for which application has been made under this chapter, the director, in evaluating the rehabilitation of the applicant and the applicant's present eligibility for a license, registration, or certificate, shall consider the following criteria:

(1) The nature and severity of the act or crime under consideration as grounds for denial.

(2) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, which also could be considered as grounds for denial under Section 7503.5.

(3) The time that has elapsed since commission of the act or crime referred to in paragraph (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the appplicant.

(b) When considering the suspension or revocation of a license, registration, or certificate issued under this chapter on the grounds of conviction of a crime, the director, in evaluating the rehabilitation of the person and the person's present eligibility for a license, registration, or certificate, shall consider the following criteria:

(1) Nature and severity of the act or offense.

(2) Total criminal record.

(3) The time that has elapsed since commission of the act or offense.

(4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed

against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a license, registration, or certificate, the director shall evaluate evidence of rehabilitation, considering those criteria of rehabilitation listed in subdivision (b).

Article 3. Application of Chapter

7502. No person shall engage within this state in the activities of a repossession agency as defined in Section 7500.2 unless the person holds a valid repossession agency license or is exempt from licensure pursuant to Section 7500.2 or 7500.3.

7502.1. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages an unlicensed repossession agency to repossess personal property on his or her behalf after being duly notified by the bureau in writing of the repossession agency's unlicensed status with the bureau is guilty of a misdemeanor, and is punishable by a fine of one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

7502.2. Any financial institution that knowingly engages an unlicensed repossession agency to repossess personal property on their behalf, after being duly notified by the bureau in writing of the repossession agency's unlicensed status with the bureau, is guilty of a misdemeanor, and is punishable by a fine of one thousand dollars ($1,000).

7502.3. Any person who knowingly falsifies the fingerprints or photographs required by any provision of this chapter is guilty of a felony.

7502.4. In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under this chapter has engaged or is about to engage in any act which constitutes a violation of this chapter may, upon a petition filed by the director and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If an affidavit in support of the petition show that the licensee has engaged or is about to engage in acts or ommissions constituting a violation of this chapter and if the court is satisfied that permitting the licensee to continue to engage in the business and profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the

licensee from engaging in the profession for which he or she is licensed.

(b) The order may not be issued without notice to the licensee unless it appears from facts shown by the affidavit that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed by the director pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the licensee requests a hearing on the accusation, the director shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the director's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

7502.5. The provisions of this chapter shall not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county from requiring repossession agency licensees or employees to register their name and a file copy of their state identification card with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for the registration.

Article 4. Licenses

7503. An application for a repossession agency license shall be made in writing to, and filed with, the chief in such form as may be required by the chief and shall be accompanied by the original license fee prescribed by this chapter. The chief may require the submission of any other pertinent information, evidence, statements, or documents.

Every application for a repossession agency license shall state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the applicant's social security number, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the business will maintain.

No license shall be issued in any fictitious name which may be

confused with or which is similar to any federal, state, county, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

7503.1. Each individual applicant for examination and each manager, partner of a partnership, and officer of a corporation shall submit with the application, one personal identification form provided by the chief upon which shall appear a photograph taken within one year immediately preceding the date of the filing of the application together with two legible sets of fingerprints and personal description of each such person respectively.

7503.2. If the applicant for license is an individual, the application shall state the full residence address of the applicant and that the applicant is to be personally and actively in charge of the business for which the license is sought, or if any other qualified certificate holder is to be actively in charge of such business, the application shall so state and set forth the name of the person. The application shall also state whether the applicant has ever used an alias. The application shall be subscribed and verified by the applicant and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by that person.

7503.3. If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the name of the partner to be actively in charge of the business for which the license is sought. If a qualified certificate holder other than a partner is to be actively in charge of the business then the application shall state the name and address of that person. The application shall be subscribed and verified by all of the partners and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by that person. The application shall also state whether any of the partners has ever used an alias.

7503.4. If the applicant for license is a corporation, the application shall state the true names and complete residence addresses of all officers. The application shall also state the name and address of the person to be actively in charge of the business for which the license is sought. The application shall be subscribed and verified by a duly authorized officer of the applicant and by the qualified certificate holder thereof. The application shall also state whether any of the officers named therein has ever used an alias.

7503.5. If the director determines that the applicant, if an individual, or if the applicant is a person other than an individual, that its manager and any of its officers and partners have committed any of the following acts, the director may deny the license:

(a) Committed any act, which, if committed by a licensee, would be a ground for the suspension or revocation of a license under this

chapter.

(b) Committed any act constituting dishonesty or fraud.

(c) Been refused a license under this chapter or had a license revoked.

(d) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(e) Committed, or aided and abetted the commission of, any act for which a license is required by this chapter while unlicensed.

(f) Knowingly made any false statement in his or her application.

(g) Committed any act or crime constituting grounds for denial of licensure under Section 480.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

7503.6. No license may be issued to any applicant pending final disposition of any disciplinary action by the director previously filed against the person or applicant or against any partner or officer.

7503.7. The form and content of the license shall be determined by the director in accordance with Section 164.

7503.8. Each repossession agency license or duplicate license, together with current renewal license, if any, shall at all times be conspicuously displayed at the place of business on record with the bureau.

7503.9. A repossession agency license issued under this chapter is not assignable.

7503.10. Every repossession agency license issued under this chapter shall expire at 12:00 midnight on May 31 of each year. To renew an unexpired license, the licensee shall apply for renewal on a form prescribed by the director, and pay the renewal fee prescribed by this chapter. The bureau shall mail a notice of renewal to the licensee's address of record on or before May 1 of each year. On renewal, the evidence of renewal of the license, as the director may prescribe, shall be issued to the licensee.

7503.11. In the event a licensee fails to renew his or her repossession agency license, the license shall be automatically revoked, but may be reinstated within 30 days of the date of revocation upon compliance with the rules and regulations established hereunder and upon application of the licensee and upon the payment of the reinstatement fee provided by this chapter. Reinstatement of a revoked license shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this chapter during the period the license is revoked.

7503.12. A suspended repossession agency license is subject to expiration and shall be renewed as provided in this article, but

renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

7503.13. A revoked repossession agency license is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

7503.14. A repossession agency license which is not renewed within one year after its expiration may not be renewed, restored, reinstated, or reissued thereafter.

The holder of the repossession agency license may obtain a new license only upon compliance with all of the provisions of this chapter relating to the issuance of an original license.

Article 5. Examination

7504. Except as in this chapter otherwise provided, an applicant for a qualification certificate shall:

(a) Be at least 18 years of age.

(b) Have been, for at least one year during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency within this state or have had experience in recovering personal property sold under a security agreement within this state or have the equivalent thereof as determined by the chief.

A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from others than employers substantiating employment for consideration by the chief.

(c) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director and shall include the applicant's social security number. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the chief, and two classifiable sets of his or her fingerprints.

(d) Pass the examination required.

(e) Pay the required application and examination fees to the bureau.

7504.1. The director may refuse to issue a qualification certificate, or may suspend or revoke a previously issued qualification certificate, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this chapter.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

7504.2. Examinations and reexaminations shall be given at least once every other month at such places and on such specific dates as the chief may from time to time determine and fix.

7504.3. In order to be eligible for an initial examination, an applicant shall have completed and filed his or her application together with the application fee prescribed by this chapter in the office of the bureau in Sacramento, California, not later than 20 days prior to the next scheduled examination date. Applicants whose applications are not completed and filed within the time limits of this section may, at the discretion of the bureau, be scheduled for the first examination next following the scheduled examination.

7504.4. If an applicant fails to pass an initial examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee for each subsequent examination, accompanied by a completed application for reexamination filed within the time limits and conditions relating to applications for initial examinations provided in Section 7504.3.

7504.5. All applicants shall be examined concerning their competency, experience, and qualifications by the chief and the chief may take testimony of anyone in regard thereto under oath.

7504.6. If an applicant fails to complete his or her application within one year after it has been filed, or fails to take the examination within a one-year period after becoming eligible therefor, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.

7504.7. Every qualification certificate issued under this chapter shall be subject to the same renewal provisions which apply to a repossession agency license as set forth in Sections 7503.10, 7503.11, 7503.12, 7503.13, and 7503.14.

Article 6. Offices

7505. A licensee desiring to operate a repossession business at a location other than the address shown on his or her license shall apply and qualify for a license for each additional location. A licensee

desiring to operate a repossession business under one or more fictitious trade styles shall apply and qualify for a license for each fictitious trade style. No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a repossession business under any name, or at any address, other than the names and addresses for which he or she is licensed.

An application for a license for an additional location or an additional trade style shall be in the same form, and the applicant shall meet the same requirements, as for an original license.

7505.1. Every office licensed as a repossession agency shall be under the active charge of a qualified certificate holder.

7505.2. Branch office managers designated prior to the effective date of this chapter shall be issued a provisional qualification certificate upon application. The provisional certificate shall be effective for one year only. However, no provisional certificate shall remain in effect after December 31, 1982. The holder of the provisional certificate shall meet those requirements set forth under Article 5 (commencing with Section 7504) prior to the expiration of their provisional certificate. The fee for the provisional certificate shall be one hundred dollars ($100).

This section shall remain in effect only until January 1, 1983, and as of that date is repealed.

7505.3. Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the chief notice, in writing, within 30 days from such cessation.

If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the chief, if written notice is not given that a qualified person is then actively in charge of the office, the agency license shall be automatically suspended.

If the licensee shall fail to give written notice at the end of the 30-day period, the agency license shall be automatically suspended.

A person who performs any act for which a repossession agency license is required during the period of suspension is subject to the penal provisions of Article 3 (commencing with Section 7502), in addition to the provisions of Article 9 (commencing with Section 7508) and Article 10 (commencing with Section 7510).

7505.4. Except as herein otherwise provided, no person shall be in charge of any licensed office if the person has ever had a license revoked or suspended or has ever been denied registration pursuant to Article 7 (commencing with Section 7506); or if the person was a partner, managing employee, or officer, of a repossession agency the license of which has been revoked for cause.

7505.5. The person deemed to be actively in charge of an office shall be the holder of a qualification certificate and the certificate shall be prominently displayed below the repossession agency's license. The person shall spend over 51 percent of the usual business

hours in the conduct of the business at the licensed location. The person shall share equally with the licensee the responsibility for the conduct of the business and the personnel of the licensed agency. This section shall not apply to any licensee who notifies the bureau in writing that the licensee is not conducting any business, but wishes to maintain a current license status with the bureau. When the licensee resumes conducting business, the licensee shall so inform the bureau in writing within 30 days.

Article 7. Registration

7506. As used in this article, "licensee" means a repossession agency licensed under this chapter.

7506.1. Except as otherwise provided in this article, every employee of a licensee shall be registered with the director in the manner prescribed by this article

7506.2. Every person in the employ of a licensee on the effective date of this article, except as provided in Section 7506.7, shall file with the chief an application for registration within 30 days after the effective date.

7506.3. Every person entering the employ of a licensee after the effective date of this article, except as provided in Section 7506.7, shall immediately complete an application for registration and shall file the application with the chief within 15 working days after the commencement of employment.

7506.4. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee provided for in Section 7511.

7506.5. All information obtained on the application shall be confidential pursuant to the Information Practices Act (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public except for the registrant's full name, the employer's name and address, and the registration number. The application shall be verified and shall include:

(a) The full name, residence address, residence telephone number, date and place of birth, social security number, and driver's license number of the employee.

(b) A statement listing any and all names used by the employee, other than the name by which he or she is currently known. If the employee has never used a name other than his or her true name, this fact shall be set forth in the statement.

(c) The name and address of the employer and the date the employment commenced.

(d) The title of the position occupied by the employee and a description of his or her duties.

(e) Two recent photographs of the employee, of a type prescribed by the chief, and two classifiable sets of his or her fingerprints.

7506.6. Qualified certificate holders who comply with other

provisions of this chapter are not required to register under this article.

7506.7. Employees of a licensee who are engaged exclusively in stenographic, typing, filing, clerical, or other activities, which do not constitute the work of a repossessor as described in Section 7500.2, are not required to register under this article.

7506.8. The director may refuse to register any employee, or may suspend or revoke a previous registration, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this chapter.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

7506.9. Upon the completion of registration the chief shall issue to the registered employee a suitable pocket identification card.

7506.10. The bureau shall keep current and accurate records of all employees registered under this article.

7506.11. Each person registered under this article shall notify the chief, in writing, within 30 days of any change in employment with a licensee. If the person ceases to be employed by a licensee, the licensee shall notify the chief, in writing, within 30 days. The registered individual shall surrender his or her registration card to the licensee. The licensee shall forward the registration card to the chief. If at some subsequent time the person is again employed by a licensee, he or she shall apply for a reissuance of a registration card. The application shall be on a form prescribed by the director and shall be accompanied by the registration fee required by this chapter. Each employee while registered shall notify the chief, in writing, within 30 days after any change in his or her residence address. The director may suspend the registration of any person who fails to notify the bureau of any change of address within 30 days.

Any registration suspended pursuant to this section may only be reinstated upon the payment of a fee of fifteen dollars ($15).

7506.12. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

7506.13. The licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee may not have in his or her employment a person subject to registration who has not registered within the time required or whose registration has expired, been revoked, been denied, been suspended, or been canceled.

7506.14. If the chief determines that continued employment of an applicant for registration in his or her current capacity may present undue hazard to public safety, the licensee, upon proper notification from the chief, shall suspend the applicant from employment in that capacity until the licensee is notified in writing by the chief within 60 days from the date of notification of suspension that the applicant's registration has been approved or denied.

Article 8. Conduct of Business

7507. A licensee shall, within 30 days after such change, notify the bureau of any change of its corporate officers. Applications, on forms prescribed by the director, shall be submitted by all new officers. The director may suspend or revoke a license issued under this chapter if the director determines that at the time the person became an officer of a licensee, any of the facts stated in Section 7503.5 existed.

7507.1. A licensee or a qualified certificate holder shall, within 30 days after such change, notify the bureau of any change of his or her address. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office. The director may suspend the license of any person who fails to notify the bureau of any change of address within 30 days. Any licensee or certificate holder suspended pursuant to this section may only be reinstated upon the payment of a fee of twenty-five dollars ($25).

7507.2. (a) A licensee shall at all times be responsible for those actions of his or her employees, including his or her manager, performed in violation of this chapter when acting within the course and scope of his or her employment.

(b) Each licensee shall maintain a file or record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The file and records, together with usual payroll records, shall be available for inspection by the bureau, and copies thereof, and information pertaining thereto or contained therein, shall be submitted to the bureau upon request.

7507.3. A repossession agency shall be required to keep and maintain adequate records of all transactions, including, but not limited to, assignment forms; vehicle report of repossession required by Section 28 of the Vehicle Code; vehicle condition reports, including odometer readings; personal property inventory; notice of seizure; and records of all transactions pertaining to the sale of personal property which has been repossessed, including, but not limited to, bids solicited and received, cash received, deposits made to the trust account, remittances to the seller, and allocation of any moneys not so remitted to appropriate ledger accounts. Records, including bank statements of the trust account, shall be retained for a period of not less than four years and shall be available for examination by the bureau upon demand. In addition, personal

property and personal effects storage areas shall be made accessible for inspection by the bureau upon demand.

7507.4. A licensee shall not engage in business or accept employment to collect claims owed or due or asserted to be owed or due to another unless the licensee has complied with the provisions of Chapter 8 (commencing with Section 6850), in addition to complying with the provisions of this chapter. A licensed repossession agency or its registered employees may, however, make demand for payment in lieu of repossession, if the demand is made pursuant to an assignment for repossession.

In making demand upon a debtor for a money payment in lieu of repossession, the repossessor shall present the demand in compliance with the Robbins-Rosenthal Fair Debt Collection Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), setting forth in the demand only the amount which was specified by the creditor in the repossession referral and the fees which are properly chargeable. Itemized receipts shall be furnished the debtor at the time payment is received. Payments received shall forthwith be transmitted to the creditor, disclosing the full amount of money received from the debtor in addition to the contract payments.

7507.5. No charge shall be made for services incurred in connection with the recovery, transportation, and storage of personal property except under terms agreed to by the legal owner at the time of the repossession authorization or specifically agreed upon at a subsequent time. Repair work may not be charged to the legal owner unless expressly authorized by him or her.

7507.6. Within seven days after a violent act has occurred involving a licensee, or any officer, partner, qualified certificate holder, or employee of a licensee, while acting within the course and scope of his or her employment, which results in a police report or bodily harm or bodily injury, the licensee or the licensee's qualified certificate holder or the licensee's employee, shall mail or deliver to the chief a notice concerning the incident upon a form provided by the bureau.

7507.7. Within seven days after receiving a final civil court judgment filed against the licensee or any officer, partner, qualified certificate holder, or employee of a licensee, for an amount of more than five hundred dollars ($500) pertaining to an act done within the course and scope of his or her employment, the licensee, or his or her qualified certificate holder, or his or her employee, shall mail or deliver to the chief a copy of the judgment.

7507.8. Every advertisement by a licensee, soliciting or advertising business, shall contain the licensee's name, address, and license number as they appear in the records of the bureau.

7507.9. If personal effects or other personal property, not covered by a security agreement, are contained in or on personal property at the time it is recovered, such effects shall be removed from the vehicle, a complete and accurate inventory shall be made, and the

personal effects shall be stored in a labeled container by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

(a) The date and time the inventory is made shall be indicated and shall be signed by the repossession agency employee who recovered the personal property on behalf of the legal owner or mortgagee.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of after being held for at least 60 days, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering such personal effects and an itemization of all personal effect storage charges that will be made by the repossession agency.

(e) The inventory shall be provided to a consumer not later than 48 hours after the recovery of personal property, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property.

(2) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least eight hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. In the case the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property.

(f) The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

7507.10. Each licensee shall serve a consumer with a notice of

seizure as soon as possible after the recovery of personal property, but in no event later than 48 hours after the repossession of personal property, which notice shall include:

(a) The name, address, and phone number of the representative of the legal owner to be contacted regarding the repossession.

(b) The name, address, and phone number of the representative of the repossession agency to be contacted regarding the repossession.

(c) A statement printed on the notice containing the following: "Repossessors are regulated by the Bureau of Collection and Investigative Services, 1430 Howe Avenue, Sacramento, CA 95825. Repossessors are required to provide you, not later than 48 hours after the recovery of personal property, with an inventory of personal effects or personal property recovered during repossession."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession is the liability of the repossession agency."

The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

7507.11. Any written report to a client shall be submitted by the licensee, the qualified certificate holder. or a person authorized by one or either of them, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

Article 9. Prohibited Acts and Citations

7508. The director may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for any of the prohibited acts outlined in this article.

7508.1. The director may assess administrative fines for the following prohibited acts:

(a) Knowingly making any false report to his or her employer or client for whom information was being obtained The fine shall be one hundred dollars ($100) for the first violation, and five hundred dollars ($500) for each violation thereafter.

(b) Using any identification to indicate that he or she is a registered repossessor, other than the bureau-issued pocket identification card, except an employer identification card issued by the repossession agency which has met bureau approval. A bureau-issued identification card shall be carried by those individuals specified by Sections 7506.2 and 7506.3, and shall be shown on demand to any bureau employee or law enforcement officer. The fine shall be twenty-five dollars ($25) for each violation

(c) Using an alias in connection with the official activities of the licensee's business. A notice of warning shall be issued for the first violation. Thereafter the fine shall be twenty-five dollars ($25) for each violation.

(d) Appearing as an assignee party in any court proceeding involving claim and delivery, replevin, or other possessory court action, action to foreclose a chattel mortgage, mechanics lien, materialman's lien, or any other lien. This section shall not prohibit a licensee from appearing as a defendant in any of the preceding actions. The fine shall be one hundred dollars ($100) for each violation.

7508.2. The director may assess administrative fines for the following prohibited acts:

(a) Recovering personal property or making any money demand in lieu thereof, including but not limited to personal property registered under the Vehicle Code, which has been sold under a security agreement before a signed or telegraphic authorization has been received from the legal owner of the personal property. A telephonic assignment is acceptable if the legal owner is known to the licensee and a written authorization from the legal owner is received by the licensee within 10 working days or a request by the licensee for a written authorization from the legal owner is made in writing within 10 working days. Referrals of assignments from one licensee to another licensee with confirmation to the lienholder, informing the lienholder of the name, address, and license number of the licensee to whom the referral was made are acceptable. The referral of an assignment shall be made under the same terms and conditions as in the original assignment. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

(b) Using personal property or personal effects, which have been recovered, for the personal benefit of a licensee, or officer, partner, manager, or employee of a licensee. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(c) Selling personal property recovered under the provisions of this chapter, except with written authorization from the legal owner or mortgagee thereof. The fine shall be one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each violation thereafter, per audit.

(d) Failing to remit all money due clients after finalization of the sale of personal property within 10 working days of receipt of the money The licensee shall deposit all money received in the form of cash or negotiable instruments made payable to the licensee from the sale of personal property which has been repossessed in a trust account within five working days and the money shall be withdrawn only for remittance to the client and for the payment of amounts due the licensee. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(e) Failing to remit moneys collected in lieu of repossession to a client within 10 working days after receipt of such moneys. The fine shall be two hundred fifty dollars ($250) for the first violation and

one thousand dollars ($1,000) for each violation thereafter.

(f) Failing to deliver to a client any negotiable instrument received by the licensee made payable to the client within 10 working days of receipt of the negotiable instrument. No licensee, manager, or employee of a licensee shall accept a negotiable instrument made payable to a client unless they have authorization from the client to accept such a negotiable instrument. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(g) Unlawfully entering any private building or secured area without the consent of the owner, or of the person in legal possession thereof, at the time of repossession. The fine shall be five hundred dollars ($500) for each violation.

(h) Committing unlawful assault or battery on another person. The fine shall be five hundred dollars ($500) for each violation.

(i) Aiding or abetting an unlicensed repossessor. The fine shall be one thousand dollars ($1,000) for each violation.

(j) Falsification or alteration of an inventory. The fine shall be twenty-five dollars ($25) for each violation.

(k) Soliciting from the legal owner the recovery of specific personal property registered under the Vehicle Code or under the motor vehicle licensing laws of other statutes after the property has been seen or located on a public street or on public or private property without divulging the location of the vehicle. The fine shall be one hundred dollars ($100) for the first violation and two hundred fifty dollars ($250) for each violation thereafter.

7508.3. A licensee, or any of his or her employees, or qualified certificate holder, shall be prohibited from using any false or misleading representation during the course of recovery of personal property and may be issued a notice of warning for the first violation; assessed a twenty-five dollar ($25) fine for the second violation; and assessed a one hundred dollar ($100) fine for any subsequent violation of any of the following:

(a) The false representation or implication that the individual is vouched for, bonded by, or affiliated with the United States or with any state, county, city, or city and county, including the use of any badge, uniform, or facsimile thereof.

(b) The false representation or implication that any individual is an attorney or that any communication is from any attorney.

(c) The representation or implication by a repossession agency or its employees that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless the action is lawful and the creditor has instructed the repossession agency to inform the consumer that the creditor intends to take the action.

(d) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(e) The false representation or implication that the consumer

committed any crime or other conduct in order to disgrace the consumer.

(f) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or which creates a false impression as to its source, authorization, or approval.

(g) Failure to disclose clearly in all communications made with the consumer to collect a debt or to obtain information about the consumer, that the repossession agency is attempting to collect a debt and that any information obtained will be used for that purpose.

(h) The false representation or implication that documents are legal process.

(i) The use of any business, company, or organization name other than the true name of the repossession agency's business, company, or organization.

(j) The use of any deceptive forms.

7508.4. The director may assess administrative fines for any of the following prohibited acts:

(a) Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, or corporation. The fine shall be one thousand dollars ($1,000) for each violation.

(b) Assigning his or her license. "Assigning his or her license" means that no licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this chapter. The fine shall be one thousand dollars ($1,000) for each violation.

(c) Failing to register employees within 15 days. The fine shall be twenty-five dollars ($25) for each of the first two violations and one hundred dollars ($100) for each violation thereafter, per audit.

(d) Employing a repossessor employee whose registration has expired, been revoked, been denied, been suspended, or been canceled, if the bureau has furnished a listing of such employees to the licensee. The fine shall be twenty-five dollars ($25) for each violation.

(e) Failing to notify the bureau, within 30 days of any change, in officers. A notice of warning shall be issued for the first violation. Thereafter the fine shall be twenty-five dollars ($25) for each violation

(f) Failing to present the debtor with an itemized receipt of payment, if payment is made in lieu of repossession. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(g) Failing to submit a notice regarding a violent act or to submit a copy of a judgment awarded against the licensee for an amount of

more than five hundred dollars ($500). The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation thereafter.

(h) Failing to include the licensee's name, address, and license number in any advertisement. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars ($25) for each violation.

(i) Failing to maintain personal effects for at least 60 days. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(j) Failing to provide a personal effects inventory list or a notice of seizure. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars ($25) for the second violation and one hundred dollars ($100) for each violation thereafter, per audit.

(k) Failing to provide a personal property effect list or a notice of seizure within the time limits set forth in Section 7507.9 or 7507.10. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter.

(*l*) Failing to file the required report pursuant to Section 28 of the Vehicle Code. The fine shall be twenty five dollars for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

7508.5. The director may assess administrative fines against a repossession agency employee for the following acts, in addition to those imposed pursuant to any other section in this article The fine shall be twenty-five dollars ($25) for each of the following violations:

(a) Knowingly submit a false report to his or her employer.

(b) Submitting a report to a client without authorization by his or her employer.

(c) Failing to carry a bureau-issued identification card and failing to show that card upon demand to a bureau employee or a law enforcement officer.

(d) Use of an alias.

(e) Failing to register.

(f) Failing to return his or her registration card to the employer upon termination.

Article 10. Disciplinary Proceedings

7510. Except as otherwise required to comply with the provisions of this chapter, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

7510.1. The director may suspend or revoke a repossession agency license, a qualification certificate, or registration issued under this chapter if the director determines that the licensee or the

licensee's manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, partners, employees, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the director adopted pursuant to authority contained in this chapter.

(d) Been convicted of a felony or any crime substantially related to the repossession agency business including illegally using, carrying, or possessing a deadly weapon.

(e) Committed or permitted any employee to commit any act, while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(f) Unlawfully committed assault, battery, or kidnapping, or used force or violence on any person.

(g) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(h) Been convicted of a violation of Section 148 of the Penal Code, resisting or obstructing a public officer.

(i) Committed any act which is a ground for denial of an application for license under this chapter.

(j) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(k) Committed any act in the course of the licensee's business constituting dishonesty or fraud, including, but not limited to:

(1) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

(2) Using illegal means in the collection or attempted collection of a debt or obligation

(3) Manufacturing of evidence.

(4) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by the client or former client.

7510.3. (a) The director may automatically suspend a license, qualification certificate, or registration for any of the following acts:

(1) Failure to notify the bureau, within 30 days, that the qualified certificate holder is no longer associated with the licensee.

(2) Failure to notify the bureau, within 30 days, of any address change

(b) A license suspended under this section may be reinstated upon payment of the reinstatement fee accompanied with a reinstatement application. The director may deny the application if the director determines that the license should not be reinstated.

(1) For any reason which would justify a refusal to issue or a suspension or a revocation of a license.

(2) For the performance by the applicant of any practice while the license is suspended for which a license under this chapter is required.

7510.4. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The director may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

Article 11. Revenue

7511. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original repossession agency license is two hundred dollars ($200), except that the application fee for an original repossession agency license issued pursuant to Section 7503.3 and obtained as a result of a change in partners shall be prorated on a monthly basis.

(b) The application fee for an origina qualification certificate is one hundred dollars ($100).

(c) The renewal fee for a repossession agency license is two hundred dollars ($200) annually

(d) The renewal fee for a license as a qualified certificate holder is one hundred dollars ($100) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Section 7503.11 shall be an amount equal to the renewal fee plus a penalty of 50 percent thereof.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 shall be an amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A reinstatement fee of twenty-five dollars ($25) will be required pursuant to Section 7507 1.

(h) A reinstatement fee of fifteen dollars ($15) will be required pursuant to Section 7506.11.

(i) The fee for reexamination of an applicant or the applicant's qualified certificate holder is ten dollars ($10).

(j) The registration fee required by Section 7506.4 shall be

twenty-five dollars ($25). The reregistration fee required by Section 7506.11 shall be twenty-five dollars ($25).

(k) The fingerprint processing fee shall be that amount charged the bureau by the Department of Justice.

(*l*) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge; and shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

SEC. 12. Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code shall remain in effect only until July 1, 1983, and as of that date is repealed, unless a later enacted statute which is chaptered on or before that date deletes or extends that date.

SEC. 13. Section 3 of Chapter 772 of the Statutes of 1978 is repealed.

SEC. 14. Section 4 of Chapter 772 of the Statutes of 1978 is amended to read:

Sec. 4. Section 1 of this act shall become operative on July 1, 1983, unless a later enacted statute which is chaptered on or before that date deletes or extends such date.

SEC. 15. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxtion Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1139

An act to add Section 101.8 to the Streets and Highways Code, relating to transportation.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 101.8 is added to the Streets and Highways Code, to read.

101.8. The department may design, place, and maintain, or cause to be designed, placed, and maintained, along state highways, signs to inform motorists of rail transportation services which receive state

funding, in whole or in part, unless the sign would result in incurring the penalty specified in subsection (b) of Section 131 of Title 23 of the United States Code.

These signs may only be placed within the right-of-way of state highways that are parallel or adjacent to state-funded passenger rail route in existence on January 1, 1982

The signs are information structures or information signs as those terms are used in Sections 5203 and 5221 of the Business and Professions Code.

CHAPTER 1140

An act to amend Section 5650 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 5650 of the Welfare and Institutions Code is amended to read·

5650. On or before March 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, an annual county Short-Doyle plan for the next fiscal year for mental health services in the county or counties. The drug program portion of the county Short-Doyle plan, shall, however, be submitted to the Director of Alcohol and Drug Programs. The county plan submitted shall be compatible with the Budget for the next fiscal year submitted by the Governor to the Legislature. The purpose of a county plan shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel A county Short-Doyle plan shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, marriage, family and child counselors, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

SEC. 2. Section 5650 of the Welfare and Institutions Code, as amended by Senate Bill No. 409, is amended to read:

5650. On or before September 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, an annual update to the county Short-Doyle multiyear base plan for the next fiscal year for mental health services in the county or counties. The update of the drug program portion of the county Short-Doyle multiyear base plan, shall, however, be submitted to the Director of Alcohol and Drug Programs. The purpose of a county multiyear base plan and annual updates shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle multiyear base plan and update shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle multiyear base plan and update shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, marriage, family and child counselors, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

The Director of Mental Health shall develop standard forms to be used by the counties in the submitting of the county plan. The forms

shall include terms and conditions relative to county compliance with applicable laws, regulations, standards, and guidelines.

Notwithstanding any other provision of this part, no new county Short-Doyle plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981–82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982–83, and 1983–84 fiscal years pursuant to regulations promulgated by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a county Short-Doyle multiyear base plan and budget for the 1984–85 fiscal year which shall be annually updated on or before September 15 of each subsequent year pursuant to regulations promulgated by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multiyear base plan in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multiyear plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the base multiyear plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 409 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 5650 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 409, that Section 5650 of the Welfare and Institutions Code, as amended by Section 5 of Senate Bill 409, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 5650 proposed by this bill. Therefore, if this bill and Senate Bill 409 are both chaptered and become effective on or before January 1, 1982, and Senate Bill 409 is chaptered before this bill and amends Section 5650, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 1141

An act to amend Sections 62, 63, 65, 65.1, 481, 482, 482.1, 483, 531.2, 2188.7, and 4675 of, to add Sections 214.11 and 480.1 to, and to repeal and add Sections 480 and 480.2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common, or any transfer of title between an individual and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests by the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after transfer.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or

units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the entire period of the coownership, notwithstanding any other provision of this chapter. Any such transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of such revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located provided it is filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, and a public benefit corporation, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

SEC. 2. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common, or any transfer of title between an individual and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests by the transferors and transferees, whether represented by stock,

partnership interest, or otherwise, remain the same after transfer.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or

interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any such transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of such revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

SEC. 3. Section 63 of the Revenue and Taxation Code is amended to read:

63. Notwithstanding any other provision in this chapter, a change of ownership shall not include any interspousal transfer, including, but not limited to:

(a) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,

(b) Transfers which take effect upon the death of a spouse,

(c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or

(d) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(e) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation

SEC. 4. Section 65 of the Revenue and Taxation Code is amended to read:

65. (a) The creation, transfer, or termination of any joint tenancy is a change in ownership except as provided in this section, Section 62, and Section 63. Upon a change in ownership of a joint tenancy interest only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised.

(b) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors,

after such creation or transfer, are among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the "original transferor or transferors" for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors shall also be considered original transferors within the meaning of this section.

(c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors which were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transfer in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants.

(e) For purposes of this section, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an "original transferor." This presumption is not applicable to joint tenancies created after March 1, 1975.

SEC. 5. Section 65.1 of the Revenue and Taxation Code is amended to read:

65.1. (a) Except for a joint tenancy interest described in subdivision (f) of Section 62, when an interest in a portion of real property is purchased or changes ownership, only the interest or portion transferred shall be reappraised. A purchase or change in ownership of an interest with a market value of less than 5 percent of the value of the total property shall not be reappraised if the market value of the interest transferred is less than ten thousand dollars ($10,000) provided, however, that transfers during any one assessment year shall be cumulated for the purpose of determining the percentage interests and value transferred.

(b) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

Notwithstanding any other provision of law, the increase in property taxes resulting from such reappraisal shall be applied by the owner of such property to the tenant-shareholder, lessee, or occupant of such individual unit or lot only, and shall not be prorated

among all other units or lots of such property.

SEC. 5.5. Section 214.11 is added to the Revenue and Taxation Code, to read:

214.11. For purposes of Section 214, property owned and operated by a nonprofit organization, otherwise qualifying for exemption under Section 214, shall be deemed to be exclusively used for hospital purposes so long as the property is exclusively used to meet the needs of hospitals which themselves qualify under Section 214. As used in this section, "needs of hospitals" includes any use incidental to, and reasonably necessary for, the functioning of a full hospital operation.

SEC. 6. Section 480 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 480 is added to the Revenue and Taxation Code, to read:

480. (a) Whenever any change in ownership of real property or of a mobilehome subject to local property taxation, and which is assessed by the county assessor, occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

(b) The administrator or executor shall file a change in ownership statement with the county recorder or assessor in each county where the decedent owned real property at the time of death. The statement shall be filed at the time the inventory and appraisement is filed with the court.

(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form

"Important Notice"

"The law requires any transferee acquiring an interest in real property or mobilehome subject to local property taxation, and which is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor The change in ownership statement must be filed at the time of recording or, if the

transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or mobilehome, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if such failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(d) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case such notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (c) may be omitted.

(e) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(f) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(g) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(h) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(i) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

SEC. 8. Section 480.1 is added to the Revenue and Taxation Code, to read:

480.1. (a) Whenever there is a change in control of any corporation, partnership, or other legal entity, as defined in subdivision (c) of Section 64, a signed change in ownership statement as provided for in subdivision (b), shall be filed by the person or legal entity acquiring ownership control of such corporation, partnership, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, or legal entity owns real property.

(b) The change in ownership statement as required pursuant to subdivision (a), shall be declared to be true under penalty of perjury and shall give such information relative to the ownership control acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property owned by the corporation, partnership, or other legal entity, the parties to the transaction, and the date of the ownership control acquisition. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any person or legal entity acquiring ownership control in any corporation, partnership, or other legal entity owning real property in California subject to local property taxation to file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 45 days from the date of the change in control of a corporation, partnership, or other legal entity. The failure to file a change in ownership statement within 45 days from the date of a written request by the State Board of Equalization results in a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in control of the real property owned by the corporation, partnership, or legal entity (or 10 percent of the current year's taxes on that property if no change in control occurred), whichever is greater. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(c) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the

board of directors to sign such statements on behalf of the corporation. In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(e) The board or assessors may inspect any and all records and documents of a corporation, partnership or legal entity to ascertain whether a change in control as defined in subdivision (c) of Section 64 has occurred. The corporation, partnership, or legal entity shall upon request, make such documents available to the board during normal business hours.

SEC. 9. Section 480.2 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 480.2 is added to the Revenue and Taxation Code, to read:

480.2. (a) Whenever there is a change in ownership of any corporation, partnership, or other legal entity, as defined in subdivision (d) of Section 64, a signed change in ownership statement as provided in subdivision (b) shall be filed by such corporation, partnership, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, or legal entity owns real property.

(b) The change in ownership statement required pursuant to subdivision (a) shall be declared to be true and under penalty of perjury and shall give such information relative to the ownership interest acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property owned by the corporation, partnership, or other legal entity, the parties to the transaction, the date of the ownership interest acquisition, and a listing of the "original coowners" of the corporation, partnership, or other legal entity prior to the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any corporation, partnership, or other legal entity owning real property in California subject to local property taxation and transferring shares or other ownership interest in such legal entity which constitute a change in ownership pursuant to subdivision (d) of Section 64 of the Revenue and Taxation Code, to file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 45 days from the date that shares or other ownership interests representing cumulatively more than 50 percent of the total control or ownership interests in the entity are transferred by any of the original coowners in one or more transactions. The failure to file a change in ownership statement within 45 days from the date of a written request by the Board of Equalization results in a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property owned by the corporation, partnership, or legal entity (or 10 percent of the current year's taxes on that real property if no change in ownership occurred), whichever is greater. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(c) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(e) The board or assessors may inspect any and all records and documents of a corporation, partnership or legal entity to ascertain whether a change in ownership as defined in subdivision (d) of Section 64 has occurred. The corporation, partnership, or legal entity shall upon request, make such documents available to the board during normal business hours.

SEC. 10.5. Section 481 of the Revenue and Taxation Code is amended to read:

481. All information requested by the assessor or the board

pursuant to this article or furnished in the change in ownership statement shall be held secret by the assessor and the board. The statement is not a public document and is not open to inspection, except as provided in Section 408.

SEC. 11. Section 482 of the Revenue and Taxation Code is amended to read:

482. (a) If a person or legal entity required to file a statement described in Section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or mobilehome, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if such failure to file was not willful, shall, except as otherwise provided in this section, be added to the assessment made on the roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5 of Division 1. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request.

(b) If a person or legal entity required to file a statement described in Section 480.1 or 480.2 fails to do so within 45 days from the date of a written request by the Board of Equalization, a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control or change in ownership of the real property owned by the corporation, partnership, or legal entity, or 10 percent of the current year's taxes on that property if no change in control or change in ownership occurred, shall be added to the assessment made on the roll. The penalty shall apply for failure to file a complete statement notwithstanding the fact that the board determines that no change in control or change in ownership has occurred as defined in subdivision (c) or (d) of Section 64. The penalty may also be applied if after a request the person or legal entity files an incomplete statement and does not supply the missing information upon a second request. That penalty shall be in lieu of the penalty provisions of subdivision (a).

(c) The penalty for failure to file a timely statement pursuant to Sections 480, 480.1, and 480.2 for any one transfer may be imposed only one time, even though the assessor may initiate a request as often as he or she deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and shall be treated and collected like, and shall be subject to the same penalties for the delinquency as, all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which the 45-day period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of

property which has transferred. After such proration has occurred, the penalty may be entered either on the current year's unsecured roll in the name of the transferee or on the current or subsequent year's secured roll as a lien against the portion transferred.

(2) Any penalty added to the roll pursuant to this section between March 1 and June 30 of any fiscal year may be entered either on the unsecured roll or on the current or a subsequent year's secured roll as a lien against the property transferred.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in the imposition of the penalty and before the enrollment of the penalty, such penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his address contained in any recorded instrument or document evidencing a transfer of an interest in real property or mobilehome or at any address reasonably known to the assessor.

SEC. 12. Section 482.1 of the Revenue and Taxation Code is amended to read:

482.1. If there is a failure to file a change in ownership statement within the time required by subdivision (b) of Section 480, the successor in interest to the decedent's property shall be subject to the applicable penalty provided in Section 482.

SEC. 13. Section 483 of the Revenue and Taxation Code is amended to read:

483. (a) If the assessee establishes to the satisfaction of the county board of supervisors that the failure to file the change in ownership statement within the time required by subdivision (a) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the assessor, the board of supervisors may order the penalty abated, provided the assessee has filed with the board of supervisors written application for abatement of the penalty no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

(b) If a person or legal entity establishes to the satisfaction of the board that the failure to file the change in ownership statement within the time required by subdivision (b) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the board, the board may recommend to the county board of supervisors that the penalty be abated, provided the person or legal entity has filed with the board written application for

abatement of the penalty no later than 60 days after the date on which the person or legal entity was notified of the penalty.

If the penalty is abated by the board of supervisors, it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

SEC. 13.5. Section 531.2 of the Revenue and Taxation Code is amended to read:

531.2. When the property is real property which subsequent to July 1 of the year of escape for purposes of this article, or subsequent to July 1 of the year in which the property should have been lawfully assessed, for purposes of Article 3 (commencing with Section 501) of this chapter, but prior to the date of such assessment and the showing thereof on the secured roll, with the date of entry specified thereon, has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to either of such articles shall not create or impose a lien or charge on such real property but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on said roll. The tax rate applicable shall be the secured tax rate of the year in which the property escaped assessment.

If the real property escaped assessment as a result of an unrecorded change in ownership or change in control for which a change in ownership statement required by Section 480, 480.1, or 480.2 is not filed, the assessor shall appraise the property as of the date of transfer and enroll the difference in taxable value for each of the subsequent years on the secured roll, with the date of entry specified thereon, provided, however, that if prior to the date of such assessment the property has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to this paragraph shall not create or impose a lien or charge on such real property but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on said roll. The tax rate applicable shall be the secured rate of the year in which the property escaped assessment. Notwithstanding the provisions of Section 532, escaped assessments resulting from such unrecorded changes in ownership or change in control shall be made within eight years after July 1 of the assessment year in which the real property escaped taxation or was underassessed.

SEC. 13.7. Section 2188.7 of the Revenue and Taxation Code is amended to read:

2188.7. (a) Whenever the assessor receives a written request for separate assessment of a community apartment project, a stock cooperative, or a limited equity housing cooperative as defined in Section 11003.2, 11003.4, or 11004 of the Business and Professions

Code, or any other similarly organized housing cooperative, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the individual interests described in subdivision (b) held by the owners of the project or shareholders of the corporation if the conditions specified in subdivision (c) have been met. Whenever a community apartment project or cooperative housing corporation is separately assessed, it shall continue to be separately assessed in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners and occupants of the project or corporation.

(b) For community apartment projects, and similarly organized projects, the interest that is to be separately assessed pursuant to subdivision (a) is the value of the right of exclusive occupancy in a portion of the real property coupled with an undivided interest in the land. For cooperative housing corporations, limited equity housing cooperatives and similarly organized cooperatives, the interest that is to be separately assessed is the value of the right of exclusive occupancy which is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy, together with an interest in appurtenant common areas.

(c) Except as provided in subdivision (a), a separate assessment of any interest described in subdivision (b) may not be made by the assessor unless:

(1) The person making the request certifies that the owners or shareholders have been notified and the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements and a survey plot map of the land showing the location of the improvements on the land, prepared in the form required by Chapter 2 (commencing with Section 66425) of Division 2 of Title 7 of the Government Code, has been recorded with the county recorder and filed with the assessor.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval prior to recordation of the plot map and diagrammatic plan required by subdivision (c).

(e) Notwithstanding the provisions of Section 2605 and regardless of whether the board of supervisors has adopted a resolution in accordance with Section 2700, the tax on interests in a cooperative housing corporation or a limited-equity housing corporation separately assessed pursuant to subdivision (a) shall be entered on the secured roll and may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5. However, if:

(1) The tax on such separately assessed interest is unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(2) The tax on such separately assessed interest remains unpaid at the time set for sale to the state, the tax on such separately assessed interest, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(f) The tax on an individual interest in a community apartment project, separately assessed pursuant to subdivision (a), shall be a lien solely on such interest and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll.

(g) The assessor shall provide to the principal office of each community apartment project and cooperative housing corporation within the taxing jurisdiction, at such time and in such manner as he deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(h) The assessor may charge a fee for the initial cost of separately assessing a project or corporation which may be collected on the tax bill.

SEC. 13.9. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. Any party of interest in the property at the time of sale by the state may file with the county a claim for the excess proceeds at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

After the property has been sold by the state, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph. In addition, any person or entity who in any way acts on behalf of, or in place of, any party of interest in respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to such party of interest and that such party of interest has been advised of his or her right to file a claim for such excess proceeds on his or her own behalf.

The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have

been claimed by any party of interest as provided herein, such excess proceeds shall be distributed only to those parties of interest who have claimed such excess proceeds on order of the board of supervisors to the parties of interest who have claimed such excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(a) First, lienholders of record prior to the property becoming tax deeded to the state or to any other taxing agency, in the order of their priority, as to liens that were extinguished by the issuance of the deed to the state; and

(b) Then, any person who would be established with title to all or any portion of the property sold by the state by redemption of such property immediately prior to the sale by the state.

Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

SEC. 14. The provisions of this act shall take immediate effect and shall apply to any change in ownership occurring on or after March 1, 1975. However, all changes in value shall be made effective commencing with the 1982–83 fiscal year. No escape assessments shall be levied and no refund shall be made for any years prior to the 1982–83 fiscal year for any increases or decreases in value made for the 1982–83 fiscal year or fiscal years thereafter as the result of the enactment of this act.

It is also the intent of the Legislature that any penalty imposed pursuant to subdivision (j) of Section 480 of the Revenue and Taxation Code prior to the enactment of this act shall be canceled or refunded, unless a written request was made by the assessor or Board of Equalization to file a change in ownership statement and the requested person or legal entity failed to file that statement within 45 days from the date of request.

SEC. 15. It is the intent of the Legislature, if this bill and Senate Bill 1211 are both chaptered and become effective immediately, both bills amend Section 62 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill 1211, that Section 62 of the Revenue and Taxation Code, as amended by Section 1 of Senate Bill 1211 be further amended on the operative date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 62 proposed by this bill. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill 1211 are both chaptered and become effective immediately, both bills amend Section 62, and this bill is chaptered after Senate Bill 1211, in which case Section 2 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

SEC. 16. The Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act.

The report shall be made on or before the first day of October next following the operative date of this act for claims made under subdivision (a) of Section 16113 and shall be made on or before the first day of December next following the operative date of this act for claims made under subdivision (b) of Section 16113. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

CHAPTER 1142

An act to amend Section 131.7 of the Code of Civil Procedure, to amend Sections 1029, 20021.8, and 31469.4 of the Government Code, to amend Sections 830.5 and 1203b of, and to add Sections 1202.7 and 1202.8 to, the Penal Code, and to amend Section 777 of the Welfare and Institutions Code, relating to probation.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 131.7 of the Code of Civil Procedure is amended to read:

131.7. Upon a determination that, in his or her opinion, staff and financial resources available to him or her are insufficient to meet his or her statutory or court-ordered responsibilities, the probation officer shall immediately notify the presiding judge of the superior court and the board of supervisors of the county, or city and county, in writing. The notification shall explain which responsibilities cannot be met and what resources are necessary in order that statutory or court-ordered responsibilities can be properly discharged.

SEC. 2. Section 1029 of the Government Code is amended to read:

1029. (a) Except as provided in subdivision (b), any person who has been convicted of a felony in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony if committed in this state, is disqualified from holding office or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer.

(b) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who

has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of Corrections or the Department of the Youth Authority, or as a probation officer in a county probation department, if he or she has been granted a full and unconditional pardon for the felony or offense of which he or she was convicted. Notwithstanding any other provision of law, the Department of Corrections or the Department of the Youth Authority, or a county probation department, may refuse to employ any such person regardless of his or her qualifications.

(c) Nothing in this section shall be construed to limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

SEC. 3. Section 20021.8 of the Government Code is amended to read:

20021.8. "County peace officer" shall also include probation officers, deputy and assistant probation officers, and persons employed in a juvenile hall or home and having as their primary duty and responsibility the counseling, supervision and custody of a group of youths assigned or committed to the hall or home. It shall also include persons employed as peace officers pursuant to Section 830.5 of the Penal Code, regardless of the administrative title of the position. It shall not include persons employed as teachers, instructors, psychologists, or to provide food, maintenance, health or other supporting services even though responsibility for custody and control of youths may be incident to or imposed in connection with such service.

The provisions of this section shall not apply to the employees of any contracting agency nor to any such agency unless and until the contracting agency elects to be subject to the provisions of this section by amendment to its contract with the board, made as provided in Section 20461.5 or by express provision in its contract with the board.

SEC. 4. Section 31469.4 of the Government Code is amended to read:

31469.4. "Safety member" means persons employed as probation officers, juvenile hall or juvenile home group counselors, and group supervisors who are primarily engaged in the control and custody of delinquent youths who must be detained under physical security in order not to be harmful to themselves or others.

The provisions of this section shall not be applicable in any county until the board of supervisors by resolution make the provisions applicable.

SEC. 5. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Such peace officer may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, or deputy probation officer. Except as otherwise provided in this subdivision, the authority of such parole or probation officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to the escape of any inmate or ward from a state or local institution; (3) to the transportation of such persons; and (4) to violations of any penal provisions of law which are discovered in the course of and arise in connection with his employment.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Department of the Youth Authority or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

SEC. 6. Section 1202.7 is added to the Penal Code, to read:

1202.7. The Legislature finds and declares that the provision of probation services is an essential element in the administration of criminal justice. The safety of the public, the nature of the offense, the interests of justice, the loss to the victim, and the needs of the defendant shall be primary considerations in the granting of probation.

SEC. 6.5. Section 1202.8 is added to the Penal Code, to read:

1202 8. Persons placed on probation by a court shall be under the supervision of the county probation officer who shall determine the level of supervision.

SEC. 7. Section 1203b of the Penal Code is amended to read:

1203b. All courts shall have power to suspend sentence and grant conditional and revocable release in the community in misdemeanor and infraction cases without referring such cases to the probation officer; provided, however, that unless otherwise ordered by the court, persons granted conditional and revocable release in the community shall report only to the court and the probation officer shall not be responsible in any way for supervising or accounting for

such persons.

SEC. 8. Section 777 of the Welfare and Institutions Code is amended to read:

777. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer, where a minor has been declared a ward of the court or a probationer under Section 601, and by the prosecuting attorney, at the request of the probation officer, where a minor has been declared a ward or probationer under Section 602, in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Notwithstanding the provisions of subdivision (a), if the petition alleges a violation of a condition of probation and is for the commitment of a minor to a county juvenile institution for a period of 15 days or less, it is not necessary to allege and prove that the previous disposition has not been effective in the rehabilitation or protection of the minor. In order to make such a commitment the court must, however, find that such commitment is in the best interest of the minor. The provisions of this subdivision may not be utilized more than twice during the time the minor is a ward of the court.

(c) Upon the filing of such supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 658 and 660.

(d) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

SEC. 9. Section 777 of the Welfare and Institutions Code is amended to read:

777. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer, where a minor has been declared a ward of the court or a probationer under Section 601, and by the prosecuting attorney at

the request of the probation officer where a minor has been declared a ward or probationer under Section 602, in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Notwithstanding the provisions of subdivision (a), if the petition alleges a violation of a condition of probation and is for the commitment of a minor to a county juvenile institution for a period of 15 days or less, it is not necessary to allege and prove that the previous disposition has not been effective in the rehabilitation or protection of the minor. In order to make such a commitment the court must, however, find that the commitment is in the best interest of the minor. The provisions of this subdivision may not be utilized more than twice during the time the minor is a ward of the court.

(c) Upon the filing of a supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice of it to be served upon the persons and in the manner prescribed by Sections 658 and 660.

(d) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

(e) The filing of a supplemental petition and the hearing thereon shall not be required for the commitment of a minor to a county institution for a period of 30 days or less pursuant to an original or a previous order imposing a specified time in custody and staying the enforcement of the order subject to subsequent violation of a condition or conditions of probation, provided that in order to make the commitment, the court finds at a hearing that the minor has violated a condition of probation.

SEC. 10. It is the intent of the Legislature, if this bill and Senate Bill 262 are both chaptered and become effective January 1, 1982, both bills amend Section 777 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 262, that the amendments to Section 777 proposed by both bills be given effect and incorporated in Section 777 in the form set forth in Section 9 of this act. Therefore, Section 9 of this act shall become operative only if this bill and Senate Bill 262 are both chaptered and become effective January 1, 1982, both amend Section 777, and this bill is chaptered after Senate Bill 262, in which case Section 8 of this act shall not become operative

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs

CHAPTER 1143

An act to add Chapter 4 (commencing with Section 1917.010) to Title 4 of Part 4 of Division 2 of the Civil Code, relating to shared appreciation loans.

[Approved by Governor October 1 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Chapter 4 (commencing with Section 1917.010) is added to Title 4 of Part 4 of Division 2 of the Civil Code, to read:

CHAPTER 4. SHARED APPRECIATION LOANS OF E.R.I.S.A. PENSION FUNDS

Article 1. Legislative Findings and Declarations

1917.010. The Legislature hereby finds and declares that:

(a) It is necessary and essential that the state provide and promote alternative means of supplying affordable housing to the citizens of the state.

(b) High interest rates have caused payment schedules for new long-term, fixed-rate and adjustable-rate mortgages to exceed affordable levels for the vast majority of the state's households.

(c) Because of current economic conditions, including high and volatile interest rates, alternative mortgage instruments must be developed to supplement the standard long-term, fixed-rate mortgage.

(d) Because the interest to which the lender is entitled under a shared appreciation mortgage includes a share of the appreciated value of the property securing the loan, the periodic payments under a shared appreciation mortgage are lower and, therefore, more affordable to borrowers than under a mortgage in which the lender's interest does not include a share of the appreciated value of the property State authorization of the shared appreciation loan for pension fund lenders will serve the need to develop alternative and more affordable means of financing the construction of new housing and the subsequent marketing of new homes, and to create vitally needed jobs in the construction industry

(e) Pension funds may find shared appreciation loans suited to their investment needs since yields are keyed to appreciation in property values, which may serve as a hedge against inflation.

Article 2. Definitions

1917.020. For purposes of this chapter:

(a) "Adjusted fair market value" means:

(1) The net sale price, in the case of a bona fide sale made in good faith prior to the maturity date of the shared appreciation loan, but excluding any sale upon a foreclosure or trustee's sale pursuant to Section 726 of the Code of Civil Procedure or Section 2924.

(2) In all other cases, the amount of value of the property specified in the most recent annual appraisal performed pursuant to Section 1917.040 or 1917.042.

(b) "Borrower's cost of the property" means the total cost to the borrower incident to the purchase of the property, including documentary transfer taxes, escrow and recording fees, and title insurance premiums.

(c) "Contingent deferred interest" means the sum resulting upon multiplying the net appreciated value by one-third.

(d) "Cost of capital improvements" means the amount of the credit, if any, determined pursuant to Article 5 (commencing with Section 1917.050).

(e) "Lender" means any person who makes a shared appreciation loan on behalf of a pension fund specified in Section 1917.030. Subsequent to an assignment of a shared appreciation loan to a pension fund pursuant to Section 1917.030, "lender" shall mean the pension fund assignee (or any subsequent assignee) and its agents designated to service the shared appreciation loan.

(f) "Net appreciated value" means the adjusted fair market value less the sum of the borrower's cost of the property and the cost of capital improvements.

(g) "Net sale price" means the gross sale price less expenses of sale actually paid by the borrower, including real estate commissions, advertising, documentary transfer taxes, legal, escrow and recording fees, and title insurance premiums.

(h) "Prevailing rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market system auction for four-month conventional mortgage commitments or, if the Federal National Mortgage Association alters its free market system auction, then the system which is adopted by the Federal National Mortgage Association which substantially replaces or supersedes the present free market system auction for four-month commitments, or if no auction or equivalent thereof has been conducted within the six months immediately preceding the date the application for a shared appreciation mortgage loan is executed, the weighted average cost of funds for the 11th District Savings and Loan Associations as computed by the Federal Home Loan Bank of San Francisco.

(i) "Shared appreciation loan" means any loan made pursuant to this chapter and includes a deed of trust and any evidence of debt issued in connection with the loan.

Article 3. Terms and Conditions

1917.030. Lenders may make shared appreciation loans pursuant to this chapter for the purchase of real property improved with one-to-four family dwelling units, including structures ancillary to such dwelling units and including attached single-family dwelling units, single-family mobilehome units placed upon permanent foundations, residential condominium units and dwelling units within a planned unit development. Shared appreciation loans shall be made to finance only owner-occupied dwelling units, but in the case of two-to-four unit dwellings financed under this chapter only one of the units need be owner-occupied. The original recipient of a shared appreciation loan shall certify in writing to the lender that he or she will occupy the security property as his or her principal residence, provided that failure to so occupy the security property shall not void a shared appreciation loan, but at the option of the lender the loan may be accelerated in accordance with the terms and conditions provided in the shared appreciation loan. All shared appreciation loans shall be originated by the lender on behalf of a pension fund which is subject to the Employee Retirement Income Security Act of 1974 (P.L 93-406, 88 Stat. 829), pursuant to a prior written commitment to purchase the loan.

1917.031 A shared appreciation loan shall include the following terms and conditions:

(a) The term of the loan, excluding refinancing under Section 1917.033, shall be at least seven years, but not more than 30 years.

(b) The repayment schedule for the loan, excluding refinancing under Section 1917.033, shall be cast so that full amortization of the principal amount of the loan would occur in 30 years, regardless of the actual term of the loan. Any principal balance remaining at maturity shall be due and payable at that time, unless refinanced as provided in Section 1917.033. Monthly installment payments shall be equal in amount and in addition to amortization of principal, shall include fixed interest pursuant to subdivision (d).

(c) The loan shall be secured by a deed of trust or mortgage on the real property financed.

(d) The loan shall bear interest at a fixed rate, which shall be one-third below the prevailing rate in effect 90 days prior to the loan closing, or at another date between that date and the loan closing if mutually agreed by the lender and borrower.

(e) The borrower shall additionally be obligated to pay contingent deferred interest in the amount of one-third of the net appreciated value of the real property which secures the loan, at the time the property is sold (including a sale pursuant to a land sale contract), when title is transferred, other than a transfer specified in Section 2924.6, when a lease with an option to purchase is entered into, when a partnership is formed which in effect transfers the beneficial ownership to another person, when a trust is created which affects title to the property, upon a judicial or nonjudicial

foreclosure sale, at the time the loan is prepaid in full, or upon the maturity of the loan, whichever first occurs.

1917.032. (a) The borrower shall have the right to prepay, at any time, in full or in part, the principal loan balance of the shared appreciation loan, together with accrued interest, including deferred contingent interest.

(b) Nothing in this chapter shall prevent a borrower from obligating himself or herself, by an agreement in writing, to pay a prepayment charge, as authorized by this section, upon prepayment of the loan, in full or in part, within five years of the date of execution of the shared appreciation loan.

(c) Any prepayment charge imposed upon the prepayment of a shared appreciation loan shall not exceed the amount authorized and specified in subdivision (b) of Section 2954.9.

(d) No prepayment charge shall be imposed as to any portion of the contingent deferred interest.

1917 033. (a) If the shared appreciation loan is not prepaid in full or the real property securing the loan is not sold or transferred prior to maturity of the loan, the lender shall offer to the original borrower refinancing of the unpaid balance of the loan and all contingent deferred interest.

(b) The term of the refinancing loan shall be at least 30 years from the date of the refinancing, provided that if the interest rate of the refinancing loan is not adjustable or variable during the term of such loan, the loan may contain a call provision giving the lender an option to accelerate the principal loan balance making it, together with accrued interest, payable in full at a date specified in the shared appreciation loan, which shall be no earlier than seven years following the date of refinancing under this section. If such a call provision is included in the refinancing loan, a concise description thereof shall be included in upper case print in the disclosures on refinancing required by Section 1917.071

(c) The interest rate for the refinancing loan shall not exceed the prevailing rate existing at maturity of the shared appreciation loan

(d) The lender may require as a condition of the refinancing loan that it be secured by a deed of trust or mortgage of first priority on the property financed.

(e) The terms and conditions of refinancing pursuant to this section shall be specified in the shared appreciation loan, shall be a part of the shared appreciation loan contract, and shall be subject to the applicable laws in effect on the date of execution of the shared appreciation loan The refinancing shall be fully amortizing and the interest rate may be either fixed or adjustable as permitted by law for home financing offered by banks or savings and loan associations doing business in this state to the public for financing housing similar to the borrower's property, provided that nothing in this section shall preclude such other lawful refinancing terms as may be mutually acceptable to the borrower and lender. If the lender offers more than one form of refinancing, the borrower may select from among the

types of refinancing offered by the lender.

1917.034. Nothing in this chapter shall preclude the borrower from obtaining any other financing, in lieu of the refinancing provided for in Section 1917.033, including refinancing on other terms that are mutually agreeable to the borrower and lender.

Article 4. Annual Appraisals

1917.040. The fair market value of the real property securing a shared appreciation loan shall be determined annually as provided in this article. The lender shall select an independent appraiser annually to perform an appraisal of the property subject to a shared appreciation loan. The appraisal shall be performed within 30 days preceding the anniversary date of the loan and a copy of the current appraisal shall be sent by first-class mail to the borrower no later tthan five days following the anniversary date of the loan, together with a notice informing the borrower that the appraisal will constitute a final and conclusive determination of the value of the property for certain purposes and that if the borrower disputes the amount of the appraisal, the borrower may procure an independent appraisal as provided in Section 1917.041. The lender may require the borrower to pay for the cost of the appraisal.

1917 041 If the borrower disputes the amount of the appraisal, the borrower, within 30 days of the anniversary date of the loan, may procure an appraisal of the property at the borrower's expense by a qualified independent appraiser, and a copy of the appraisal shall be sent by first-class mail to the lender within the 30-day period.

1917.042. If the appraisal by the appraiser selected by the borrower is lower in amount than the appraisal by the appraiser selected by the lender, the amount to be used to calculate the annual adjustment shall be one-half of the sum of the two appraisals.

1917.043. The appraisal amount, as determined pursuant to Section 1917.040 if the borrower does not dispute the appraisal amount, or 1917.042 if the borrower disputes the appraisal amount, shall constitute the value of the property from and after the anniversary date of the loan for the purpose of determining the property's adjusted fair market value under Section 1917.020.

1917.044. The qualifications of the appraisers may be specified by the terms of the shared appreciation loan for purposes of this article and Article 5 (commencing with Section 1917.050).

Article 5 Improvements

1917.050. The borrower may have the cost of capital improvements to the security property completed within any 12-month period, and with an appraised value in excess of two thousand five hundred dollars ($2,500), added to the borrower's cost of the property, for purposes of determining the contingent deferred interest, but only if the procedures set forth in this article are

followed.

(a) Within 60 days following the completion of the improvements, the borrower shall send by first-class mail a notice of the completion of the improvements to the lender and shall submit proof of cost of the improvements.

(b) Within 90 days following the completion of the improvements, the lender shall select an appraiser to perform an appraisal to determine the increase in value of the property, if any, by reason of the improvements. A copy of the appraisal shall be sent by first-class mail to the borrower, together with a notice informing the borrower that the appraisal will constitute a final and conclusive determination of the increase in the value of the property by reason of the improvement for purposes of computing the net appreciated value of the property, and that if the borrower disputes the amount of the appraisal, the borrower may procure an independent appraisal as provided in subdivision (c). The lender may require the borrower to pay for the cost of the appraisal.

(c) If the borrower disputes the amount of the appraisal, the borrower, within 120 days of the completion of the improvements, may secure at borrower's expense, a qualified, independent appraiser to perform an appraisal to determine the increase in value of the property, if any, by reason of the improvements, and a copy of the appraisal shall be sent by first-class mail to the lender within that period of time.

(d) If the appraisal of the appraiser selected by the borrower is greater in amount than the appraisal by the appraiser selected by the lender, the amount of the appraisal, for the purposes of this section, shall be one-half of the sum of the two appraisals.

(e) The lesser of the borrower's actual cost or the appraised increase in the value of the property by reason of the improvements shall be available as a credit to the buyer for purposes of determining net appreciated value, except as provided in subdivision (f).

(f) If 50 percent or more of the value of the labor or other work on the improvements was performed by the borrower, then the appraised increase in the value of the property by reason of the improvements shall be the cost of capital improvements for purposes of establishing the credit under this section.

Article 6. General Provisions

1917.060. The relationship of the borrower and the lender, as to a shared appreciation loan, is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership, or other relationship.

1917.061. Any waiver of any right of a borrower under the provisions of this chapter shall be void and unenforceable.

1917.062. (a) Notwithstanding Section 711, a provision in a shared appreciation loan (not including the refinancing obligation) permitting the lender to accelerate the maturity date of the principal

and accrued interest on the loan upon a sale or other transfer of the property, as specified in subdivision (e) of Section 1917.031, shall be valid and enforceable against the borrower, except as may be precluded by Section 2924.6.

(b) The Legislature finds and declares that potential exposure to liability for enforcement of a "due-on-sale" clause consistent with Section 711, as interpreted by the courts, makes use of such a provision impractical. Moreover, the additional risks to the lender inherent in shared appreciation financing are greater with longer loan terms (which are more desirable from the standpoint of housing affordability), but this risk is reduced with an enforceable "due-on-sale" clause. Therefore, in order to facilitate shared appreciation financing, it is necessary to establish the exception specified in subdivision (a).

1917.063. The terms and conditions of each shared appreciation loan made pursuant to this chapter shall conform to the provisions of this chapter, except that nothing in this chapter shall apply to or limit shared appreciation financing made pursuant to other provisions of law or which is not otherwise unlawful.

1917.064. A shared appreciation loan shall not be subject to any provision of this code or the Financial Code which limits the interest rate or change of interest rate of variable, adjustable, or renegotiable interest instruments, or which requires particular language or provisions in security instruments securing variable, adjustable, or renegotiable rate obligations or in evidences of such debts

This section is declaratory of existing law.

1917.065. The lien of a deed of trust securing a shared appreciation loan shall include and secure the principal amount of the shared appreciation loan, and all interest, whether accrued or to be accrued, including all amounts of contingent deferred interest

1917.066. The lien of a shared appreciation loan, including the principal amount and all interest, whether accrued or to be accrued, and all amounts of contingent deferred interest, shall attach from the time of the recordation of the deed of trust securing the loan, and the lien, including the lien of the interest accrued or to be accrued and of the contingent deferred interest, shall have priority over any other lien or encumbrance affecting the property secured by the shared appreciation instrument which is recorded after the time of recordation of the shared appreciatior instrument However, nothing in this section or Section 1917.165 shall preclude a junior lien or encumbrance subordinate to the obligation of the shared appreciation loan

1917.067. Lenders shall be exempt from the usury provisions of Article XV of the California Constitution with respect to shared appreciation loans made pursuant to this chapter.

1917.068. The qualification requirements of Sections 25110, 25120, and 25130 of the Corporations Code shall not apply to a shared appreciation loan, provided (1) the loan obligation is evidenced by one promissory note secured by a deed of trust which is not one of

a series of notes secured by interests in the same real property and (2) the loan obligation is not evidenced by fractional undivided interests in one promissory note secured by interests in the same real property.

1917.069. The aggregate amount of any fee charged to the borrower for processing an application and preparing any necessary documents in connection with originating a shared appreciation loan shall not exceed the reasonable cost of providing the service. No prepaid interest shall be charged to the borrower, but nothing in this chapter shall preclude a lender from requiring a fee for providing commitments for shared appreciation loans to builders or others who will not be the ultimate borrower.

Article 7. Notices and Disclosures

1917.070. (a) The disclosures made pursuant to this chapter, as required, shall be the only disclosures required to be made pursuant to state law for shared appreciation loans, notwithstanding any contrary provisions applicable to loans not made under this chapter, except those, if any, that may be required by reason of the application of Division 1 (commencing with Section 25000) of the Corporations Code, or Chapter 2 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code. A lender may, but shall not be required to, supplement the disclosures required by this article with additional disclosures that are not inconsistent with the disclosures required by this article.

(b) When very specific language is prescribed by this chapter, substantially the same language shall be utilized if possible, but reasonably equivalent language may be used to the extent necessary or appropriate to achieve a clearer or more accurate disclosure.

1917.071. (a) Each lender offering shared appreciation loans shall furnish to a prospective borrower, on the earlier of the date on which the lender first provides written information concerning shared appreciation loans from such lender or provides a loan application form to the prospective borrower, a written disclosure as provided in this section.

(b) The disclosure shall be entitled "INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN," and shall describe the operation and effect of the shared appreciation loan including a brief summary of its terms and conditions, together with a statement consisting of substantially the following language, to the extent applicable to such loan:

INFORMATION ABOUT THE [Name of Lender] SHARED APPRECIATION LOAN

(Name of Lender) is pleased to offer you the opportunity to finance your home through a shared appreciation loan.

Because the shared appreciation loan differs from the usual

mortgage loan, the law requires that you should read and understand before you sign the loan documents.

The loan will bear a stated rate of interest which will be one-third below the prevailing market interest rate. In exchange for a stated interest rate which is below the prevailing rate, you will be obligated to pay us additional interest later. This additional interest is called "contingent deferred interest."

Contingent Deferred Interest

This loan provides that you, as borrower, must pay to us, as lender, as contingent deferred interest, a one-third of the net appreciated value of the real property which secures the loan. This contingent interest is due and payable when the property is sold or transferred, when the loan is paid in full, upon any acceleration of the loan upon default, or at the end of the term of the loan, whichever first occurs. The dollar amount of contingent interest which you will be required to pay cannot be determined at this time. If the property does not appreciate, you will owe us nothing.

Your obligation to pay contingent interest will reduce the amount of the appreciation, if any, that you will realize on the property. This appreciation will not produce a real gain in your equity in the property, unless the appreciation rate exceeds the general inflation rate, but you will be required to pay a portion of the appreciation as contingent interest without regard to whether the appreciation has resulted in a real gain.

When you sell or refinance your home, you normally will receive enough cash to pay the shared appreciation loan balance, accrued interest, prepayment penalty (if applicable), the contingent interest, and expenses of sale. However, if you sell with only a small downpayment, you may possibly not receive enough cash to pay the contingent interest, and, in that event, it will be necessary for you to provide cash from other funds.

If you do not sell the property before the end of the term of this loan, you will need to refinance this loan at that time. The term of this loan is (duration) years. We will offer to refinance the outstanding obligation, including any contingent interest, at that time. If you refinance this loan, your monthly payments may increase substantially if the property appreciates significantly or if the interest rate on the refinancing loan is much higher than today's prevailing rates. In general, the more your property appreciated, the larger will be the amount of the contingent interest that you will have an obligation to pay or refinance.

The contingent interest will not become due if title to the property is transferred on your death to a spouse, or where a transfer results from a decree of dissolution of a marriage and a spouse becomes the sole owner.

Calculating the Contingent Interest

Contingent interest will be calculated as follows:

	FAIR MARKET VALUE OF THE PROPERTY (Sale price or amount of value determined by appraisal.)
– (less)	BORROWER'S COST OF THE PROPERTY (This amount includes certain costs paid by you incident to the purchase.)
– (less)	COST OF CAPITAL IMPROVEMENTS MADE BY YOU IN ANY 12-MONTH PERIOD (Must exceed $2,500 in value. The actual amount may be the lesser of actual cost or appraised value.)
= (equals)	NET APPRECIATED VALUE
× (times)	ONE-THIRD PERCENTAGE OWED TO LENDER
= (equals)	TOTAL CONTINGENT INTEREST

Determining Net Appreciated Value

We are entitled to receive one-third of the net appreciated value of the property as contingent interest. As explained above, net appreciated value equals (1) the fair market value of the property at the time of the sale or appraisal, less (2) your cost of the property, less (3) the value of any capital improvements for which you are entitled to credit.

Determining Fair Market Value

Fair market value is the sale price of the property in the case of a bona fide sale of the property made before the maturity of the shared appreciation loan, excluding certain foreclosure related sales. In all other cases, fair market value is determined by our most recent annual appraisal of the property. If you desire to contest the amount of our annual appraisal, you may obtain another appraisal by a qualified independent appraiser within 30 days after the anniversary date of the loan and send a copy of the appraisal to us by first-class mail within that 30-day period. If your appraiser's appraisal is lower than our appraisal, the annual appraisal shall equal one-half the sum of the two appraisals.

Determining Value of Capital Improvements

The cost or value of certain capital improvements (but no maintenance or repair costs) may be added to your cost of the property for the purpose of determining the net appreciated value, but only if the procedures set forth in the shared appreciation loan documents are followed. It is important to note that capital improvements completed and for which a credit is claimed in any 12-month period must cost or be appraised at more than two thousand five hundred dollars ($2,500). The lesser of the cost or appraised value will control. However, if you have performed at least half the value of the labor or other work involved, then the appraised value of the improvements will control. The appraised value of the improvements shall be considered to be the increase in the value of the property resulting from the improvements. You will receive no credit for improvements that are not appraised at more than two thousand five hundred dollars ($2,500)

Cost of Appraisals

The terms of this loan call for annual appraisals of the property, and for additional appraisals to value improvements or in the event of a dispute regarding the value of the property or improvements. The cost of the appraisals will be paid as follows:

Your Right to Refinance This Loan

If the property is not sold or transferred prior to the maturity of the loan, we will offer to refinance the outstanding obligation on the loan, including any contingent interest. We will offer refinancing at the then prevailing interest rate either directly or through another mortgage lender

The terms of the refinancing loan will be like home loans offered at that time by banks or savings and loan associations, but you are assured that at least one of the options will be a fully amortizing 30-year loan. The interest rate on the refinancing loan may be either fixed or adjustable, as provided in your shared appreciation loan.

We will not be permitted to look to the forecast of your income in offering to refinance. The interest rate and monthly payment upon refinancing cannot be determined at this time. They may be either more or less burdensome to you than the currently prevailing rates and terms.

Tax Consequences

Use of the shared appreciation loan will have income tax or estate planning consequences which will depend upon your own financial and tax situation. FOR FURTHER INFORMATION, YOU ARE URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY

OR OTHER FINANCIAL ADVISER. THE QUESTIONS YOU SHOULD DISCUSS INCLUDE THE TAX DEDUCTIBILITY OF THE CONTINGENT INTEREST PAYMENT, YOUR RIGHT TO UTILIZE THAT DEDUCTION IN YEARS OTHER THAN THE YEAR IT IS PAID, AND THE EFFECT OF THE LOSS OF TAX BENEFITS BEFORE THAT TIME.

Other Important Information

(Here insert additional description, if necessary, of the operation and effect of the shared appreciation loan.)

The foregoing describes our shared appreciation loan, includes a summary of all of its important provisions, and informs you of some of the risks of a shared appreciation loan.

If your loan application is accepted by us, we will provide you with more information about your particular shared appreciation loan, which will include a comparison with conventional mortgages, an illustration of the possible increase in your monthly payments upon refinancing, and other important information

Before you enter into a shared appreciation loan with us, we recommend that you and your attorney or tax accountant review the loan documents for the full text of all of the terms and conditions which will govern the loan.

1917.072. (a) Each lender making a shared appreciation loan shall also furnish to the prospective borrower, prior to the consummation of the loan, the disclosures required by Subpart C of Federal Reserve Board Regulation Z (12 CFR Part 226), including 12 CFR Section 226.18(f), to the extent applicable to the transaction.

(b) The disclosure made pursuant to paragraph (a) and Regulation Z shall be based on the fixed interest rate of the shared appreciation loan, and shall include a description of the shared appreciation feature, including (1) the conditions for its imposition, the time at which it would be collected, and the limitations on the lender's share, as required by the Federal Reserve Board in the information published by the Board at 46 Federal Register 20877 and 20878 (April 7, 1981), and (2) the lender's share of the net appreciated value and the prevailing interest rate as defined in Section 1917.120(h).

(c) The disclosure made pursuant to paragraph (a) and Regulation Z shall be accompanied by (1) one or more transaction-specific examples of the operation and effect the shared appreciation loan, and (2) the following charts, comparing the shared appreciation loan and a conventional loan made at the prevailing interest rate, and illustrating the possible increase in the monthly payments, and the possible annual percentage rate of finance charge, on the assumptions therein stated:

Chart 1

CONVENTIONAL MORTGAGE AT ____%
If the same loan balance were financed under a conventional, 30-year, fixed-rate, level-payment mortgage, your monthly payments would be:
Years 1–30
$_____/mo.

Chart 2

IF YOU REFINANCE THIS TRANSACTION AT __%	
If your property appreciates at 10% per year, and if your loan balance (including contingent deferred interest due) at the end of ____ years is refinanced at __% (the prevailing market interest rate now), your monthly payments will be:	
Years 1–__	Refinancing loan
$_____/mo.	$_____/mo.*

* Refinancing loan, assuming a conventional, 30-year fixed-rate, level-payment mortgage. Other mortgage instruments, e.g., graduated-payment or shared appreciation, if available, may result in lower payments.

Chart 3

APR IF PROPERTY APPRECIATES AT 10%
If your property appreciates at 10% per year, the total finance charge on your shared appreciation loan (including contingent interest) will equal $____, and the annual percentage rate of the total finance charge (including contingent interest) will equal ____%.

(d) The disclosures required by paragraph (c) shall be separated from the disclosures required by Regulation Z, and may be presented in the document containing the disclosures required by Regulation Z or in one or more separate documents

(e) Except to the extent that this section requires disclosure of additional information not required by Regulation Z, compliance with the applicable credit disclosure requirements of Regulation Z shall constitute compliance with the requirements of this section.

(f) The disclosures prescribed in Section 1917.171 shall be physically attached to the disclosures required by this section and Regulation Z at the time such disclosures are furnished to the borrower.

(g) In the event federal law is amended so that this section is inconsistent therewith, the federal law shall prevail as to the disclosures required by this section.

1917.073. Each lender making a shared appreciation loan shall additionally furnish to the prospective borrower, prior to the consummation of the loan, a statement containing the following information:

IMPORTANT INFORMATION ABOUT YOUR
SHARED APPRECIATION LOAN

You are being offered a shared appreciation loan. Before you decide to accept this loan read this statement, which is designed to provide important information that you should consider.

1. Prevailing interest rate: ____%.
2. Fixed interest rate on this loan: ____%.
3. Lender's share of net appreciated value: one-third.
4. Amount of this loan: $____.
5. Amount of the monthly payments: $____.
6. Term of this loan: ____ years.
7. Amortization period on which payments are calculated: 30 years.
8. Prepayment penalty (if any) ____.

1917.074. Each deed of trust and evidence of debt executed in connection with a shared appreciation loan shall contain a statement, printed or written in a size equal to at least 12-point bold type, consisting of substantially the following language: "THIS IS A [DURATION] SHARED APPRECIATION LOAN. THE LENDER'S INTEREST INCLUDES ONE-THIRD OF THE NET APPRECIATED VALUE OF THE PROPERTY. FOR FURTHER INFORMATION, READ THE FLYER "INFORMATION ABOUT THE [NAME OF LENDER] SHARED APPRECIATION LOAN.' " The notice required by this section shall be completed to state the term of the shared appreciation loan.

1917.075. Where, pursuant to any provision of law, the lender is required to disclose the amount of interest due or to be due under a shared appreciation loan and the amount of contingent deferred interest due or to be due is not known, the lender may disclose that fact and specify in the disclosure the method for calculating contingent deferred interest.

SEC. 2 Chapter 4 (commencing with Section 1917.010) of Title

4 of Part 4 of Division 2 of the Civil Code shall become inoperative on January 1, 1990, and shall have no force or effect on or after that date, except that Chapter 4 shall continue to apply to any shared appreciation loan entered into prior to January 1, 1990.

CHAPTER 1144

An act to add Chapter 5 (commencing with Section 1917.110) to Title 4 of Part 4 of Division 2 of the Civil Code, relating to shared appreciation loans.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Chapter 5 (commencing with Section 1917.110) is added to Title 4 of Part 4 of Division 2 of the Civil Code, to read:

CHAPTER 5. SHARED APPRECIATION LOANS

Article 1. Legislative Findings and Declarations

1917.110. The Legislature hereby finds and declares that:

(a) It is necessary and essential that the state provide and promote alternative means of supplying affordable housing to the citizens of the state.

(b) Because of current economic conditions, including the unprecedented fluctuation in interest rates, alternative mortgage instruments must be developed to supplement the standard long-term, fixed-rate mortgage.

(c) State facilitation of the shared appreciation loan will serve the need to develop alternative means of financing housing, particularly new homes, and will help to create vitally needed jobs in the construction industry

Article 2. Definitions

1917.120. For purposes of this chapter:

(a) "Borrower" means the recipient or recipients of a shared appreciation loan and includes any successor in interest to the borrower under a shared appreciation loan, to the extent such succession is permitted by law or by the terms of the shared appreciation loan.

(b) "Borrower's cost of the property" means the price paid by the borrower for the purchase of the property to be financed with a shared appreciation loan and also includes documentary transfer taxes, escrow and recording fees, title insurance premiums, and any

other fees directly paid by the borrower as a necessary or customary cost of consummating acquisition of the property. However, if the purchase price to be paid for the property does not reasonably reflect the true value of the property, the borrower may request that, in lieu of the actual price paid, the "borrower's cost of the property" be established at an amount mutually agreed by the lender and borrower or be established by averaging two appraisals in the same manner as specified in Section 1917.142 for determination of fair market value. Nothing in this subdivision shall be construed to require a lender to make shared appreciation loans with the borrower's cost of the property established on the basis of appraisals.

(c) "Contingent deferred interest" means the lender's share of net appreciated value, calculated as the sum resulting upon multiplying the net appreciated value by a percentage agreed by the lender and borrower, not to exceed 50 percent.

(d) "Fair market value" means the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

Fair market value shall be determined pursuant to Article 4 (commencing with Section 1917.140).

(e) "Lender" means any person who makes a shared appreciation loan or the successor in interest to any such person.

(f) "Net appreciated value" means the fair market value less the sum of the borrower's cost of the property and the value of capital improvements. Nothing in this chapter shall, however, preclude a shared appreciation loan from additionally including a provision requiring deduction of any or all of the borrower's costs of selling the property from fair market value in determining, "net appreciated value," and if such a provision is included, the disclosures required by Section 1917.171 shall be modified accordingly.

(g) "Prevailing rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market system auction for four-month conventional mortgage commitments. In the event that the Federal National Mortgage Association discontinues or substantially alters its free market system auction for conventional mortgages then the "prevailing rate" shall be the average yield established at the most recent immediate delivery auction of the Federal Home Loan Mortgage Corporation, or if the auction has been discontinued, then the "prevailing rate" shall be specified in the shared appreciation loan as either (1) the most recently published Federal Home Loan Bank Board mortgage contract rate or (2) the average single-family home mortgage rate for the 10 largest savings and loan associations with principal offices in this state.

(h) "Property" means the property financed by the shared

appreciation loan.

(i) "Sale" means any transfer of title to the property and additionally includes the execution of an installment sale contract giving the purchaser a right to possess the property before transfer of title, refinancing, judicial sale on execution or other legal process of foreclosure or trustee's sale (regardless of whether initiated by the lender), but "sale" does not include a transfer specified in Section 2924.6.

(j) "Shared appreciation loan" means any loan made pursuant to this chapter upon the security of owner-occupied real property of a type specified in Section 1917.130, and in connection with which the lender has a right to receive a share of the appreciation in the value of the security property. "Shared appreciation loan" includes a deed of trust and any evidence of debt issued in connection with the loan.

(k) "Value of capital improvements" means the amount of the credit or credits for capital improvements, if any, determined pursuant to Article 5 (commencing with Section 1917.150).

Article 3. Terms and Conditions

1917.130. Lenders may make shared appreciation loans pursuant to this chapter for the purchase of real property improved with one-to-four dwelling units, including structures ancillary to such dwelling units and including attached single-family dwelling units, single-family mobilehome units placed upon permanent foundations, residential condominium units, and dwelling units within a planned unit development Shared appreciation loans shall be made to finance only owner-occupied dwelling units, but in the case of two-to-four unit dwellings financed under this chapter only one of the units need be owner-occupied. A dwelling unit shall be conclusively deemed to be owner-occupied for purposes of this chapter if an original recipient of the shared appreciation loan certifies in writing to the lender at the time the loan is made that he or she will occupy the property.

1917.131. A shared appreciation loan shall include the following terms and conditions:

(a) The term of the loan, excluding any refinancing under Section 1917.133, shall be at least seven years, but not more than 30 years.

(b) The repayment schedule for the loan, excluding any refinancing under Section 1917.133, shall be cast so that full amortization of the principal amount of the loan would occur in not less than 30 nor more than 40 years, regardless of the actual term of the loan. Any principal balance remaining at maturity shall be due and payable at that time, unless refinanced as provided in Section 1917.133. Monthly installment payments shall be equal in amount, except for the final payment when a principal balance is remaining at maturity, and in addition to amortization of principal shall include fixed interest pursuant to subdivision (d).

(c) The loan shall be secured by a deed of trust on the real

property financed

(d) The loan shall bear interest at a fixed rate, which shall be established in relation to the prevailing rate (1) in effect 90 days prior to the loan closing, (2) in effect at another date between that date and the loan closing if and as mutually agreed by the lender and borrower, or (3) in effect at the time of the lender's loan commitment given to the borrower or to the person from whom the borrower purchases the property. The percentage by which the fixed interest rate is reduced below the applicable prevailing rate shall be at least one-half the lender's percentage share of net appreciated value which is contingent deferred interest, except that if the shared appreciation loan is for less than 80 percent of the borrower's purchase price of the property, the percentage by which the fixed interest rate is reduced below the applicable prevailing rate shall be at least two-thirds the lender's percentage share of net appreciated value which is contingent deferred interest.

(e) The borrower shall additionally be obligated to pay to the lender contingent deferred interest (1) at the time of sale of the property if the lender accelerates the principal balance of the loan in accordance with a provision in the shared appreciation loan authorized by Section 1917.162, (2) at the time the loan is prepaid in full, upon acceleration of the loan upon default, or (3) upon the maturity of the loan, whichever first occurs.

(f) The aggregate amount of any fee charged to the borrower by the lender for processing an application, preparing any necessary documents, obtaining a credit report, or any other costs incurred by the lender in connection with originating a shared appreciation loan shall not exceed two percent of the principal amount of the loan or five hundred dollars ($500), whichever is greater. No prepaid interest shall be charged to the borrower, but nothing in this chapter shall preclude a lender from requiring a fee for providing commitments for shared appreciation loans to builders or others who purchase such commitments and who will not be the ultimate borrower.

1917.132. (a) The borrower shall have the right to prepay, at any time, in full or in part, the principal loan balance of the shared appreciation loan, together with accrued interest, including contingent deferred interest.

(b) Nothing in this chapter shall prevent a borrower from obligating himself or herself, by an agreement in writing, to pay a prepayment charge upon prepayment of the loan, in full or in part, made within five years of the date of execution of the shared appreciation loan.

(c) Any prepayment charge imposed upon the prepayment of a shared appreciation loan shall not exceed the amount authorized and specified in subdivision (b) of Section 2954.9.

(d) No prepayment charge shall be imposed as to any portion of the contingent deferred interest.

1917.133. (a) If a shared appreciation loan with an original term

of less than 10 years is not prepaid in full or the property is not sold or transferred prior to maturity of the loan, and provided the borrower is not then in default, the lender shall offer or arrange for refinancing of the unpaid balance of the loan upon maturity and all contingent deferred interest The refinancing may be provided directly by the lender or another mortgage lender, or the lender may arrange at the time of making the shared appreciation loan for the refinancing to be provided by a federally or state chartered bank or savings and loan association doing business in this state or by a qualified mortgage banker. As used in this section "qualified mortgage banker" means a lender (1) meeting the criteria established by the Government National Mortgage Association for lenders selling over ten million dollars ($10,000,000) in mortgage loans to that organization annually and (2) which either has conducted an ongoing business of mortgage lending in this state for not less than five years immediately preceding the making of the shared appreciation loans, or made over fifty million dollars ($50,000,000) in mortgage loans in this state during the 12 months immediately preceding the making of the shared appreciation loan. If a refinancing commitment is arranged by the lender upon origination of the shared appreciation loan, this fact shall be fully and fairly disclosed to the borrower, a copy of the lender's contract with the bank, savings and loan association or qualified mortgage banker making the commitment shall be supplied to the borrower at such time, and the contract shall be fully enforceable by the borrower as a third-party beneficiary thereto, but the lender shall not be a guarantor of the obligation of the bank, savings and loan association, or qualified mortgage banker to provide refinancing.

If the original lender is a bank or savings and loan association doing business in this state or a qualified mortgage banker, it may provide the refinancing commitment to the borrower required by this section and assignees or successors in interest of the original lender shall not be guarantors of the refinancing obligation, provided the shared appreciation loan contains this limitation, which is fully and fairly disclosed to the borrower, and the original lender's refinancing commitment is fully enforceable by the borrower.

(b) The term of the loan for refinancing shall be established so that the borrower's repayment schedule provides for the final installment payment not less than 30 years from the date of origination of the shared appreciation loan. However, if loans at that duration are not available, within the meaning of subdivision (d), the lender or other obligor shall give the borrower a choice of any form of loan and maturity for that type of loan which is available at the time of refinancing, within the meaning of subdivision (d). The lender or other obligor shall inform the borrower of the types of loans (and maturities) available for refinancing under this section not less than 60 days prior to maturity of the shared appreciation loan

(c) The interest rate for the refinancing loan shall not exceed rates generally available in the market for the type of loan

instrument provided under subdivision (d) at the time of maturity of the shared appreciation loan. No loan origination fees shall be required of the borrower, either as prepaid interest or for processing services, as a condition of obtaining a refinancing loan pursuant to this section, but the borrower may be required to pay the costs of obtaining a policy of title insurance in accordance with the lender's requirements. The refinancing loan need not be a fixed interest rate loan, subject to the limitations of subdivision (d).

(d) The refinancing loan may be any form of loan which, at the time of refinancing, is generally offered to and utilized by the public for financing housing like the borrower's property by banks or savings and loan associations doing business in this state.

(e) The lender may require as a condition of the refinancing loan that it be secured by a deed of trust having a lien of first priority.

1917.134. Except as provided in this article, the terms and conditions of the refinancing loan shall be subject to all laws applicable to loans in effect on the date of refinancing.

1917.135. Nothing in this chapter shall preclude the borrower from obtaining any other financing, in lieu of the refinancing provided for in Section 1917.133, including refinancing on other terms mutually agreeable to the borrower and lender.

Article 4. Determination of Fair Market Value

1917.140. The borrower may, at any time for the purpose of facilitating a sale of the property, request the lender to stipulate the minimum amount which the lender considers to be the fair market value of the property for the purposes of this chapter. The lender shall advise the borrower within 10 working days of the receipt of such request of the lender's estimate of the minimum fair market value. Such estimate shall remain effective for purposes of this section for 90 days. For the purposes of this section and Section 1917.141, a sale of the property shall be deemed to have occurred within the 90-day period if there is a valid contract entered by an offer and acceptance within the 90-day period for the sale of the property. The lender's stipulation shall remain effective for an additional 60 days following execution of the sale contract to permit completion of the sale and close of escrow.

The lender shall not be liable to the borrower or any other party on account of damages alleged as a result of providing the stipulation or estimate required by this section if such stipulation or estimate is made in good faith. Evidence of lack of good faith shall include, but not be limited to, a showing that the lender has willfully or repeatedly overrepresented the fair market value of other properties in similar situations, applying equitable principles to those determinations. The lender shall be conclusively presumed to have acted in good faith and no action may be brought or maintained against a lender which arises out of the provision by the lender of such stipulation or estimate, if the lender relied upon an appraisal of

an independent appraiser approved by the Federal National Mortgage Association.

1917.141. (a) In the case of a sale for cash within 90 days after the lender stipulates, under the provisions of Section 1917.140, a minimum amount which the lender considers to be the fair market value of the property, the fair market value shall be the gross sale price, unless the gross sales price is below the minimum amount stipulated by the lender and the lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.142.

(b) In the case of a sale for cash where the borrower has not requested the lender under the provisions of Section 1917.140 to stipulate to the minimum amount which the lender considers to be the fair market value of the property or where the stipulated minimum amount was provided by the lender more than 90 days prior to the date of sale, fair market value shall be the gross sale price, unless lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.142.

(c) In the case of a sale which includes consideration to the seller other than cash, fair market value shall be as determined under Section 1917.142.

(d) In the case the shared appreciation loan is prepaid in full, or upon acceleration of the shared appreciation loan upon default, or upon maturity of the shared appreciation loan, fair market value shall be as determined under Section 1917.142.

1917.142. When Section 1917.141 requires the application of this section, the fair market value shall be determined as the average of two appraisals of the property performed as described in this section. If possible, the appraisals shall be based on the sale prices of comparable properties in the market area sold within the preceding three-month period. The appraisals shall be made upon request of the lender by two independent residential appraisers, one to be selected by the lender and one by the borrower. Each appraiser shall be approved by the Federal National Mortgage Association. The cost of the appraiser selected by the lender shall be borne by the lender, and the cost of the appraiser selected by the borrower shall be borne by the borrower, unless the average of the two appraisals equals or is less than the gross sale price of the property, in which case the lender shall also pay the fee of the borrower's appraiser up to two hundred dollars ($200). If either of the appraisers determines that the gross sale price does not reasonably reflect the fair market value of the property, or, in the case of a sale for which appraisal is required by this section, then the fair market value of the property shall be

determined as the average of the two appraisals. If the borrower fails to select a qualified appraiser within 15 days after the lender has notified the borrower in writing of the lender's request for an appraisal of the property, the reasons therefor, and the borrower's option to select an independent appraiser within 15 days after the lender's request is submitted to the borrower, the lender may designate the second appraiser, provided the lender's request informs the borrower of this time limitation, and that the lender will select an appraiser on behalf of the borrower in the event the borrower fails to designate an appraiser, with consequent cost to the borrower. If pursuant to this section the lender designates the second appraiser, the cost of both appraisals shall be borne equally by the borrower and lender. If in any case the property has been damaged (other than normal wear and tear) and the damage has not been fully repaired, the determination of fair market value shall be based on the condition of the property not including the damage.

Nothing in this section shall preclude the borrower and lender from establishing the fair market value of the property by mutual agreement in lieu of appraisals pursuant to this section.

Article 5. Improvements

1917.150. The borrower may have the value of capital improvements added to the borrower's cost of the property, for purposes of determining net appreciated value and the amount of contingent deferred interest, but only if the procedures set forth in this article are followed.

(a) Within 60 days following the completion of capital improvements during any 12-month period with a cost in excess of two thousand five hundred dollars ($2,500), the borrower shall send by first-class mail a notice of the completion of the improvements to the lender and shall submit proof of cost and an estimate of the increase in value of the property by reason of the improvements.

(b) If, within 30 days of receipt of the notice, the lender questions the claimed increase in value of the property by reason of the improvements, the lender and the borrower may, by mutual agreement, establish the value of the capital improvements or the lender may require appraisal of the property. An appraisal shall be made to determine the increase in value of the property, if any, by reason of the improvements, by two appraisers selected in the same manner specified in Section 1917.142. If appraisals are performed, the increase in value resulting from the improvements for the purposes of this section, shall be one-half of the sum of the two appraisals. The cost of the appraiser selected by the borrower shall be borne by the borrower, and the cost of the appraiser selected by the lender shall be borne by the lender.

(c) A credit for the value of capital improvements shall be provided if the increase in value of the property resulting therefrom is determined pursuant to subdivision (b) to exceed two thousand

five hundred dollars ($2,500).

(d) If 50 percent or more of the value of the labor or other work on the improvements was performed by the borrower, then the actual cost of the improvements need not exceed two thousand five hundred dollars ($2,500) for purposes of making application under subdivision (a).

1917.151. Nothing in this article shall preclude a shared appreciation loan from providing the borrower with a greater credit for improvements than specified in this article, provided the relevant disclosures required by Article 7 (commencing with Section 1917.170) are appropriately modified to accurately disclose the terms of the credit.

Article 6. General Provisions

1917.160. The relationship of the borrower and the lender, as to a shared appreciation loan, is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership, or other relationship.

1917.161. Any waiver of any right of a borrower under the provisions of this chapter shall be void and unenforceable.

1917.162. (a) Notwithstanding Section 711, a provision in a shared appreciation loan made pursuant to this chapter permitting the lender to accelerate the maturity date of the principal and accrued interest on the loan upon sale of the property shall be valid and enforceable against the borrower, except as may be precluded by Section 2924.6.

(b) The Legislature finds and declares that potential exposure to liability for enforcement of a "due-on-sale" clause consistent with Section 711, as interpreted by the courts, makes use of such a provision impractical. Moreover, the additional risks to the lender inherent in shared appreciation financing are greater with longer loan terms (which are more desirable from the standpoint of housing affordability), but this risk is reduced with an enforceable "due-on-sale" clause. Therefore, in order to facilitate shared appreciation financing, it is necessary to establish the exception specified in subdivision (a).

1917.163. This chapter facilitates the making of shared appreciation financing in this state which conforms to the provisions of this chapter. The terms and conditions of any shared appreciation loan made pursuant to this chapter shall be consistent with this chapter. This chapter does not, however, apply to or limit shared appreciation financing of real property of a type specified in Section 1917.130 that is made pursuant to other provisions of law, or which is not otherwise unlawful. Nothing in this chapter shall be construed to in any way affect shared appreciation financing of commercial property or residential property not meeting the criteria specified in Section 1917.130.

1917.164 A shared appreciation loan shall not be subject to any

provision of this code or the Financial Code which limits the interest rate or change of interest rate of variable interest rate or renegotiable interest instruments, or which requires particular language or provisions in security instruments securing variable or renegotiable rate obligations or in evidences of those debts.

This section is declaratory of existing law.

1917.165. The lien of a deed of trust securing a shared appreciation loan shall include and secure the principal amount of the shared appreciation loan, and all interest, whether accrued or to be accrued, including all amounts of contingent deferred interest.

1917.166. The lien of a shared appreciation loan, including the principal amount and all interest, whether accrued or to be accrued, and all amounts of contingent deferred interest, shall attach from the time of the recordation of the deed of trust securing the loan, and the lien, including the lien of the interest accrued or to be accrued and of the contingent deferred interest, shall have priority over any other lien or encumbrance affecting the property secured by the shared appreciation instrument, recorded after the time of recordation of the shared appreciation instrument. However, nothing in this section or Section 1917.165 shall preclude a junior lien or encumbrance subordinate to the obligation of the shared appreciation loan. In no case may a junior lien achieve priority over the lien securing the obligation of the shared appreciation loan, provided that nothing in this section shall be construed to supersede Section 3134 of the Civil Code.

1917.167. A shared appreciation loan which at origination bears a fixed interest rate complying with the usury provisions of Article XV of the California Constitution shall not be deemed to become usurious by reason of the payment of contingent deferred interest pursuant to this chapter.

1917.168. The qualification requirements of Sections 25110, 25120, and 25130 of the Corporations Code do not apply to a shared appreciation loan to the extent the exemption afforded by subdivision (p) of Section 25100 of that code is applicable.

Article 7. Notices and Disclosures

1917.170. (a) The disclosures made pursuant to this chapter, as required, shall be the only disclosures required to be made pursuant to state law for shared appreciation loans, notwithstanding any contrary provision applicable to loans not made under this chapter, except those, if any, that may be required by reason of the application of Division 1 (commencing with Section 25000) of the Corporations Code, or Chapter 2 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code. However, a lender shall not be precluded from supplementing the disclosures required by this chapter with additional disclosures that are not inconsistent with the disclosures required by this chapter.

(b) Whenever specific language is prescribed by this chapter,

substantially the same language shall be utilized if possible, but reasonably equivalent language may be used to the extent necessary or appropriate to achieve a clearer or more accurate disclosure.

1917.171 (a) Each lender offering shared appreciation loans shall furnish to a prospective borrower, on the earlier of the dates on which the lender first provides written information concerning shared appreciation loans from the lender or provides a loan application form to the prospective borrower, a written disclosure as provided in this section

(b) The disclosure shall be entitled "INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN," and shall describe the operation and effect of the shared appreciation loan including a brief summary of its terms and conditions, together with a statement consisting of substantially the following language, to the extent applicable to such loan:

INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN

(Name of Lender) is pleased to offer you the opportunity to finance your home through a shared appreciation loan.

Because the shared appreciation loan differs from the usual mortgage loan, the law requires that you have a detailed explanation of the special features of the loan before you apply. Before you sign your particular shared appreciation loan documents, you will receive more information about your particular shared appreciation loan, which you should read and understand before you sign the loan documents.

The loan will bear a stated rate of interest which will be (percent) below the prevailing market interest rate. In exchange for a stated interest rate which is below the prevailing rate, you will be obligated to pay us additional interest later. This additional interest is called "contingent interest."

The loan will require a balloon payment at the end of the _____ year. Thus, if you do not sell the property before that time, you will need to refinance the loan at that time.

Contingent Interest

This loan provides that you, as borrower, must pay to us, as lender, as contingent interest, (percent) of the net appreciated value of the real property which secures the loan. This contingent interest is due and payable when the property is sold or transferred, when the loan is paid in full, upon any acceleration of the loan upon default, or at the end of the term of the loan, whichever first occurs. The dollar amount of contingent interest, if any, which you will be required to pay cannot be determined at this time. If the property does not appreciate, you will owe us nothing. The contingent interest will not become due if title to the property is transferred on your death to

a spouse, or where a transfer results from a decree of dissolution of a marriage and a spouse becomes the sole owner

Your obligation to pay contingent interest will reduce the amount of the appreciation, if any, that you will realize on the property. This appreciation will not produce a real gain in your equity in the property, unless the appreciation rate exceeds the general inflation rate, but you will be required to pay a portion of the appreciation as contingent interest without regard to whether the appreciation has resulted in a real gain.

When you sell or refinance your home, you normally will receive enough cash to pay the shared appreciation loan balance, accrued interest, prepayment charge (if applicable), contingent interest, and expenses of sale. However, if you sell with only a small downpayment, you may possibly not receive enough cash to pay the contingent interest, and, in that event, it will be necessary for you to provide cash from other funds.

Calculating the Contingent Interest

Contingent interest will be calculated as follows:

	FAIR MARKET VALUE OF THE PROPERTY (Sale price or appraised value.)
– (less)	BORROWER'S COST OF THE PROPERTY (This amount includes certain costs paid by you incident to the purchase.)
– (less)	VALUE OF CAPITAL IMPROVEMENTS MADE BY YOU (Must exceed $2,500 in value. Must also exceed $2,500 in cost unless you perform more than 50% of the value of the labor or work on the improvement.)
= (equals)	NET APPRECIATED VALUE
× (times)	_____ PERCENT OWED TO LENDER
= (equals)	TOTAL CONTINGENT INTEREST

Determining Fair Market Value

If you sell your property for cash before maturity of your shared appreciation loan, the gross sale price will be the fair market value of the property, unless appraisals are requested by us and the appraisals average more than the gross sale price. However, at your request, we also will tell you what we consider to be the fair market

value of the property. If you sell for cash for a gross sale price that equals or exceeds that amount, the gross sale price will control and appraisals will not be needed

Fair market value is determined by appraisals in the event of sales involving a consideration other than cash, prepayment of the loan in full, or maturity of the loan.

When appraisals are required, fair market value is determined by averaging two independent appraisals of the property. You may select one of the two appraisers from a list approved by the Federal National Mortgage Association. If appraisals are requested by us, we will provide you with full information on how to select an appraiser.

In lieu of appraisals, we may establish fair market value at an agreed amount if an agreement can be reached between you and us.

Determining Value of Capital Improvements

Capital improvements with a value exceeding $2,500 (but no maintenance or repair costs) may be added to your cost of the property for the purpose of determining the net appreciated value, but only if the procedures set forth in the shared appreciation loan documents are followed. It is important to note that capital improvements completed and claimed in any 12-month period must add more than $2,500 in value to the property and must generally also cost more than $2,500. However, if you have performed at least half the value of the labor or other work involved, then the cost of the improvements will not be considered. The appraised value of the improvements will be the increase in the value of the property resulting from the improvements. You will receive no credit for minor or major repairs or for improvements that are not appraised at more than $2,500, but the lender will acquire a share of any resulting appreciation in the value of the property.

Determining Net Appreciated Value

We are entitled to receive ____ percent of the net appreciated value of the property as contingent interest. As shown in the chart above, net appreciated value equals (1) the fair market value of the property at the time of the sale or appraisal, less (2) your cost of the property, less (3) the value of any capital improvements for which you are entitled to credit.

Balloon Payment of Principal

If you do not sell the property before the end of the term of this loan, you will need to refinance this loan at that time. The term of this loan is (duration) years. We [are not obligated to refinance either the unpaid balance of the loan or the contingent interest at that time; you alone will be responsible for obtaining refinancing] [will offer or arrange with another lender to refinance the

outstanding obligation, including any contingent interest, at that time]. If you refinance this loan, your monthly payments may increase substantially if the property appreciates significantly or if the interest rate on the refinancing loan is much higher than today's prevailing rates. In general, the more your property appreciates, the larger will be the amount of the contingent interest that you will have an obligation to pay or refinance.

Your Right to Refinance This Loan

(For loans with a refinancing obligation)

If the property is not sold or transferred prior to the maturity of the loan, we will offer or arrange with another lender to refinance the outstanding obligation of the loan, including any contingent interest. The refinancing will be at the then prevailing interest rate.

The terms of the refinancing loan will be like those of home loans offered at that time by banks or savings and loan associations. If at the time of refinancing, banks or savings and loan associations in this state offer loans of sufficient duration, you are assured that the combined length of your shared appreciation loan and refinancing loan will be at least 30 years. However, if loans of sufficient duration are not then offered by banks or savings and loan associations, you may elect any type and maturity of loan then offered by banks or savings and loan associations.

We will not be permitted to look to the forecast of your income in offering or arranging for your refinancing loan. The interest rate and specific terms of any refinancing loan will be subject to then-prevailing market conditions. The interest rate and monthly payment upon refinancing cannot be determined at this time. They may be either more or less burdensome to you than the currently prevailing rates and terms.

Tax Consequences

(For all loans)

USE OF THE SHARED APPRECIATION LOAN WILL HAVE INCOME TAX OR ESTATE PLANNING CONSEQUENCES WHICH WILL DEPEND UPON YOUR OWN FINANCIAL AND TAX SITUATION. FOR FURTHER INFORMATION, YOU ARE URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY, OR OTHER FINANCIAL ADVISOR.

THE QUESTIONS YOU SHOULD DISCUSS INCLUDE THE TAX DEDUCTIBILITY OF THE CONTINGENT INTEREST PAYMENT, YOUR RIGHT TO UTILIZE THAT DEDUCTION IN YEARS OTHER THAN THE YEAR IT IS PAID, AND THE EFFECT OF THE LOSS OF TAX BENEFITS BEFORE THAT TIME.

Other Important Information

(Here insert additional description, if necessary, of the operation and effect of the shared appreciation loan.)

The foregoing describes our shared appreciation loan, includes a summary of all of its important provisions, and informs you of some of the risks of a shared appreciation loan.

If your loan application is accepted by us, we will provide you with more information about your particular shared appreciation loan, which will include a comparison with conventional mortgages, an illustration of the possible increase in your monthly payments upon refinancing, and other important information.

Before you enter into a shared appreciation loan with us, we recommend that you and your attorney or tax accountant review the loan documents for the full text of all of the terms and conditions which will govern the loan.

1917.172. (a) Each lender making a shared appreciation loan shall also furnish to the prospective borrower, prior to the consummation of the loan, the disclosures required by Subpart C of Federal Reserve Board Regulation Z (12 CFR Part 226), including 12 CFR Section 226.18(f), to the extent applicable to the transaction.

(b) The disclosure made pursuant to subdivision (a) and Regulation Z shall be based on the fixed interest rate of the shared appreciation loan, and shall include a description of the shared appreciation feature, including (1) the conditions for its imposition, the time at which it would be collected, and the limitations on the lender's share, as required by the Federal Reserve Board in the information published by the board in 46 Federal Register 20877-78 (April 7, 1981), and (2) the lender's share of the net appreciated value and the prevailing interest rate as defined in Section 1917.120 of the Civil Code.

(c) The disclosure made pursuant to subdivision (a) and Regulation Z shall be accompanied by (1) one or more transaction-specific examples of the operation and effect of the shared appreciation loan and (2) the following charts comparing the shared appreciation loan and a conventional loan made at the prevailing interest rate, and illustrating the possible increase in the monthly payments, and the possible annual percentage rate of finance charge, on the assumptions therein stated:

Chart 1

CONVENTIONAL MORTGAGE AT ___%
If the same loan balance were financed under a conventional, 30-year, fixed-rate, level-payment mortgage, your monthly payments would be·
Years 1–30
$_____/mo.

Chart 2

IF YOU REFINANCE THIS TRANSACTION AT __%	
If your property appreciates at 10% per year, and if your loan balance (including contingent interest due) at the end of ___ years is refinanced at __% (the prevailing market interest rate now), your monthly payments will be:	
Years 1–__	Refinancing loan
$_____/mo.	$_____/mo.*

* Refinancing loan, assuming a conventional 30-year, fixed-rate, level-payment mortgage. Other mortgage instruments, e.g., graduated-payment or shared-appreciation, if available, may result in lower payments.

Chart 3

APR IF PROPERTY APPRECIATES AT 10%
If your property appreciates at 10% per year, the total finance charge on your shared appreciation loan (including contingent interest) will equal $___, and the annual percentage rate of the total finance charge (including contingent interest) will equal ___%

(d) The disclosures required by subdivision (c) shall be separate from the disclosures required by Regulation Z, and may be presented

in the document containing the disclosures required by Regulation Z or in one or more separate documents.

(e) Except to the extent that this section requires disclosure of additional information not required by Regulation Z, compliance with the applicable credit disclosure requirements of Regulation Z shall constitute compliance with the requirements of this section.

(f) The disclosure prescribed in Section 1917.171 shall be physically attached to the disclosures required by this section and Regulation Z at the time the Regulation Z disclosures are furnished to the borrower.

(g) In the event federal law is amended so that this section is inconsistent therewith, the federal law shall prevail as to the disclosures required by this section.

1917.173. Each lender making a shared appreciation loan shall additionally furnish to the prospective borrower, prior to consummation of the loan, a statement containing the following information:

IMPORTANT INFORMATION
ABOUT YOUR SHARED
APPRECIATION LOAN

You are being offered a shared appreciation loan. Before you decide to accept this loan, read this statement, which is designed to provide important information you should consider.

1. Prevailing interest rate: ____%.
2. Interest rate on this loan: ____%.
3. Lender's share of net appreciated value: ____%.
4. Amount of this loan: $____.
5. Amount of the monthly payments: $____.
6. Term of this loan: ____ years.
7. Amortization period on which payments are calculated: ____ years.
8. Prepayment charge (if any): ____.

1917.174. Each deed of trust and evidence of debt executed in connection with a shared appreciation loan shall contain a statement, printed or written in a size equal to at least 12-point bold type, consisting of substantially the following language: "THIS IS A [DURATION] SHARED APPRECIATION LOAN. THE LENDER'S INTEREST INCLUDES [PERCENT] OF THE NET APPRECIATED VALUE OF THE PROPERTY. A BALLOON PAYMENT OF PRINCIPAL WILL BE REQUIRED. FOR FURTHER INFORMATION, READ THE FLYER ENTITLED 'INFORMATION ABOUT THE [NAME OF LENDER] SHARED APPRECIATION LOAN.'" The notice required by this section shall be completed to state the terms of the shared appreciation loan and the lender's share of the net appreciated value.

1917.175. Where, pursuant to any provision of law, the lender is required to disclose the amount of interest due or to be due under

a shared appreciation loan and the amount of contingent deferred interest due or to be due is not known, the lender may disclose that fact and specify in the disclosure the method for calculating contingent deferred interest.

SEC. 2. Chapter 5 (commencing with Section 1917.110) of Title 4 of Part 4 of Division 2 of the Civil Code shall become inoperative on January 1, 1987, and shall have no force or effect on or after that date, except that Chapter 5 shall continue to apply to any shared appreciation loan entered into pursuant to its provisions prior to January 1, 1987.

CHAPTER 1145

An act to amend Sections 38311, 38321, 38341, 38342, 38348.1, 38349, 38349.1, 38350, 38482, 38821, 61933, 61935, 62076, and 62077 of the Food and Agricultural Code, relating to milk.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 38311 of the Food and Agricultural Code is amended to read:

38311. Sterilized flavored milk is market milk, evaporated market milk, condensed market milk, dried market milk, or any combination of them, which contains harmless sweetening, chocolate, chocolate syrup, or other harmless syrup or flavoring, or combinations of such syrups or flavorings, and harmless edible stabilizer which does not exceed five-tenths of 1 percent or seasoning. It is homogenized, packed in hermetically sealed containers, and so processed by heat as to prevent spoilage.

SEC. 2. Section 38321 of the Food and Agricultural Code is amended to read·

38321. Sterilized flavored cream is market cream to which nonfat dry milk solids derived from market milk have been added, which contains harmless flavoring or syrup, or combinations of harmless flavorings or syrups, and harmless edible stabilizer which does not exceed five-tenths of 1 percent or seasoning and harmless stabilizing salts. It is homogenized, packed in hermetically sealed containers, and so processed by heat as to prevent spoilage.

SEC. 3. Section 38341 of the Food and Agricultural Code is amended to read:

38341. Sterilized milk and sterilized cream is market milk or market cream which has been subjected to a temperature which is high enough to sterilize the product. An edible stabilizer not to exceed five-tenths of 1 percent may be added to sterilized milk or sterilized cream.

SEC. 4. Section 38342 of the Food and Agricultural Code is amended to read:

38342. Sterilized milk or sterilized cream shall be made from market milk or market cream which meets all the requirements of this division for the respective class or grade of milk and cream which is used; except that such milk or cream need not be cooled if it has been demonstrated to the satisfaction of the director that such cooling is not required for the proper processing of the product.

SEC. 5. Section 38348.1 of the Food and Agricultural Code is amended to read:

38348.1. Sterilized whipped cream or sterilized cream topping shall be made with market cream and may include one or more of the following ingredients: nonfat milk solids derived from market milk, whey solids, nutritive sweeteners, flavoring, and coloring. Hexitols may be added within limits established by the Federal Food, Drug, and Cosmetic Act. Harmless edible stabilizers and emulsifiers may be added to the extent required to accomplish the necessary physical effect.

SEC. 6. Section 38349 of the Food and Agricultural Code is amended to read:

38349. Sterilized sour cream means a product containing not less than 18 percent of milk fat and not less than 0.50 percent acidity, expressed as lactic acid, which has been produced by the culturing of market cream with the addition of pure cultures of one or more strains of lactic acid bacteria, and afterwards heated to a temperature high enough and long enough to sterilize the product. Sterilized sour cream shall be packaged in hermetically sealed containers.

SEC. 7. Section 38349.1 of the Food and Agricultural Code is amended to read:

38349.1. Sterilized sour cream shall be made with market cream and may include one or more of the following optional ingredients: milk solids-not-fat derived from market milk, salt, or lactose. Harmless edible stabilizers and emulsifiers may be added to the extent required to accomplish the necessary physical effect.

SEC. 8. Section 38350 of the Food and Agricultural Code is amended to read:

38350. Sterilized half-and-half is a product consisting of market milk, market cream, nonfat dry milk derived from market milk, and market skim milk to which edible stabilizers and stabilizing salts may be added. It shall contain not less than 10.5 percent milk fat and not more than six-tenths of 1 percent stabilizer. Sterilized half-and-half shall be conspicuously labeled with the full name of the product and shall also be labeled with the name and address of the distributor. Wherever the name of the product appears on the container the full name shall be used, and although the height, style and color of the lettering of the name need not be uniform at all places on the container, wherever the name appears on the container all of the letters of the name shall be there shown in the same height, style and color. All ingredients shall be listed on the label in their order of

predominance. It shall be subjected to a temperature high enough to sterilize the product and be packaged in hermetically sealed containers.

SEC. 9. Section 38482 of the Food and Agricultural Code is amended to read:

38482. Sterilized milk drink mix shall be packaged by the manufacturer in sterile hermetically sealed containers.

SEC. 10. Section 38821 of the Food and Agricultural Code is amended to read:

38821. Sterilized sour flavored half-and-half is a product consisting of market milk, market cream, and market skim milk to which edible stabilizers, stabilizing salts, and acidified flavoring may be added. It shall contain not less than 9.4 percent milk fat and not more than six-tenths of 1 percent stabilizer.

SEC. 11. Section 61933 of the Food and Agricultural Code is amended to read:

61933. Class 2 comprises any market milk, market skim milk, or market cream used in the manufacture of market cream, homogenized market cream, sour cream, sour cream dressing, uncreamed, creamed, or partially creamed cottage cheese, and buttermilk. Class 2 also comprises any market milk, market skim milk, or market cream used in the manufacture of any product for which a definition and standard is prescribed in Division 15 (commencing with Section 32501), except any such product which is included in class 1, class 3, or class 4.

SEC. 12. Section 61935 of the Food and Agricultural Code is amended to read:

61935. (a) Class 4a comprises all market milk, market skim milk, or market cream used in the manufacture of butter, dried milk, dried skim milk, nonfat dry milk solids, defatted milk solids, and dried buttermilk, and all market milk, market skim milk, or market cream which is supplied to consumers as condensed milk, condensed skim milk, evaporated skim milk, evaporated cream or clotted cream, or evaporated milk, or any product for which no definition and standards are prescribed in Division 15 (commencing with Section 32501), except the products defined in paragraph (2) of subdivision (a) of Section 61932.

(b) Class 4b comprises all market milk, market skim milk, or market cream used in the manufacture of cheese other than cottage cheese.

SEC. 13. Section 61935 of the Food and Agricultural Code is amended to read:

61935. (a) Class 4a comprises all market milk, market skim milk, or market cream used in the manufacture of butter, dried milk, dried skim milk, nonfat dry milk solids, defatted milk solids, and dried buttermilk, and all market milk, market skim milk, or market cream which is supplied to consumers as condensed milk, condensed skim milk, evaporated skim milk, evaporated cream or clotted cream, or evaporated milk, and any combination of market milk, market skim

milk, or market cream which is sterilized and packaged in hermetically sealed containers to be sold outside the 48 contiguous states in the United States, and any market half-and-half or market cream which is ultra-pasteurized and packaged in hermetically sealed containers to be sold outside of the 48 contiguous states in the United States, or any product for which no definition and standards are prescribed in Division 15 (commencing with Section 32501), except the products defined in paragraph (2) of subdivision (a) of Section 61932.

(b) Class 4b comprises all market milk, market skim milk, or market cream used in the manufacture of cheese other than cottage cheese.

SEC. 14. Section 62076 of the Food and Agricultural Code is amended to read:

62076. In establishing prices to be paid by handlers to producers for class 2, class 3, class 4a, or class 4b market milk, the director shall take into consideration any relevant economic factors, including, but not limited to, the following:

(a) The relative market value of the various products yielded from such market milk.

(b) The market price of other milk which may be used for the same purposes that are set forth in such respective classes.

(c) The value of milk used for manufacturing purposes giving consideration to any relevant factors including, but not limited to, product prices, product yields, and manufacturing costs of the lowest class of usage of manufactured products.

SEC. 15. Section 62077 of the Food and Agricultural Code is amended to read:

62077. A handler shall not pay any producer less than the applicable price established for the usage to which the market milk, purchased from him is applied pursuant to accounting procedures established by the director. If the market milk is not applied to any purpose set forth in Article 5 (commencing with Section 61931), then a handler shall not pay any producer less than the price established under the applicable stabilization and marketing plan for class 4a or class 4b usage.

SEC. 16. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this act shall become operative either on January 1, 1982, or upon amendment by the United States Public Health Service of the Grade A Pasteurized Milk Ordinance pursuant to 1978 recommendations of the service relating to sterilized milk and milk products, whichever is later.

SEC. 17. It is the intent of the Legislature, if this bill and Assembly Bill 903 are both chaptered and become effective January 1, 1982, both bills amend Section 61935 of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill 903, that the amendments to Section 61935 proposed by both bills be given effect and incorporated in Section 61935 in the form set forth in Section 13 of this act. Therefore, Section 13 of this act shall become operative

only if this bill and Assembly Bill 903 are both chaptered and become effective January 1, 1982, both amend Section 61935, and this bill is chaptered after Assembly Bill 903, in which case Section 12 of this act shall not become operative.

CHAPTER 1146

An act to amend Sections 1805.1, 1810.2, and 1812.41 of the Civil Code, relating to consumer credit, making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 1805.1 of the Civil Code, as amended by Section 2 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract for the sale of household furniture, furnishings, or appliances by a seller whose gross sales during the immediately preceding 12-month period have not exceeded ten million dollars ($10,000,000), eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid

balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 1.5. Section 1805.1 of the Civil Code, as amended by Section 2 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) (A) With respect to a retail installment contract for the sale of household furniture, furnishings, or appliances by a seller whose gross sales during the immediately preceding 12-month period have not exceeded ten million dollars ($10,000,000), eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which does not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months (computed on the basis of a full month for any fractional-month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) With respect to all other retail installment contracts, eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any

fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a) Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 2. Section 1805.1 of the Civil Code, as added by Section 4 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the

date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on October 1, 1982.

SEC. 2.5. Section 1805.1 of the Civil Code, as added by Section 4 of Chapter 1381 of the Statutes of 1980, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on October 1, 1982.

SEC. 3. Section 1810.2 of the Civil Code, as amended by Section 1 of Chapter 26 of the Statutes of 1981, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter.

(a) (1) With respect to a retail installment account the outstanding balance of which was incurred only as a result of retail installment sales of household furniture, furnishings, or appliances by a seller whose gross sales during the 12-month period immediately preceding the imposition of the finance charge have not exceeded ten million dollars ($10,000,000), the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed three thousand dollars ($3,000), 1.6 percent.

(B) If the outstanding balance is more than three thousand dollars ($3,000), 1 percent on the excess over three thousand dollars ($3,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(2) With respect to all other retail installment accounts, the finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(A) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1.6 percent.

(B) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(C) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(b) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(c) If a seller or holder of a retail installment account increases its finance charge rate, then the increased rate may only be applied to balances consisting of purchases or other charges incurred on or after the effective date of the increase. For purposes of determining the balances to which the increased rate applies, all payments and other credits may be deemed to be applied to the balance existing prior to the change in rate until that balance is paid in full.

This section shall remain in effect only until October 1, 1982, and as of that date is repealed.

SEC. 4. Section 1812.41 of the Civil Code is amended to read.

1812.41. The committee shall have the following authority and duties:

(a) To investigate the costs of providing consumer credit to California customers.

(b) To obtain from the consumer credit industry for analysis records and information pertaining to such costs.

(c) To determine the desirability of maintaining rate ceilings in consumer credit transactions.

(d) To report to the Assembly Committee on Finance, Insurance, and Commerce and to the Senate Committee on Banking and Commerce its preliminary report on March 31, 1982, and a final report on or before June 30, 1982, on the results of this study.

SEC. 5. The sum of one hundred fourteen thousand eight hundred ninety dollars ($114,890) is hereby appropriated to the Retail Credit Advisory Committee for the purposes of carrying out the provisions of Section 1812.41 of the Civil Code, in accordance

with the following schedule:
Schedule:

(a) Fifty-seven thousand four hundred forty-five dollars ($57,445) from the State Banking Fund.

(b) Fifty-seven thousand four hundred forty-five dollars ($57,445) from the Savings and Loan Inspection Fund.

SEC. 6. The Legislature hereby finds and declares that sellers of furniture, furnishings, and appliances who gross less than ten million dollars ($10,000,000) a year are experiencing difficulty in borrowing money at prime interest rates which results in these sellers being unable to sell furniture, furnishings, and appliances on credit at competitive prices. The Legislature, as a result, finds and declares that the amendments to Sections 1805.1 and 1810.2 of the Civil Code made by this act which accord preferential treatment to sellers of furniture, furnishings, and appliances who gross less than ten million dollars ($10,000,000) a year are necessary and desirable in order to ensure that these sellers may continue to sell, and consumers may continue to purchase, furniture, furnishings, and appliances on credit at competitive prices.

SEC. 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 979 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 1805.1 of the Civil Code, and this bill is chaptered after Senate Bill No. 979, that Section 1805.1 of the Civil Code, as amended by Section 1 of this act, be further amended on April 1, 1982, in the form set forth in Section 1.5 of this act, and that Section 2.5, rather than Section 2, of this act become operative on October 1, 1982, to incorporate the changes in Section 1805.1 proposed by Senate Bill No. 979. Therefore, if this bill and Senate Bill No. 979 are both chaptered and become effective on or before January 1, 1982, and Senate Bill No. 979 is chaptered before this bill and amends Section 1805.1, Section 1 of this act shall remain in effect until April 1, 1982, at which time Section 1.5 of this act shall become operative. Section 1.5 of this act shall remain in effect until October 1, 1982, at which time Section 2.5 of this act shall become operative, in which case Section 2 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature that compliance with Section 1.5 of this act be permissive between January 1, 1982, and April 1, 1982, and mandatory on and after April 1, 1982. In other words, anyone who complies with the provisions of Section 1.5 of this act between January 1, 1982, and April 1, 1982, shall be deemed to be in lawful compliance with the applicable provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code).

CHAPTER 1147

An act to amend Section 1753 of the Business and Professions Code, relating to dental assistants.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1753 of the Business and Professions Code is amended to read:

1753. The board shall license as a registered dental assistant a person who satisfies either of the following requirements:

(a) Graduation from an educational program in dental assisting approved by the board, and satisfactory performance on an examination required by the board.

(b) Satisfactory work experience of more than 18 months as a dental assistant and satisfactory performance on an examination required by the board. The board shall give credit toward the 18 months work experience referred to in this subdivision to persons who have graduated from a dental assisting program in a postsecondary institution approved by the Department of Education or in a secondary institution, regional occupational center, or regional occupational program, that are not, however, approved by the board pursuant to subdivision (a). Such credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks. The board, in conjunction with the Superintendent of Public Instruction, shall establish the minimum criteria for the curriculum of such nonboard approved programs. Additionally, the board shall notify those programs only if the program's curriculum does not meet established minimum criteria, as established for board-approved registered dental assistant programs, except any requirement that the program be given in a postsecondary institution. Graduates of programs not meeting established minimum criteria shall not qualify for satisfactory work experience as defined by this section.

The Committee on Dental Auxiliaries shall review and report to the board, on or before January 1, 1982, on the number of nonboard approved programs in existence and the minimum criteria recommended for nonboard approved programs.

CHAPTER 1148

An act to amend Section 1708.5 of the Health and Safety Code, relating to health.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1708.5 of the Health and Safety Code is amended to read:

1708.5. (a) This chapter shall not apply to laetrile or amygdalin or any vitamins, minerals, enzymes, or foods for special dietary uses deemed adjunctive or necessary to laetrile or amygdalin therapy, when prescribed in accordance with the procedures set forth in subdivision (c), and in accordance with subdivisions (f), (g), and (h) and conditions of use approved pursuant to Article 5 (commencing with Section 26670) of Chapter 6 of Division 21, by a physician and surgeon licensed to practice in this state who is certified in the subspecialty of medical oncology by the American Board of Internal Medicine.

(b) The manufacture, sale, prescription, and use of laetrile or amygdalin shall, notwithstanding such exemption from the provisions of this chapter, be subject to other applicable provisions of law.

(c) A physician and surgeon shall meet each of the following requirements as to any patient before prescribing laetrile or amygdalin for such patient pursuant to this section:

(1) The patient shall have consented in writing on an informed consent form, which shall include at least the following:

(A) An explanation of the risks and benefits of laetrile or amygdalin as a form of cancer therapy.

(B) An explanation of the risks and benefits of standard treatment modalities; such as chemotherapy, radiation therapy, and surgery, commonly prescribed by most licensed physicians in California, a substantial part of whose practices include treatment for cancer.

(C) A statement explaining to the patient that such patient can withdraw from the laetrile or amygdalin therapy at any time during the course of treatment.

(D) A statement explaining that laetrile or amygdalin need not be used to the exclusion of the standard treatment modalities.

(E) A statement which encourages the patient to consult with a second physician who specializes in the use of standard treatment modalities for cancer prior to using laetrile or amygdalin.

(2) The informed consent form shall be signed and dated by both the physician and patient and shall be retained in the patient's medical record.

(3) Each physician using an informed consent form as provided for in this subdivision shall file a sample copy of that form with the Board of Medical Quality Assurance which shall be available for public inspection and review. The Board of Medical Quality Assurance may improve the informed consent form, as it deems appropriate, consistent with the criteria set forth in this subdivision.

(d) In enacting this section, the Legislature finds and declares that the efficacy of the use of laetrile or amygdalin with respect to cancer therapy has not been determined.

(e) Failure of a physician to comply with the provisions of this section shall be deemed unprofessional conduct.

(f) This section shall only apply to patients diagnosed as terminal by a physician and surgeon licensed to practice in this state who is certified in the subspecialty of medical oncology by the American Board of Internal Medicine, except that the provisions of this section shall also apply to other patients in programs conducted within the principal teaching hospital of a medical school in this state that is approved by the Board of Medical Quality Assurance pursuant to Section 2192 of the Business and Professions Code.

(g) The Resource for Cancer Epidemiology Section of the State Department of Health Services shall collate and evaluate information on the response of patients to the therapy authorized pursuant to this section and shall provide a report to the Legislature annually. A form for the collection of this information shall be developed jointly by the Resource for Cancer Epidemiology Section of the department and the Cancer Advisory Council established pursuant to Section 1701, in consultation with the Board of Medical Quality Assurance, for distribution by the latter. Every physician and surgeon using or administering this therapy shall, upon the commencement of such therapy and as requested thereafter, provide the information requested by the form, the purpose of which is to provide information which will enable an objective, impartial evaluation of the effectiveness of this therapy in cancer treatment. The information on the form shall at a minimum, include the following:

(1) Patient identification, including name, age, and sex.

(2) Treating physician's identification, including name, address, and license number.

(3) Diagnosis supported by a pathology report and histopathology slides or material.

(4) History and physical examination at the time the patient is to receive laetrile, including the performance status of patient (Karnofsky scale).

(5) A surgical report, if available, and definition of extent of the disease by stage.

(6) Documentation of any measurable mass by physical exam, scans, or X-ray.

(7) History of previous medication, surgery, or radiation.

(8) The preparation of laetrile to be used and any other medications to be employed with laetrile.

(9) An agreement to provide continuing status reports on the patient.

(10) An agreement to provide a post mortem report on all patients who die while undergoing such therapy

The provisions of this subdivision shall be implemented only to the

extent they can be solely supported by available federal funds.

(h) This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

CHAPTER 1149

An act to amend Sections 18950, 18950.7, 18952, 18955.1, 18956, 18957, 18958, and 18960, and to repeal and add Section 18954 of, the Welfare and Institutions Code, and to amend Section 5 of, and to repeal Section 4 of, Chapter 1334 of the Statutes of 1978, relating to child abuse prevention.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 18950 of the Welfare and Institutions Code is amended to read:

18950. The Legislature finds and declares that child abuse is a growing concern in this state, and that current methods of coping with child abuse problems are resulting in family breakups that are both expensive and nonproductive to the state. It is the intent of the Legislature to provide for the establishment of pilot projects or technical assistance (directly or through grant or contract) to public and private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification and treatment of child abuse and neglect.

SEC. 2. Section 18950.7 of the Welfare and Institutions Code is amended to read:

18950.7. The provisions of this chapter shall be operative only for and during the times that federal funds are provided or made available for the purposes of such provisions.

SEC. 3. Section 18952 of the Welfare and Institutions Code is amended to read:

18952. There is hereby established in the State Department of Social Services an Office of Child Abuse Prevention which shall be administered by a chief who is subject to civil service rules and regulations and has recognized training and experience in child abuse prevention.

SEC. 4. Section 18954 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 18954 is added to the Welfare and Institutions Code, to read:

18954. (a) The Office of Child Abuse Prevention may establish pilot projects for research, prevention, identification and treatment

of child abuse and neglect, based on demonstrated need, location or area to be served.

(b) The Office of Child Abuse Prevention shall select pilot projects pursuant to submission of a written proposal fully setting forth the following:

(1) The need for a project as it relates to the problem areas as defined by the office.

(2) The number and type of personnel who will staff the project.

(3) A plan for evaluating the effectiveness of the project.

(4) Any other standards required by the State Department of Social Services.

Pilot projects shall be selected only after all written proposals have been submitted.

(c) The Office of Child Abuse Prevention shall conduct research and collect data relevant to the determination of the effectiveness of the projects.

SEC. 6. Section 18955.1 of the Welfare and Institutions Code is amended to read:

18955.1. It is the intent of the Legislature that in establishing pilot projects pursuant to Section 18954, the Office of Child Abuse Prevention shall make every attempt to qualify these projects for federal funding under subsection (a) of Section 4 of Public Law 93-247. To that extent, should any provisions of this chapter prevent federal funding for these pilot projects, such provisions of this chapter shall be rendered inoperative.

SEC. 7. Section 18956 of the Welfare and Institutions Code is amended to read:

18956. The office shall report to the Legislature and Governor on office activities on January 1, 1982, and thereafter every even-numbered year.

SEC. 8. Section 18957 of the Welfare and Institutions Code is amended to read:

18957. The Office of Child Abuse Prevention may by contract with other public or private agencies establish pilot projects when adequate funds are available for these purposes.

SEC 9. Section 18958 of the Welfare and Institutions Code is amended to read:

18958. The Office of Child Abuse Prevention shall apply for federal funding under subsection (b) of Section 4 of Public Law 93-247 for the administration of its functions under this chapter. The office shall use these funds to: (1) provide technical assistance (directly or through grant or contract pursuant to Section 16304 of the Government Code) to public and private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect; (2) compile training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect; (3) regulate the pilot projects established

pursuant to Section 18954 and compile and disseminate that data received from the pilot projects pursuant to subsection (g) of Section 18960 so as to obtain more accurate statewide data on child abuse prevention; (4) assist and provide funds for the coordination of child abuse prevention programs by counties as set forth in Section 18954; and (5) develop and establish other innovation programs in child abuse prevention where the office finds a need for such programs.

SEC. 10. Section 18960 of the Welfare and Institutions Code is amended to read:

18960. The pilot projects that may be established pursuant to Section 18954 and subject to Section 16304 of the Government Code shall stimulate the development and the coordination of all necessary programs and services relevant to the prevention, identification, management, and treatment of child abuse. The following services, among others, may be included:

(a) Coordination of the identification and reporting of all instances of child abuse within the county or counties that are serviced by the pilot projects.

(b) Provision of direct family counseling to all members of a family in which child abuse is present where such services are not made available by the county or counties serviced by the pilot projects.

(c) Provision of homemaker or family aide services on a temporary basis to a family in which child abuse is present where such services are not made available by the county or counties serviced by the pilot projects.

(d) Establishment of a 24-hour "hotline" telephone service, to be available to any child, parent, or other resident of the county or counties served by the pilot projects who wishes to ask for assistance or information, or to make a report with regard to child abuse. Such "hotline" service shall be staffed by persons who, in the opinion of the pilot project, have appropriate training to provide such services and shall be provided by the pilot project only where such a service is not provided by the county or counties serviced by the pilot projects.

(e) Encouragement of and arrangement of voluntary placement of a child outside the home when both parents and child agree to a "cooling off" period, and when such outside voluntary placement is available and advisable provided that:

(1) Such voluntary placement should be in the vicinity of the parents' current home so that visiting and other parental-child interaction can be facilitated.

(2) No child shall be placed in any institution maintained by the county or state for the detention or housing of any minor who comes within or who is alleged to come within the provisions of Section 601 or 602.

(3) No placement shall be deemed voluntary nor shall any voluntary placement be made when the parent is threatened with prosecution or removal of the child pursuant to Section 600 if they

do not consent to the placement.

(4) A child agreeing to such a placement shall be of a mental age to make a reasonable, rational decision and shall be without undue influence or fear of reprisal from either parents or any member of the multidisciplinary family crisis teams or any other adult.

(f) Establishment of multidisciplinary family crisis teams trained and available to accompany law enforcement agents on any original or followup visits in instances of abuse. These teams shall attempt to insure that each family is aware of all public social services that are available within the vicinity of their residence and that the family has access to such facilities.

(g) Maintenance of a clearinghouse index for the county or counties serviced by the pilot project in order to insure that current records are maintained with regard to cases of dependency avoidance and child abuse. Such collection data shall be forwarded to the Office of Child Abuse Prevention.

(h) Provision of professional child mental health services on a part-time basis to licensed private facilities providing care for children in instances where such facilities are financially unable to provide full-time professional child mental health services. The Office of Child Abuse Prevention shall be responsible for the costs of such services and shall establish the procedure for such facilities to apply for the services.

(i) Provision of parent education and training services to:

(1) Parents of families in which child abuse is present.

(2) Prospective parents.

(3) Parents, generally.

Such services for parents of families in which child abuse is found, are to be supplementary or adjunctive to any other treatment and services. Such services for any other parents are primarily to be child abuse prevention services.

SEC. 11. Section 4 of Chapter 1334 of the Statutes of 1978 is repealed.

SEC. 12. Section 5 of Chapter 1334 of the Statutes of 1978 is amended to read:

Sec. 5. Section 2 of this act shall remain in effect only until December 31, 1982, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1982, deletes or extends such date.

CHAPTER 1150

An act to amend Section 121 of, to amend, repeal, and add Sections 139 and 4600 to, and to add Sections 123.3 and 123.7 to, the Labor Code, relating to workers' compensation.

[Approved by Governor October 1, 1981 Filed with
Secretary of State October 2, 1981]

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

SECTION 1. Section 121 of the Labor Code is amended to read:

121. The chairman of the appeals board may authorize its secretary and any two assistant secretaries to act as deputy appeals board members and may delegate authority and duties to these deputies. Not more than three deputies may act as appeals board members at any one time. No act of any deputy shall be valid unless it is concurred in by at least one member of the appeals board.

SEC. 2. Section 123.3 is added to the Labor Code, to read:

123.3. Any official reporter employed by the administrative director shall render stenographic or clerical assistance as directed by the presiding referee of the office to which the reporter is assigned, when the presiding referee determines that the reporter is not engaged in the performance of any other duty imposed by law.

SEC. 3. Section 123.7 is added to the Labor Code, to read.

123.7. The appeals board may, by rule or regulation, establish procedures whereby attorneys who are either certified specialists in workers' compensation by the California State Bar, or are eligible for this certification, may be appointed by the presiding workers' compensation referee of each board office to serve as a pro tempore workers' compensation referee in a particular case, upon the stipulation of the employee or his or her representative, and the employer or the insurance carrier. Service in this capacity by an attorney shall be voluntary and without pay. It is the intent of the Legislature that the use of pro tempore workers' compensation referees pursuant to this section shall not result in a reduction of the number of permanent civil service employees or the number of authorized full-time equivalent positions.

SEC. 4. Section 139 of the Labor Code is amended to read:

139. The administrative director shall appoint a Medical and Chiropractic Advisory Committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the Medical and Chiropractic Advisory Committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The physician and surgeon members shall be appointed after consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local associations of the chiropractic profession for a term of two years. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings

of the Medical and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and assist the medical director and shall perform such other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of clinical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the referee in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

Such examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for such examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau, or in accordance with Section 5703.5.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 5. Section 139 is added to the Labor Code, to read:

139. The administrative director shall appoint a Medical and Chiropractic Advisory Committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the Medical and

Chiropractic Advisory Committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The physician and surgeon members shall be appointed after consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local associations of the chiropractic profession for a term of two years. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings of the Medical and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and assist the medical director and shall perform such other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of clinical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the referee in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

Such examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for such examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau, or in accordance with Section 5703.5.

The level of fees for such services shall be set periodically by the administrative director at a level which will assure the availability of outstanding medical and chiropractic experts to serve as independent examiners.

This section shall become operative on January 1, 1984.

SEC. 6. Section 4600 of the Labor Code is amended to read:

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area. However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time

and place of the examination.

This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 7. Section 4600 is added to the Labor Code, to read:

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area. However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred. Expenses of medical testimony shall be presumed reasonable if in conformity with the fee schedule charges provided for impartial medical experts appointed by the administrative director.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

This section shall become operative on January 1, 1984.

SEC. 8. The Administrative Director of the Division of Industrial Accidents, with the advice and counsel of the Temporary Advisory Committee on Medical-Legal Expenses, shall direct a study, analysis, and evaluation of all of the following:

(1) The present California practice of compensating physicians for services rendered to prove contested claims.

(2) The desirability of requiring a schedule of fees for these services.

(3) The factors which should be considered when weighing the reasonableness of these expenses.

(4) Possible reforms such as peer review of fees, medical certification, or continuing education which will assure the availability of outstanding medical and chiropractic experts to serve as impartial examiners and other qualified physicians to evaluate disabilities on behalf of injured workers and their employers.

The Temporary Advisory Committee on Medical-Legal Expenses shall be appointed by the administrative director and shall be composed of seven members, as follows: one representative of employers, one representative of workers' compensation insurers, one representative of employees, one representative of physicians specializing in the evaluation of industrial disabilities, one representative of attorneys who represent injured workers, one workers' compensation referee, and the medical director. Vacancies shall be filled by appointment. Members who are not state employees shall serve without compensation or reimbursement for services or expenses. The committee shall cease to exist on January 1, 1984.

The administrative director shall, on or before March 31, 1983, report to each house of the Legislature in writing respecting the results of the study and evaluation. The report shall include appropriate recommendations and supporting analysis.

SEC. 9. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1151

An act to amend Section 13531 of the Business and Professions Code, relating to the posting of gasoline price signs.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 13531 of the Business and Professions Code is amended to read:

13531. (a) Every person offering for sale or selling any gasoline or other motor vehicle fuel to the public from any place of business in the State of California shall post or display on such premises a sign or statement or other advertising medium which indicates or shows or advertises the price of the three major grades of gasoline or motor vehicle fuel sold, offered for sale, or advertised for sale from such place of business. Such sign shall be clearly visible from the street or highway adjacent to such premises carrying the highest traffic volume. Where the place of business offering for sale or selling gasoline or other motor vehicle fuel is situated at an intersection of streets, such sign shall be double faced and clearly visible from the two streets of the intersection adjacent to the premises, unless, prior to January 1, 1981, an ordinance of the city or county in which the place of business is located prohibited signs at such locations, in which case signs shall be posted which are clearly visible from each street of the intersection adjacent to the premises.

The size and height of letters and numerals utilized in such advertising medium shall be as specified in Section 13531.5 and in all other respects shall conform to the requirements of this article.

For the purposes of this subdivision "motor vehicle fuel" does not include propane.

(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or by both.

(d) Notwithstanding the provisions of Section 13590, the district attorney of each county or, pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer shall, upon complaint or upon his or her own motion, enforce the provisions of

this section and, in addition, may bring an action for injunctive relief in accordance with the provisions of Section 13611.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1152

An act to amend Sections 35301, 52015, and 72621 of the Education Code, relating to schools.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 35301 of the Education Code is amended to read:

35301. Any information of a personal nature disclosed by a pupil 12 years of age or older in the process of receiving counseling from a school counselor as specified in Section 35300 is confidential. Any information of a personal nature disclosed to a school counselor by a parent or guardian of a pupil who is 12 years of age or older and who is in the process of receiving counseling from a school counselor as specified in Section 35300 is confidential. The information shall not become part of the pupil record, as defined in subdivision (b) of Section 49061, without the written consent of the person who disclosed the confidential information. The information shall not be revealed, released, discussed, or referred to, except as follows:

(a) Discussion with psychotherapists as defined by Section 1010 of the Evidence Code, other health care providers, or the school nurse, for the sole purpose of referring the pupil for treatment.

(b) Reporting of child abuse or neglect as required by Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(c) Reporting information to the principal or parents of the pupil when the school counselor has reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the pupil or the following other persons living in the school community: administrators, teachers, school staff, parents, pupils, and other school community members.

(d) Reporting information to the principal, other persons inside the school, as necessary, the parents of the pupil, and other persons

outside the school when the pupil indicates that a crime, involving the likelihood of personal injury or significant or substantial property losses, will be or has been committed.

(e) Reporting information to one or more persons specified in a written waiver after this written waiver of confidence is read and signed by the pupil and preserved in the pupil's file.

Notwithstanding the provisions of this section, a school counselor shall not disclose information deemed to be confidential pursuant to this section to the parents of the pupil when the school counselor has reasonable cause to believe that the disclosure would result in a clear and present danger to the health, safety, or welfare of the pupil.

Notwithstanding the provisions of this section, a school counselor shall disclose information deemed to be confidential pursuant to this section to law enforcement agencies when ordered to do so by order of a court of law, to aid in the investigation of a crime, or when ordered to testify in any administrative or judicial proceeding.

Nothing in this section shall be deemed to limit access to pupil records as provided in Section 49076.

Nothing in this section shall be deemed to limit the counselor from conferring with other school staff, as appropriate, regarding modification of the pupil's academic program.

It is the intent of the Legislature that counselors use the privilege of confidentiality under this section to assist the pupil whenever possible to communicate more effectively with parents, school staff, and others.

No person required by this section to keep information discussed during counseling confidential shall incur any civil or criminal liability as a result of keeping that information confidential.

As used in this section, "information of a personal nature" does not include routine objective information related to academic and career counseling.

SEC. 2. Section 52015 of the Education Code is amended to read:

52015. Each plan shall include:

(a) Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each pupil which enable all pupils to:

(1) Make continuous progress and learn at a rate appropriate to their abilities.

(2) Master basic skills in language development and reading, writing, and mathematics pursuant to Sections 51215 and 51216.

(3) Develop knowledge and skills in other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education.

(4) Pursue educational interests and develop esteem for self and others, personal and social responsibility, critical thinking, and independent judgment.

Consideration shall be given to the use of community resources, such as museums, libraries, and communications media, to achieve

instructional improvement objectives.

(b) Instructional and auxiliary services to meet the special needs of pupils of limited English proficiency consistent with Article 3 (commencing with Section 52160) of Chapter 7 of Part 28, including instruction in a language such pupils understand; educationally disadvantaged pupils; and pupils with exceptional abilities or needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers as provided in Section 52019.

(d) Improvement of the classroom and school environments, including improvement of relationships between and among pupils, school personnel, parents, and the community, and reduction of the incidence among pupils of violence and vandalism.

(e) Other objectives as established by the council.

(f) The proposed expenditure of allowances provided pursuant to Article 4 (commencing with Section 52045) of this chapter and other state or local funds available to support the school improvement program.

(g) Ongoing evaluation and modification of the school improvement plan by the council based on information regarding:

(1) The degree to which the school is meeting its improvement objectives as assessed by parents, teachers, other school personnel, and pupils.

(2) Student achievement.

(3) Improved school environment as measured by indicators such as (A) the incidence among pupils of absenteeism, suspension, expulsion, and dropouts and the incidence and costs of school violence, vandalism, and theft of school or private property while participating in school activities, (B) pupil attitudes toward school, self, and others, (C) incidence of absenteeism, resignations and requests for transfers among teachers and other school personnel, and (D) satisfaction of teachers, pupils, parents, administrators, and other school personnel with school services and decisionmaking processes.

(4) The degree to which fiscal expenditures meet the criteria of the school improvement plan.

(h) Improvement of pupil attendance, including parent awareness of the importance of regular school attendance.

SEC. 3. Section 72621 of the Education Code is amended to read:

72621. Any information of a personal nature disclosed by a student 12 years of age or older in the process of receiving counseling from a school counselor as specified in Section 72620 is confidential. Any information of a personal nature disclosed to a school counselor by a parent or guardian of a student who is 12 years of age or older and who is in the process of receiving counseling from a school counselor as specified in Section 72620 is confidential. The information shall not become part of the student record, as defined in Section 76210, without the written consent of the person who disclosed the confidential information. The information shall not be

revealed, released, discussed, or referred to, except as follows:

(a) Discussion with psychotherapists as defined by Section 1010 of the Evidence Code, other health care providers, or the college nurse, for the sole purpose of referring the student for treatment.

(b) Reporting of child abuse or neglect as required by Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(c) Reporting information to the chief administrative officer or parents of the student when the school counselor has reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the student or the following other persons living in the school community: administrators, teachers, school staff, parents, students, and other school community members.

(d) Reporting information to the chief administrative officer, other persons inside the college, as necessary, the parents of the student, and other persons outside the school when the student indicates that a crime, involving the likelihood of personal injury or significant or substantial property losses, will or has been committed.

(e) Reporting information to one or more persons specified in a written waiver after this written waiver of confidence is read and signed by the student and preserved in the student's file.

Notwithstanding the provisions of this section, a school counselor shall not disclose information deemed to be confidential pursuant to this section to the parents of the student when the school counselor has reasonable cause to believe that the disclosure would result in a clear and present danger to the health, safety, or welfare of the student.

Notwithstanding the provisions of this section, a school counselor shall disclose information deemed to be confidential pursuant to this section to law enforcement agencies when ordered to do so by order of a court of law, to aid in the investigation of a crime, or when ordered to testify in any administrative or judicial proceeding.

Nothing in this section shall be deemed to limit access to pupil records as provided in Section 76243.

Nothing in this section shall be deemed to limit the counselor from conferring with other staff members, as appropriate, regarding modification of the student's academic program.

It is the intent of the Legislature that counselors use the privilege of confidentiality under this section to assist the pupil whenever possible to communicate more effectively with parents, staff members, and others.

No person required by this section to keep information discussed during counseling confidential shall incur any civil or criminal liability as a result of keeping that information confidential.

As used in this section, "information of a personal nature" does not include routine objective information related to academic and career counseling.

SEC. 4. Section 52015 of the Education Code, as amended by

Section 2 of this act, shall become effective on July 1, 1981, or the effective date of this act, whichever is later.

CHAPTER 1153

An act to amend Section 6036 of, and to amend and repeal Section 1464 of, the Penal Code, relating to local officers, and making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and

Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 2. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this

section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1983.

SEC. 3. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be

based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 34.03 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 4. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace

Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44.17 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1983, and shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 4.5. Section 1464 is added to the Penal Code, to read:

1464. There shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which

fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1986.

SEC. 5. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 6. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of

paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1983.

SEC. 7. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding

month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 34.03 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month

(g) This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 8. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory,

the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1983, and shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 9 Section 1464 of the Penal Code, as added by Section 3 of Senate Bill 210, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty,

or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government

Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1986.

SEC. 10. An amount equivalent to the funds deposited to the Corrections Training Fund during the period July 1, 1980, to December 31, 1980, shall be herewith transferred from the Corrections Training Fund to the Assessment Fund. In the event that Assembly Bill 985 is chaptered, the sum of four hundred ninety-five thousand dollars ($495,000) appropriated by that bill shall be subtracted from the funds herewith transferred from the Corrections Training Fund to the Assessment Fund.

SEC. 11 Section 6036 of the Penal Code is amended to read:

6036. For purposes of implementing this article, the board shall have the following powers:

(a) Approve or certify, or both, training and education courses at institutions approved by the board.

(b) Make such inquiries as may be necessary to determine whether every city, county, and city and county receiving state aid pursuant to this chapter is adhering to the standards for selection and training established pursuant to this chapter.

(c) Develop and operate a professional certificate program which provides recognition of achievement for local corrections and probation officers whose agencies participate in the program.

(d) Adopt such regulations as are necessary to carry out the purposes of this chapter.

(e) Develop and present training courses for local corrections and probation officers.

(f) Perform such other activities and studies as would carry out the intent of this article.

SEC. 12. It is the intent of the Legislature, if this bill and Senate Bill 210 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 1464 of the Penal Code, and this bill is chaptered after Senate Bill 210, but Assembly Bill 189 is not chaptered, that the amendments to Section 1464 proposed by both bills be given effect and incorporated in Section 1464 in the form set forth in Sections 3, 4, and 4.5 of this act. Therefore, Sections 3, 4, and 4.5 of this act shall become operative only if, this bill and Senate Bill 210 are both chaptered and become effective on or before January 1, 1982, both amend Section 1464, and this bill is chaptered after Senate Bill 210, but Assembly Bill 189 is not chaptered, in which case Sections 1, 2, 5, 6, 7, 8, and 9 of this act shall not become operative.

SEC. 13. It is the intent of the Legislature, if this bill and

Assembly Bill 189 are both chaptered and become effective on or before January 1, 1982, both bills amend Section 1464 of the Penal Code, and this bill is chaptered after Assembly Bill 189, but Senate Bill 210 is not chaptered, that the amendments to Section 1464 proposed by both bills be given effect and incorporated in Section 1464 in the form set forth in Sections 5 and 6 of this act. Therefore, Sections 5 and 6 of this act shall become operative only if this bill and Assembly Bill 189 are both chaptered and become effective on or before January 1, 1982, both amend Section 1464, and this bill is chaptered after Assembly Bill 189, but Senate Bill 210 is not chaptered, in which case Sections 1, 2, 3, 4, 4.5, 7, 8, and 9 of this act shall not become operative.

SEC. 14. It is the intent of the Legislature, if this bill, Assembly Bill 189, and Senate Bill 210 are all chaptered and become effective on or before January 1, 1982, all bills amend Section 1464 of the Penal Code, and this bill is chaptered after Assembly Bill 189 and Senate Bill 210, that the amendments to Section 1464 proposed by all bills be given effect and incorporated in Section 1464 in the form set forth in Sections 7, 8, and 9 of this act. Therefore, Sections 7, 8, and 9 of this act shall become operative only if, this bill, Assembly Bill 189, and Senate Bill 210 are all chaptered and become effective on or before January 1, 1982, all amend Section 1464, and this bill is chaptered after Assembly Bill 189 and Senate Bill 210, in which case Sections 1, 2, 3, 4, 4.5, 5, and 6 of this act shall not become operative.

CHAPTER 1154

An act to amend Sections 1063.1, 1063.2, and 1063.5 of, and to add Section 1063.14 to, the Insurance Code, relating to insurance.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1063.1 of the Insurance Code is amended to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with the provisions of subdivision (a) of Section 1063, except and to the extent that such insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means a member insurer for which a domiciliary or ancillary liquidator has been appointed in this state after the effective date of this article.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (i)

imposed by law and arising out of an insurance policy of the insolvent insurer; (ii) which were unpaid by the insolvent insurer; (iii) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (iv) which were incurred prior to, on, or within 30 days after the date the liquidator was appointed; (v) for which the assets of the insolvent insurer are insufficient to discharge in full; (vi) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the Workers' Compensation Law of this state and (vii) in the case of other classes of insurance if such policy is issued to a resident of this state or claim against an insured thereunder is made by a resident of this state.

(2) "Covered claims" shall not include any obligations arising from life, title, surety, disability, credit, mortgage, or mortgage guaranty insurance, nor arising from a policy of ocean marine insurance.

(3) "Covered claims" shall not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request or after the insurance policy has been canceled by the association as provided in this chapter, nor any obligations to any state or to the federal government.

(4) "Covered claims" shall not include any obligations to insurers, insurance pools, or underwriting associations, except as otherwise provided in this chapter.

(5) "Covered claims," except in the case of a claim for workers' compensation benefits, shall not include any claim in an amount of one hundred dollars ($100) or less, nor the first one hundred dollars ($100) of any claim in excess of one hundred dollars ($100), nor that portion of any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(6) "Covered claims" shall not include that portion of any claim, other than a claim for workers' compensation benefits, which is in excess of five hundred thousand dollars ($500,000).

(7) "Covered claims" shall not include (a) any claim to the extent it is covered by any other insurance of a class covered by the provisions of this article available to the claimant nor (b) any claim by any person other than the original claimant under the insurance policy in his own name, his executor, administrator, guardian or other personal representative or trustee in bankruptcy and shall not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(8) "Covered claims" shall not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to the provisions of Sections 11802 and 11803.

(9) "Covered claims" shall not include any obligations of the

insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the California Department of Insurance.

SEC. 2. Section 1063.2 of the Insurance Code is amended to read:

1063.2. (a) The association shall pay and discharge covered claims and in connection therewith pay for or furnish loss adjustment services and defenses of claimants when required by policy provisions. It may do so either directly by itself or through a servicing facility or through a contract for reinsurance and assumption of liabilities by one or more member insurers or through a contract with the liquidator, upon terms satisfactory to the association and to the liquidator, under which payments on covered claims would be made by the liquidator using funds provided by the association.

(b) The association shall be a party in interest in all proceedings involving a covered claim, and shall have the same rights as the insolvent insurer would have had if not in liquidation, including but not limited to the right to: (1) to appear, defend, and appeal a claim in a court of competent jurisdiction; (2) to receive notice of, investigate, adjust, compromise, settle, and pay a covered claim; and (3) to investigate, handle, and deny a noncovered claim. The association shall have no cause of action against the insureds of the insolvent insurer for any sums it has paid out, except as provided by this article.

(c) (1) If damages against uninsured motorists are recoverable by the claimant from his own insurer, such damages recoverable shall be a credit against a covered claim payable under this article. If damages against an insured who is not a resident of this state are recoverable by a claimant who is a resident of this state, in whole or in part, from any insolvency fund or its equivalent in the state where the insured is a resident, such damages recoverable shall be a credit against a covered claim payable under this article. A member insurer may recover in subrogation from the association only one-half of any amount paid by such insurer under uninsured motorist coverage for bodily injury or wrongful death (and nothing for a payment for anything else), in those cases where the injured person insured by such an insurer has proceeded under his uninsured motorist coverage on the ground that the tortfeasor is uninsured as a result of the insolvency of his liability insurer (an insolvent insurer as defined in this article), provided that such member insurer shall waive all rights of subrogation against such tortfeasor. Any amount paid a claimant in excess of the amount authorized by this section may be recovered by action brought by the association.

(2) Any claimant having collision coverage on a loss which is covered by the insolvent company's liability policy shall first proceed against his collision carrier. Neither that claimant nor the collision carrier, if it is a member of the association, shall have the right to sue

or continue a suit against the insured of the insolvent insurance company for such collision damage.

(d) The association shall receive the benefit of any amounts recoverable on reinsurance contracts or treaties entered into by the insolvent insurer which cover any of the liabilities incurred by the insolvent insurer in the category or categories involved provided such benefits shall be limited to payments upon or loss adjustment expenses or defense costs actually paid out by the association (including defense costs, if any, unpaid at the date of insolvency) on account of claims covered in such contracts or treaties. The commissioner, as liquidator, shall receive the benefit of any such reinsurance recoverable to the extent of payments on claims, loss adjustment expenses or defense costs made prior to the order of liquidation.

(e) The association shall continue coverage for covered claims under all insurance policies of the insolvent insurer that were in force on the date the liquidator was appointed until the insurance policy has expired in accordance with its terms, or has been replaced by the insured, or canceled at the insured's request, or has been canceled by the association as provided in this article.

(f) The association shall have authority to cancel insurance policies of the insolvent insurer by mailing or delivering to the insured at the last known address within this state a written notice of cancellation at least 10 days prior to the effective date of such cancellation, notwithstanding any statute or policy provision to the contrary.

(g) "Covered claims" shall not include any judgments against or obligations or liabilities of the insolvent insurer or the commissioner, as liquidator, or otherwise resulting from alleged or proven torts, nor shall any default judgment against the insolvent insurer, or against the insured of the insolvent insurer, be binding against the association.

(h) "Covered claims" shall not include any loss adjustment expenses, including adjustment fees and expenses, attorney fees and expenses, court costs, interest, and bond premiums, incurred prior to the appointment of a liquidator. The deductible provided for in paragraph (5) of subdivision (c) of Section 1063.1 shall apply to each person for each accident for which he makes a claim.

SEC. 3. Section 1063.5 of the Insurance Code is amended to read:

1063.5. Each time an insurer becomes insolvent then, to the extent necessary to secure funds for the association for payment of covered claims of that insolvent insurer and also for payment of reasonable costs of adjusting such claims, the association shall collect premium payments from its member insurers sufficient to discharge its obligations. The association shall allocate its claim payments and costs, incurred or estimated to be incurred, to one or more of the following categories: (a) workers' compensation claims; (b) automobile claims, which shall include: automobile material damage, automobile liability (both personal injury and death and property

damage), medical payments and uninsured motorist claims; and (c) claims other than workers' compensation and automobile, as above defined Separate premium payments shall be required for each category. The premium payments for each category shall be used to pay the claims and costs allocated to such category. The rate of premium charged shall be a uniform percentage of net direct written premium in the preceding calendar year applicable to such category. "Net direct written premiums" shall mean the amount of gross premiums, less return premiums and policyholder's dividends paid or allowed, received in such calendar year upon business done in this state, other than premiums received for reinsurance. In cases of a dispute as to the amount of any such net direct written premium between the association and one of its members the written decision of the commissioner shall be final. The premium charged to any member insurer for any of the three categories or a category established by the association shall not be more than 1 percent of the net direct premium written in that category in this state by such member insurer; provided that in no event shall the total premium charged a member insurer in one calendar year exceed 1 percent of the net direct premium written by the member insurer in one calendar year. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amount of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. However, during the period of deferment, no dividends shall be paid to shareholders or policyholders by the company whose assessment was deferred. Deferred assessments shall be paid when the payment will not reduce capital or surplus below required minimums. These payments shall be refunded to those companies receiving larger assessments by virtue of the deferment, or, in the discretion of any such company, credited against future assessments. Such premium charges shall be recognized in the ratemaking procedures for insurance rates in the same manner that losses are recognized or as otherwise provided in this article. After all covered claims of the insolvent insurer and expenses of administration have been paid, any unused premiums and any reimbursements or claims dividends from the liquidator remaining in any category shall be refunded by the association to the member insurers who paid the premiums for such category in proportion to their premiums paid. However, an insurer which ceases to be a member of the association shall have no right to a refund of any premium previously remitted to the association. The commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer which fails to pay a premium when due and after demand has been made.

Interest at a rate equal to the current federal reserve discount rate plus 2½ percent per annum shall be added to the premium of any member insurer which fails to submit the premium requested by the

association within 30 days after such mailing request. However, in no event shall the interest rate exceed the legal maximum.

SEC. 4. Section 1063.14 is added to the Insurance Code, to read:

1063.14. (a) The plan of operation adopted pursuant to subdivision (c) of Section 1063 shall contain provisions whereby each member insurer is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agents' commission.

(b) The amount of any surcharge shall be separately stated on any billing sent an insured.

(c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to recoup the amount of surcharge otherwise collectible.

CHAPTER 1155

An act to amend Section 29470 of the Elections Code, relating to elections.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 29470 of the Elections Code is amended to read:

29470. No person, on election day, shall, within 100 feet of a polling place:

(a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.

(b) Solicit a vote or speak to a voter on the subject of marking his ballot.

(c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his qualifications except as provided in Section 14216.

(d) Do any electioneering.

As used in this section "100 feet of a polling place" shall mean a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

Any person who violates any of the provisions of this section is guilty of a misdemeanor.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1156

An act to amend Sections 18601, 18606, 18673, 18679, 18680, 18690, 18711, 18712, 18720, 18720.5, 18721, 18721.5, 18732, 18735, 18748, 18748.5, 18749, and 18781.5 of, to repeal and add Sections 18737 and 18743.3 of, and to repeal Sections 18676, 18720.7, 18731, 18733, and 18751 of, the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 18601 of the Business and Professions Code is amended to read:

18601. As used in this chapter:

"Club" includes corporation, organization or association.

"Commission" means the State Athletic Commission.

SEC. 2. Section 18606 of the Business and Professions Code is amended to read:

18606. As used in this chapter, "contest" and "match" include "boxing exhibition" and "wrestling match" but do not include any "wrestling exhibition."

SEC. 3. Section 18673 of the Business and Professions Code is amended to read:

18673. The commission may license clubs to conduct, hold, or give, and may license referees, matchmakers, assistant matchmakers, announcers, ticket sellers, doormen, ushers, corporation treasurers, box-office employees, and timekeepers to participate in, or be employed in connection with, professional or amateur boxing contests, sparring or wrestling matches, or wrestling exhibitions.

No club may conduct, hold, or give, and no person performing tasks for which licensure is required by the commission may participate in, or be employed in connection with, any such boxing contest, sparring or wrestling matches, or wrestling exhibitions unless the club or person has been licensed for that purpose by the commission.

SEC. 4. Section 18676 of the Business and Professions Code is

repealed.

SEC. 5. Section 18679 of the Business and Professions Code is amended to read:

18679. (a) Any application for a license to conduct, or give a professional boxing contest, a sparring or wrestling match, or a wrestling exhibition shall be accompanied by an annual fee, which shall be one hundred dollars ($100).

(b) The fee for club licenses for amateur boxing contests shall be twenty-five dollars ($25).

The total annual fee shall be paid for any license issued between January 1st and March 31st, both dates inclusive; three-fourths of the annual fee shall be paid for any license issued between April 1st and June 30th, both dates inclusive; one-half the total annual fee shall be paid for any license issued between July 1st and September 30th, both dates inclusive; one-fourth of the total annual fee shall be paid for any license issued between October 1st and December 31st, both dates inclusive. Every license shall expire at midnight on December 31st of the year in which such license is issued.

SEC. 6. Section 18680 of the Business and Professions Code is amended to read:

18680. Each person who is an applicant for an annual license or for a renewal thereof shall, before such license or renewal thereof is issued, pay to the commission, a license fee as follows: professional referees, sixty dollars ($60); amateur boxing referees, twenty-five dollars ($25); professional and amateur judges, twenty dollars ($20); timekeepers, ten dollars ($10); professional boxers, twenty dollars ($20); professional wrestlers, twenty dollars ($20); managers, sixty dollars ($60); trainers, twenty dollars ($20); seconds, twenty dollars ($20); matchmakers, sixty dollars ($60); assistant matchmakers, sixty dollars ($60); wrestling booking agents, one hundred dollars ($100). The charge for a duplicate of a license shall be five dollars ($5).

Every license shall expire at midnight on December 31 of the year in which such license is issued.

SEC. 6.5. Section 18690 of the Business and Professions Code is amended to read:

18690. Before any license is granted to any club to conduct, hold, or give a boxing contest or a sparring match, other than an amateur boxing contest or sparring match, or to conduct, hold, or give a wrestling match or a wrestling exhibition, the applicant therefor shall file a bond of ten thousand dollars ($10,000) with good and sufficient surety with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of the taxes herein imposed.

Only one such bond, cash or equivalent surety shall be required of a club regardless of the number of licenses held as long as no two events are staged by that club on the same date.

Before any license is granted to any club to conduct, hold, or give an amateur boxing contest, sparring or wrestling match for which an admission fee is received, the applicant therefor shall file a bond of

not less than one thousand dollars ($1,000) with good and sufficient surety with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of taxes herein imposed.

Only one such bond, cash or equivalent surety shall be required of a club regardless of the number of licenses held as long as no two events are staged by that club on the same date.

The professional and amateur club bonds shall guarantee, in order of priority, the payment of all taxes due and payable to the state, the payment of contributions for medical insurance or for an emergency medical fund, and to the pension and disability fund, the payment of the purses to the competitors, and the repayment to consumers of purchased tickets. The circumstances and allocations of bond payment shall be determined by the commission.

SEC. 7. Section 18711 of the Business and Professions Code is amended to read:

18711. Except as provided in Section 18713, every club licensed under this chapter shall, within 72 hours after the determination of every contest, match, or exhibition for which an admission fee is charged and received, furnish to the commission a written report duly verified by one of its officers, showing the number of tickets issued or sold for such contest, match, or exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of such contest, match, or exhibition, and without any deductions, except for expenses incurred for the announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross base taxable when such expense is shown as an indirect overhead or loss and is approved by the commission. Such club shall also, within the same time, pay to the commission a tax, exclusive of any federal taxes paid thereon, of one cent ($0.01) for each twenty cents ($0.20), or fraction thereof, except for professional boxing clubs which shall pay one cent ($0.01) for each fifty cents ($0.50) or fraction thereof, of the amount paid for admission to such contest, match, or exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall such tax be less than twenty-five dollars ($25). The tax on admissions applies to the amount actually paid for admission, and not to the regular established price. No tax is due in the case of a person admitted free of charge.

SEC. 8. Section 18712 of the Business and Professions Code is amended to read:

18712. An inspector or other employee duly authorized by the commission shall be present at all contests and matches and shall be present at exhibitions and shall see that the rules are strictly observed, and also be present at the counting of the gross receipts therefrom. The inspector or other employee duly authorized by the

commission are authorized to assist in the counting of tickets and in the computation of the tax due thereon, and to take any other action necessary for the administration and enforcement of this chapter. The inspector or other employee duly authorized by the commission shall immediately mail to the commission the official statement of gross receipts received by him from the officers of the club.

SEC. 9. Section 18720 of the Business and Professions Code is amended to read:

18720. As used in this article:

(a) "Contest, match, or exhibition," means a boxing or wrestling contest, match, or exhibition.

(b) "Person" includes an individual club, firm, corporation, partnership, or organization.

(c) "Closed circuit telecast" includes any telecast or broadcast, transmitted by any means, including subscription where an extra or additional fee is charged, except a cable television system franchised under Section 53066 of the Government Code, where an identifiable or particular fee is charged for the viewing within this state of a simultaneous telecast of any live, current, or spontaneous boxing or sparring match, or wrestling exhibition or performance.

SEC. 10. Section 18720.5 of the Business and Professions Code is amended to read:

18720.5. No person, except a cable television system franchised under Section 53066 of the Government Code, shall charge or receive an admission fee for exhibiting a simultaneous telecast of any live, current, or spontaneous boxing or sparring match, or wrestling exhibition or performance, on a closed-circuit telecast viewed within this state without a permit therefor issued by the commission.

Application for such a permit shall be on a form supplied by the commission and shall contain such information as the commission deems necessary, including the locations where such telecasts are to be viewed. The permit shall be issued without charge. The permit may be denied only for the following reasons:

(a) That the information required by the commission is not supplied by the applicant; or

(b) That the applicant is currently in default on the payment of any taxes or fees required by this article.

SEC. 11. Section 18720.7 of the Business and Professions Code is repealed.

SEC. 11.5. Section 18721 of the Business and Professions Code is amended to read:

18721. Every person, except a cable television system franchised under Section 53066 of the Government Code, who charges and receives a fee for exhibiting a simultaneous telecast of any live, current, or spontaneous boxing or sparring match, or wrestling exhibition or performance on a closed-circuit telecast viewed within this state shall, within 72 hours after such event, furnish to the commission a verified written report on a form which is supplied by the commission showing the number of tickets or subscriptions

where an extra or additional fee is charged for the viewing, which were issued or sold, and the gross receipts therefor without any deductions whatsoever. Such person shall also, at the same time, pay to the commission a tax, exclusive of federal taxes thereon, of one cent ($0.01) for each twenty cents ($0.20) or fraction thereof, of the amount paid for admission or subscription telecast, as defined in Section 18720, to the showing or viewing of the contest, match, or exhibition. In no event, however, shall the tax be less than twenty-five dollars ($25). The tax shall apply uniformly at the same rate to all persons subject to the tax. The tax on admission applies to the amount actually paid for admission, and not to the regular established price. No tax is due in the case of a person admitted free of charge.

SEC. 12. Section 18721.5 of the Business and Professions Code is amended to read:

18721.5. A representative of the commission shall be present at and observe the computation of the number of tickets issued or sold and the determination of the gross receipts. Where a telecast or broadcast is accomplished by subscription, records in support of the receipts shall be made available to the commission upon request.

SEC. 13. Section 18731 of the Business and Professions Code is repealed.

SEC. 14. Section 18732 of the Business and Professions Code is amended to read:

18732. All buildings or structures used or intended to be used for holding or giving boxing contests, sparring or wrestling matches, or wrestling exhibitions shall be safe and shall in all manner conform to the laws, ordinances, and regulations pertaining to buildings in the city or unincorporated county area where the building or structure is situated.

SEC. 15. Section 18733 of the Business and Professions Code is repealed.

SEC. 16. Section 18735 of the Business and Professions Code is amended to read:

18735. No person shall appear as contestant in any amateur boxing contest or sparring match who prior thereto has received any compensation or reward, except for actual expenses or trophies, in any form for displaying, exercising or giving any example of his skill in or knowledge of boxing exercises, or for rendering services of any kind to any boxing organization or to any person or persons as trainer, coach, instructor or otherwise, or who shall have been employed in any manner professionally by reason of his boxing skill or knowledge.

SEC. 17. Section 18737 of the Business and Professions Code is repealed.

SEC. 17.5. Section 18737 is added to the Business and Professions Code, to read:

18737. Notwithstanding any other provision of law, the commission shall establish glove weights, equipment standards, and

length of round and contest duration maximums within the legal maximums set forth by law in order to protect the health and safety of the boxing contestants.

SEC. 18. Section 18743.3 of the Business and Professions Code is repealed.

SEC. 19. Section 18743.3 is added to the Business and Professions Code, to read:

18743.3. The promoters of a wrestling exhibition shall provide a referee to manage the exhibition and to maintain order and protect the safety of participants and the audience.

SEC. 20. Section 18748 of the Business and Professions Code is amended to read:

18748. No boxer or wrestler shall be paid for service before a contest, except that a club may, with the permission of the commission, advance to a boxer or wrestler before services are rendered up to one thousand dollars ($1,000) plus any necessary transportation and living expenses. However, such advance, except transportation and living expenses, shall not exceed 20 percent of the boxer's or wrestler's purse.

SEC. 21. Section 18748.5 of the Business and Professions Code is amended to read:

18748.5. No boxer or his manager shall be paid for the services of the boxer except in the presence of an inspector or other authorized representative of the commission and the authorized representative of the commission shall report to the commission any payment not in accordance with the provisions of the contract on file with the commission.

SEC. 22. Section 18749 of the Business and Professions Code is amended to read:

18749. A medal or trophy may be awarded to each contestant in any amateur boxing contest, or sparring match not to exceed in value the sum of one hundred dollars ($100), which medal or trophy shall have engraved thereon the name of the winner and the date of the event. But no portion of any admission fee or fees charged or received for any amateur boxing contest or sparring match shall be paid or given to any contestant in such amateur boxing contest, or sparring match either directly or indirectly, nor shall any gift be given to or received by such contestant for participating in such boxing contest, or sparring match, except the medal or trophy or actual expenses as permitted by Section 18781.5.

SEC. 23. Section 18751 of the Business and Professions Code is repealed.

SEC. 24. Section 18781.5 of the Business and Professions Code is amended to read:

18781.5. Unless the written permission of the commission is first obtained, it is a misdemeanor for any person, firm, association, club or corporation staging or holding any amateur boxing contest or sparring match to pay or cause to be paid to any coach, trainer or manager of any amateur boxer participating in such boxing contest,

or sparring match any sum of money other than the actual traveling expenses incurred by such coach, trainer or manager and amateur boxer in traveling from their respective places of residence to the place of such boxing contest, exhibition or sparring match and return thereto, and a sum of money, to be determined by rules adopted by the commission, for the actual time spent in traveling, as reimbursement for the other expenses actually incurred by such coach, trainer or manager in attending such amateur boxing contest or sparring match.

CHAPTER 1157

An act relating to schools.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. (a) The Superintendent of Public Instruction may approve the application of the Los Angeles Unified School District to operate an innovative or experimental program at one or more year-round schools within the district for fewer calendar days than the minimum days required by Sections 37620, 41420, and 48224 of the Education Code, so long as the number of instructional days equals or exceeds 163 days.

(b) The application shall cover no more than 50 schools, including:

(1) No more than four high schools with actual 1980–81 average daily attendance at least 25 percent in excess of standard building loading capacities established pursuant to subdivision (g) of Section 1811 of Title II of the California Administrative Code. These high schools shall be in Administrative Areas #2 and #5 of the Los Angeles Unified School District.

(2) The junior high schools which feed the enrollments of the high schools covered by the application.

(3) The elementary schools which feed the enrollments of the junior high schools which, in turn, feed the enrollments of the high schools covered by the application.

(c) The Superintendent of Public Instruction shall not approve the application submitted pursuant to subdivision (a) unless the district's program provides that during the school year:

(1) A minimum of 525 instructional hours will be available to kindergarten students.

(2) A minimum of 671 instructional hours will be available to students in grades 1 to 3, inclusive.

(3) A minimum of 700 instructional hours will be available to students in grades 4 to 12, inclusive.

(d) All certificated employees under this program, except those

serving under an administrative or supervisorial credential and who are assigned full time to a school in positions requiring qualifications for certification, shall work the same number of days and shall increase the number of minutes worked daily on a uniform basis.

(e) An experimental or innovative program approved under this section shall be eligible for apportionment from the State School Fund.

SEC. 2. Approval of innovative or experimental programs provided for in Section 1 of this act shall exempt the affected district and schools from the requirements of Sections 37202 and 37203 of the Education Code.

SEC. 3. No student participating in innovative or experimental programs as described in Section 1 of this act shall be credited with more than one day of attendance in any calendar day, except as permitted in Section 46140 of the Education Code.

Average daily attendance generated in the regular elementary, junior high, and high schools operated under Section 1 of this act shall be calculated as prescribed in subdivision (a) of Section 41601 of the Education Code.

SEC. 4. Experimental programs provided for in this act shall terminate on June 30, 1983, unless extended by subsequent legislation. The Superintendent of Public Instruction shall evaluate the experimental year-round programs operated pursuant to this act and shall report to the Legislature by January 1, 1983, on the effects, if any, of these programs upon the academic achievement of participating students. The report to the Legislature shall also identify major problems encountered by the school district in implementing this act.

SEC. 5. Due to the unique circumstances concerning overcrowding in specific year-round schools of the Los Angeles Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1158

An act to amend Section 31721 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 31721 of the Government Code is amended to read:

31721. (a) A member may be retired for disability upon the application of the member, the head of the office or department in which he is or was last employed, the board or its agents, or any other person on his behalf, except that an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any eligible member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement as provided in Article 9 (commencing with Section 31700).

(b) When a member appeals from a separation for disability, disputing the employer's assertion or assumption that he is not eligible for disability retirement, the official, entity other than the board, or court to whom appealed shall transfer the proceedings to the board for determination of the eligibility and of disability if so eligible.

The appointing authority shall have the burden of proving disability. Thereafter, the appellant shall have the burden of proving job causation.

This subdivision shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions applicable in that county.

CHAPTER 1159

An act to add Article 8 (commencing with Section 25720) to Chapter 7 of Part 2 of Division 2 of Title 3 of the Government Code, to amend Section 12986 of the Water Code, and to amend Sections 4, 5, 13, and 13.5 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session), to amend Section 5 of the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), and to amend Sections 3 and 23 of the Tehama County Flood Control and Water Conservation Act (Chapter 1280 of the Statutes of 1957), relating to water agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Article 8 (commencing with Section 25720) is added to Chapter 7 of Part 2 of Division 2 of Title 3 of the Government Code, to read:

Article 8. Hydroelectric Facilities

25720. (a) The Legislature finds that local circumstances in Inyo and Mono Counties require that those counties be given authority to construct, operate, and maintain hydroelectric facilities, and that no general law exists which provides the necessary authority.

(b) The Board of Supervisors of Inyo County or Mono County may construct, operate, and maintain one or more plants, which plants are constructed after the effective date of this section, for the generation of hydroelectric power and transmission lines for the conveyance thereof. Construction of the plant or plants and transmission lines may be financed by any method of financing county works.

25721. The hydroelectric plant or plants and transmission lines constructed pursuant to Section 25720 may be leased for operation to, or power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity. The power generated may be used by the county for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the county to customers other than a public utility or public agency. The power to acquire works and facilities shall not include, and nothing in this article shall be construed to allow, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the county and the owner and operator of that property.

SEC. 2. Section 12986 of the Water Code is amended to read:

12986. It is the intention of the Legislature to reimburse from the Resources Account in the Energy and Resources Fund an eligible local agency pursuant to the provisions of this part for costs incurred in any year for the maintenance or improvement of nonproject levees as follows:

(a) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars ($1,000) or less.

(b) Fifty percent of any costs incurred in excess of one thousand dollars ($1,000) per mile of levee shall be reimbursed.

(c) The maximum total reimbursement from the Resources Account in the Energy and Resources Fund shall not exceed two million dollars ($2,000,000) annually.

SEC. 3. Section 4 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 4. The objects and purposes of this act are to provide for the

control of the flood and storm waters of the district and the flood and storm waters of streams that have their source outside of the district, but which streams and the floodwaters thereof flow into the district, and to conserve the waters for beneficial and useful purposes by spreading, storing, retaining, and causing to percolate into the soil within the district, or without the district, the waters, or to save or conserve in any manner all or any of the waters and protect from flood or storm waters the watercourses, watersheds, harbors, public highways, life, and property in the district, and to prevent waste of water or diminution of the water supply in, or exportation of water from, the district, and to obtain, retain, and reclaim drainage, storm, flood, and other waters for beneficial use in the district.

The objects and purposes of this act also include the purchase and resale of water, the purchase and distribution of water, and the conservation and distribution or sale of water, regardless of whether the activities are taken in conjunction with flood control or flood protection and also include the construction of works for generating hydroelectric power, the operation and maintenance of the works, and the sale of the output of the hydroelectric powerplant.

SEC. 4. Section 5 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 5. The district is hereby declared to be a body corporate and politic and as such shall have, in addition to the other powers vested in it by this act, the following powers:

1. To have perpetual succession.

2. To sue and be sued in the name of the district.

3. To adopt a seal.

4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of, real and personal property of every kind, including lands, structures, buildings, rights-of-way, easement, and privileges, and to construct, maintain, alter, and operate any and all works or improvements, within or without the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair, or otherwise improve any works, improvements, or property acquired by it as authorized by this act.

5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, water for present and future use within the district; to commence, maintain, intervene in, defend, or compromise, in the name of the district, or otherwise, and to assume the costs and expenses of, any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or

of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend, and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare, rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from the district; to prevent contamination, pollution, or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in the district, and to commence, maintain, and defend actions and proceedings to prevent any such interference with the waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that the district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interest of the district

6. To control the flood and storm waters of the district and the flood and storm waters of streams that have their sources outside of the district, but which streams and the floodwaters thereof, flow into the district, and to conserve the waters for beneficial and useful purposes of the district by spreading, storing, retaining, and causing to percolate into the soil within or without the district, or to save or conserve in any manner all or any of the waters and protect from damage from flood or storm waters the watercourses, watersheds, harbors, public highways, life, and property in the district, and the watercourses outside of the district of streams flowing into the district, and to prevent waste of water or diminution of the water supply in, or exportation of water from the district, and to obtain, retain, and reclaim drainage, storm, flood, and other waters for beneficial use in the district; provided, that nothing in this act shall authorize the carrying out of any plan of improvement, the purpose of which is, or the effect of which will be, to take water which flows in any watershed in the district and transport or sell that water for use anywhere outside of the district when the water level of any gravel beds within the district is below the normal level and that water could reasonably be used to replenish the water level of the gravel beds; provided further, that none of the provisions of this act shall preclude the exercise by any other political subdivision that may now or hereafter exist, in whole or in part, within the district from exercising its powers, although the powers may be of the same nature as the powers of the district. Any such other political subdivision which owns property or facilities of a type that may be owned by the district may, by written agreement with the district, provide for the use, or joint use, of the property or facilities or for the use, or joint use, of property or facilities in which the district has an interest.

7. To cooperate and to act in conjunction with the State of

California or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public district, or with any public or private corporation, or with any city, city and county, or county, in the construction of any works for the controlling of flood or storm waters of or flowing into the district or for the protection of life or property therein, or for the purpose of conserving any waters whatsoever for beneficial use within the district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any of those purposes.

8. To carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods, and use of water, both within and without the district, and, for those purposes, the district shall have the right of access through its authorized representatives to all properties within the district. The district, through its authorized representatives, may enter upon those lands and make examinations, surveys, and maps thereof.

9. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of those works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also, where necessary or convenient to and for those purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of the capital stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that, when holding the capital stock, the district shall be entitled to all the rights, powers, and privileges and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of the capital stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm, or individual, or any combination of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair, or operation of any rights, works, or other property of a kind which may be lawfully acquired or owned by the district; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch, or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or

right to store the water in any reservoir of the district, or to carry the water through any tunnels, canal, ditch, or conduit of the district; to enter into, and do any acts necessary or proper for the performance of, any agreement with any district of any kind, public or private corporation, association, firm, or individual, or any combination of them, for the transfer or delivery to any such district, corporation, association, firm, or individual of any water right or water pumped, stored, appropriated, or otherwise acquired or secured, for the use of the district, or for the purpose of exchanging the water or water right for other water, water right, or water supply in exchange for water, water right, or water supply to be delivered to the district by the other party pursuant to the agreement.

10. To incur indebtedness and to issue bonds in the manner herein provided.

11. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

12. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in the district or any of the officers thereof by this act.

13. To exercise the right of eminent domain within the district to take any property necessary to carry out any of the objects or purposes of this act. The district, in exercising this power, shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cable, or poles of any public utility which is required to be moved to a new location. No right shall exist in the district to take, by proceedings in eminent domain, any property, including water rights appropriated to public use by any existing city and county or municipal utility district. Nothing in this act contained shall be deemed to authorize the district or any person to divert the waters of any river, creek, stream, irrigation system, canal, or ditch, or the waters thereof or therein, unless compensation therefor be first provided in the manner prescribed by law.

Nothing in this act contained shall be construed as in any way affecting the plenary power of any existing city and county or municipal utility district to provide for a water supply for the city and county or municipal utility district, or as affecting the absolute control of any properties of the city and county or municipal utility district necessary for that water supply and nothing herein contained shall be construed as vesting any power of control over those properties in the San Joaquin County Flood Control and Water Conservation District, or in any officer thereof, or in any person referred to in this act.

14. To make contracts with the County of San Joaquin, and to employ labor for the purpose of doing flood control work and for inspecting and passing upon the adequacy of drainage plans provided for each proposed new subdivision in the County of San

Joaquin.

15. To purchase, or to contract for the purpose of purchasing, water from the United States or any of its agencies, from the state or any of its agencies, from any other public district, agency, or organization, from any private firm, corporation, entity, or organization, or from any person.

16. To have power to cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress previously or hereafter enacted permitting cooperation or contract for the purposes of contracting works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation, or maintenance of those works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made.

17. To sell or distribute, and to contract for sale or distribution, water to any person, firm, corporation, entity, or organization within the district, whether sold or distributed for consumption or for resale or redistribution; provided, that the district shall have no power to sell or distribute, or to contract for sale or distribution of, water for use on any lands within any county water district, reclamation district, irrigation district, water conservation district, protection district, municipality, flood control district, or other district or political subdivision of the state now or hereafter established, in whole or in part, within the limits of the district, which is empowered to deliver water to water users, without either contracting with that entity or without the express written permission of the governing body of that entity.

18. To establish tolls or charges for any water sold or distributed by it.

19. To levy assessments to pay the costs of acquiring and distributing any water in any water conservation zones which are benefited.

20. To construct works for generating hydroelectric power, and to operate and maintain the works, or contract for such operation or maintenance. The power generated may be used by the district for its own purposes, but shall not be offered for sale directly by the district to customers other than a public utility or public agency engaged in the distribution, use, or sale of electricity. Any such powers may be exercised jointly with member units or other public agencies authorized to exercise those powers. The power to acquire works and facilities shall not include, and nothing in this act shall be construed to allow, the acquisition of property already employed in the generation of hydroelectric power for public utility purposes, except by mutual agreement between the district and the owner of that property. The authority to construct, maintain, and operate works pursuant to this subdivision shall apply only to works

constructed and maintained after the effective date of the amendment of this section enacted during the 1981–82 Regular Session of the Legislature.

SEC. 5. Section 13 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 13. The board shall have power, in any year:

1. To levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district; provided, however, that the ad valorem tax or assessment shall not exceed two cents ($0.02) on each one hundred dollars ($100) of assessed valuation or, if the district contemplates or undertakes water conservation or distribution, the ad valorem tax or assessment shall not exceed four cents ($0.04) on each one hundred dollars ($100) of assessed valuation.

2. To levy taxes or assessments, in addition to the amount levied pursuant to subdivision 1, in each or any of the zones and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or improvements established, or to be established, within or on behalf of the respective zones, or of undertaking or continuing a study, according to the benefits derived or to be derived by the respective zones, by any of the following methods:

(a) By a levy or assessment upon all property within a zone or participating zone, including land, improvements thereon, and personal property.

(b) By a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon. It is declared that, for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

(c) By a levy or assessment upon all land, exclusive of improvements and personal property. It is declared that, for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

3. To levy taxes or assessments by any method authorized by subdivision 2 of this section in each or any of the zones, according to the special benefits derived or to be derived by the specific properties therein, to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to the zone or zones, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement established, or to be established, within or on behalf of the respective zone or zones, or of undertaking or continuing a study.

4. In the event of project cooperation with any of the governmental bodies as authorized by subdivision 7 of Section 5 of

this act, including projects for water conservation and distribution, which requires the making of a contract with any of those governmental bodies for the purposes set forth in subdivision 7, by the terms of which work is to be performed by the governmental body in any specified zone or participating zones for the particular benefit thereof, and by the proposed contract the district is to pay to the governmental body, a sum of money in consideration or subvention for the performance of the work by the governmental body, the board may, after proceedings in the manner prescribed in Section 11 of this act, levy and collect a special tax or assessment upon the property in the zone or participating zones, whereby to raise funds to enable the district to make the payment, in addition to other taxes or assessments herein otherwise provided for.

The taxes or assessments shall be levied and collected together with, and not separately from, taxes for county purposes, and the revenues derived from the district taxes or assessments shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board shall have the power to control and order the expenditure thereof for those purposes; provided, however, that no revenues, or portions thereof, derived in any zone from the taxes or assessments levied under subdivision 2 or 3 of this section shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside of the zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, the zones shall become, and shall be referred to as, participating zones.

SEC. 6. Section 13.5 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 13.5. With respect to an investigation zone, the board may, in its discretion, adopt an alternative method of funding in accordance with this section, and, if the election is made, it shall be made at the time of determining to proceed with an investigation zone project, following the hearing required by Section 12. The alternative method of funding permitted by this section shall be as follows:

1. At the time of establishing the investigation zone, the board shall determine the total number of acres within the zone, the number of acres which are within any irrigation district or water conservation district and within the zone, and the number of acres not within an irrigation district or a water conservation district but within the investigation zone and shall, by resolution, declare the acreages and declare that the zone shall be funded in the manner provided in this section. If territory is within more than one irrigation district and water conservation district, then, for the purpose of this section, the territory in two districts shall be deemed to be within the district in which it was last included.

2. Immediately following the adoption of a resolution pursuant to subdivision 1 of this section, the district shall send written notice to each irrigation district and water conservation district located, in whole or in part, within the investigation zone. Within 90 days of the notice mentioned in the preceding sentence, the governing board shall advise the board of its choice among the following methods of levy within the portion of the investigation zone located within the respective irrigation district or water conservation district governed by the governing board:

(a) The method specified in paragraph (a) of subdivision 2 of Section 13.

(b) The method specified in paragraph (b) of subdivision 2 of Section 13.

(c) The method specified in paragraph (c) of subdivision 2 of Section 13.

(d) By direct semi-annual payment from the funds of the irrigation district or water conservation district rather than by a levy by the district; the semiannual payments shall be made on each occasion on or before the semiannual delinquency date for county taxes.

3. During the 90-day period mentioned in subdivision 2 of this section, the board shall determine the method of assessment to be used in any portion of the investigation zone not within an irrigation district or water conservation district.

4. If the governing board of an irrigation district or water conservation district does not, during the 90-day period mentioned in subdivision 2 of this section, specify the method of levy or charge to be used within its area, then, as to that area, the method specified in paragraph (c) of subdivision 2 of Section 13 shall be applied in that area.

5. If the board has adopted the method of funding established by this section, then annually the board shall determine the amount to be raised for the entire investigation zone and shall annually allocate the amount to be raised on a per acre basis between each irrigation district, water conservation district, and area outside of any such district, but within the investigation zone, and shall then cause the amounts so allocated on an acreage basis to be levied or collected in the manner previously elected by the respective governing boards.

6. No irrigation district or water conservation district shall be permitted to elect the method set forth in paragraph (d) of subdivision 2 of this section, unless the district first makes a showing satisfactory to the board that the district has the ability to make the estimated semiannual payments required during the duration of the project being undertaken by the investigation zone.

SEC. 7. Section 5 of the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session) is amended to read:

Sec. 5. (1) The agency shall have the power:

(a) To sell, lease or otherwise dispose of water or any rights to the

use of the works of the agency.

(b) To fix, revise, and collect rates and charges for the services, facilities, or water furnished by it.

(c) To establish rules and regulations to protect the public health in the operation of the works, to provide for the sale, distribution, and use of water and the services and facilities of the works, to provide that service, facilities, or water shall not be furnished to persons against whom there are delinquent charges, and to provide for charges for the restoration of service.

(d) To provide that charges for any of its services or facilities may be collected together with, and not separately from, the charges for other services or facilities rendered by it, or it may contract that all the charges be collected by any other private or public utility, and that the charges be billed upon the same bill and collected as one item.

(e) To provide that, if all or part of a bill is not paid, the agency may discontinue any or all services or facilities for which the bill is rendered.

(f) To provide for the collection of charges. Remedies for their collection and enforcement are cumulative and may be pursued alternatively or consecutively as the agency determines.

(g) To provide for a basic penalty of not more than 10 percent for nonpayment of the charges within the time and in the manner prescribed by it and, in addition, to provide for a penalty of not exceeding one-half of 1 percent per month for nonpayment of the charges and basic penalty. The agency may provide for the collection of the penalties.

(2) The agency may also construct works for generating hydroelectric power, and may operate and maintain the works, or contract for such operation or maintenance. The power generated may be used by the agency for its own purposes, but shall not be offered for sale directly by the agency to customers other than a public utility or public agency engaged in the distribution, use, or sale of electricity. Any such powers may be exercised jointly with member units or other public agencies authorized to exercise those powers. The power to acquire works and facilities shall not include, and nothing in this act shall be construed to allow, the acquisition of property already employed in the generation of hydroelectric power for public utility purposes, except by mutual agreement between the agency and the owner of that property. The authority to construct, maintain, and operate works pursuant to this subdivision shall apply only to works constructed and maintained after the effective date of the amendment of this section enacted during the 1981–82 Regular Session of the Legislature.

SEC. 8. Section 3 of the Tehama County Flood Control and Water Conservation District Act (Chapter 1280 of the Statutes of 1957) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the

control and disposition of the storm and flood waters of the district and, to that end, the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal, and mixed property of every kind within or without the district necessary, expedient, or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire, and contract to acquire, by purchase, donation, or other lawful means in the name of the district, from private persons, public and private corporations, associations, agencies, or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain, and operate any and all works and improvements within or without the district, and to make, execute, carry out, and enforce all contracts of every character, necessary, convenient, incidental, useful, or proper to carry out any of the provisions, objects, or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain to take any property located within the county necessary to carry out any of the objects or purposes of this act.

(g) To compel, by injunction or other lawful means, the owner or owners of any bridge, trestle, wire line, viaduct, embankment, or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit, or canal so to construct or alter it to offer a minimum of obstruction to the free flow of water through or along the channel, ditch, bed of any stream, waterway, conduit, or canal and, whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for that purpose All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district. However, all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair, and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, powerplants, railroads, and dredgers and all other auxiliary, incidental, necessary, or convenient agencies, work, or improvements that may be required to carry out, facilitate, repair, maintain, and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner

herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest the warrants shall bear after registration and until payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner provided herein.

(k) To appoint and employ engineers, attorneys, assistants, and other employees that may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each bond; which officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones, or abolish the zones, in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer special funds as, in its discretion, may seem advisable, and to abolish the same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of acquisitions, works, and improvements provided for herein, and to abolish the same, and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, or agency or mandatory of the State of California or of the United States and any department, board, bureau, or commission of the State of California or the United States, or any person, firm, association, or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance, and operation, in whole or in part, of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material, or money from any of the parties named in subdivision (m) of this section to be applied to the work or improvement provided for herein.

(p) To construct, purchase, lease, or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that

sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, recreational, and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve those waters by storage in surface reservoirs, to divert and transport those waters for beneficial uses within the district; to release those waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend, or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of the common benefit of any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend, and compromise and to assume the cost and expenses of any and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from the district; to prevent contamination, pollution, or otherwise rendering unfit for beneficial use, the surface or subsurface water used or useful in the district, and to commence, maintain, and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district. However, the district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public or private corporation, or with the County of Tehama, in the construction of any work for the controlling of flood or storm waters of or flowing into the district, or for the protection of life or property therein, or for the purpose of conserving the waters for beneficial use within the district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways, and other rights-of-way; to acquire by

purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of the works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to that end, and for those purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of the stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that, when holding the stock, the district shall be entitled to all the rights, powers, and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair, or operation of any rights, works, or other property of a kind which may be lawfully acquired or owned by the Tehama County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch, or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store the water in any reservoir of the district, or to carry the water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, or firm or individual or any water right or water pumped, stored, appropriated, or otherwise acquired or secured, for the use of the Tehama County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right, or water supply in exchange for water, water right, or water supply to be delivered to the district by the other party pursuant to an agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation, or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the

purposes of the district, and to carry out and perform the terms of any contract so made; and, for those purposes, the district shall have, in addition to the powers specifically set forth in this act, all powers, rights, and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) To construct, operate, and maintain works to develop hydroelectric power as a means of assisting in financing the construction, operation, and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of such power for a term not to exceed 50 years. The power generated may be used by the district for its own purposes, but shall not be offered for sale directly by the district to customers other than a public utility or public agency engaged in the distribution, use, or sale of electricity. Any such powers may be exercised jointly with member units or other public agencies authorized to exercise those powers. The power to acquire works and facilities shall not include, and nothing in this act shall be construed to allow, the acquisition of property already employed in the generation of hydroelectric power for public utility purposes, except by mutual agreement between the district and the owner of that property.

(w) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 9. Section 23 of the Tehama County Flood Control and Water Conservation District Act (Chapter 1280 of the Statutes of 1957) is amended to read:

Sec. 23. Subject to the provisions of this act, the board shall prescribe, by resolution, the form of the bonds and of the interest coupons attached thereto and shall fix the rate of interest the bonds shall bear, not to exceed 8 percent per year. The bonds shall mature serially in amounts to be fixed by the board, payment of the bonds commencing not later than five years from the date thereof and being completed in not more than 50 years from that date. The board shall fix the place or places (which may be within or without the State of California and which shall be designated in the bonds) where the bonds, together with the interest thereon, shall be payable. The principal amount of general obligation bonds issued shall not exceed in the aggregate that amount allowed by the State Treasurer, but in no event to exceed 15 percent of the assessed value of all the real and personal property of the zone or zones involved.

The Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) is applicable to the district for the purpose of providing funds for the acquisition, construction, improving, or financing of any public improvement authorized by this act which is not inconsistent

with Section 54310 of the Government Code. However, notwithstanding Section 54400 of the Government Code and any other provision of law, the board may determine and provide, in any resolution providing for the issuance of revenue bonds, for maturity dates of the bonds not exceeding 50 years from their respected dates.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the San Joaquin County Flood Control and Water Conservation District, the Sacramento County Water Agency, the Tehama County Flood Control and Water Conservation District, and the Counties of Inyo and Mono to undertake the construction of works for generating hydroelectric power and to thereby provide vitally needed electrical energy at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1160

An act to amend Section 6547 of the Government Code, relating to joint exercise of powers.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 6547 of the Government Code is amended to read:

6547. The power of the entity to issue revenue bonds is additional to the powers common to the parties to the joint powers agreement, but shall not be exercised until authorized by the parties to that agreement; provided, that, in the case of the issuance of revenue bonds by a fair and exhibition authority, such authorization shall not be required. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, such power shall include the power to issue notes for the purpose of financing studies, the acquisition of options, permits, and other preliminary costs to be incurred prior to the undertaking of the construction or acquisition of a project, and for the purpose of providing temporary financing of costs of construction or acquisition of a project. Such notes may be issued at public or private sale, and may be renewed from time to time, and the principal and interest with respect thereto may be made payable from the revenues of the entity unless paid from the proceeds of revenue bonds.

Every local agency shall make any authorization, as permitted under the first sentence of this section, by ordinance. Except as

provided herein, the ordinance shall describe in general terms the project, or projects, to be funded by the revenue bonds, the maximum amount of the bonds proposed to be issued, and the anticipated sources of revenue to redeem the bonds. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, the ordinance shall describe in general terms the project or the studies or other preliminary costs therefor to be funded by the revenue bonds or notes, the estimate of the maximum amount of bonds to be issued for such project or such studies or other preliminary costs, and the anticipated sources of revenue or other funds to pay the principal of and interest of such bonds or notes, provided that the statement of the estimated maximum amount of such bonds or notes shall not be deemed to prevent the authorization by such ordinance of the issuance of bonds or notes by the entity in amounts which may exceed such estimate without further authorization under such ordinance if and to the extent such additional bonds or notes shall be required to complete the financing of such project or such studies or other preliminary costs. Each such ordinance shall state that it is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code.

A separate authorization shall be required for each separate bond issue proposed by the entity, except that, in the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, a single authorization shall be sufficient for bonds which may be issued in installments from time to time for a project or the costs of studies or other preliminary costs therefor which shall be identified in such authorization.

The requirement of an ordinance and the right to referendum thereon shall not apply to the issuance of revenue bonds if, prior to March 4, 1971, one or more local or public agencies shall have taken formal action to implement any one or more projects to be acquired or constructed pursuant to a joint powers agreement. Formal action to implement any one or more projects shall include, but not be limited to, any of the following:

(a) The incurring of liability for a substantial portion of an architectural or engineering contract or other contract relating to a project.

(b) The acquisition of land or improvements for the project.

(c) The making of a substantial contribution toward the project.

Notwithstanding the requirement that parties to a joint powers agreement authorize the issuance of revenue bonds, in the case of a project which consists of the generation or transmission of electric energy financed in whole or in part by the issuance of revenue bonds, only those local agencies which contract to make payments to be applied to the payment of the revenue bonds shall be required to authorize the issuance of such revenue bonds.

CHAPTER 1161

An act to amend Sections 13808 and 13948 of the Health and Safety Code, relating to fire protection districts.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 13808 of the Health and Safety Code is amended to read:

13808. "Employees," as used in this part, means all duly appointed officers and employees of the district and the fire department, including those regular, volunteer and call firemen or firefighters who are employed and paid on a full-time or part-time basis, and including such persons as may be requested or appointed by the officer in charge of a fire, with authorization of the district board, to assist in the suppression of a fire.

The amendments to this section enacted by the Statutes of 1981, shall not constitute a substantive change of law and shall not be construed to entitle any person to any right or benefit that they were not already entitled to prior to December 31, 1981.

SEC. 2 Section 13948 of the Health and Safety Code is amended to read:

13948. Any city, or portion thereof, may be included within a district upon the adoption of an ordinance by the city governing body requesting the inclusion which is approved by the district board. The district board may require as a condition to the inclusion that the legislative body of the city within the district agree to (a) remain part of the district for a period of at least 10 years; and (b) pay annually from the city's municipal funds, on a schedule specified by the district board, the annual adjusted cost of the services provided by the district. Upon the expiration of the period of time set forth in the conditions or, if none, at any time, the legislative body of the city may provide by ordinance for the withdrawal of the territory of the city from the district. The withdrawal shall be effective upon the date fixed by the legislative body of the city in the ordinance, which date is on or after the date of the adoption of the ordinance. Where the withdrawal is effective on or before January 1st of the fiscal year the district shall furnish fire protection services to the territory withdrawn until the first day of July next succeeding. Where the withdrawal is effective subsequent to January 1st of the fiscal year and the territory is subject to district taxation for the succeeding fiscal year the district shall furnish fire protection services to the territory until the 30th day of June of the fiscal year next succeeding.

Immediately after the approval by the district board of an ordinance of a city governing body including the city or portion

thereof, within the district, the clerk of the legislative body of the city shall file a copy of the ordinance, describing the territory included and the date of its inclusion, with the governing body of the district. Immediately after the adoption of an ordinance withdrawing the territory of a city from the district, the clerk of the legislative body of the city shall file a copy of the ordinance, describing the territory withdrawn and the date of its withdrawal, with the governing body of the district and with the tax levying authority of the district. Whenever a copy of an ordinance including a city or portion thereof, within the district, or a copy of an ordinance withdrawing the territory of a city from a district, pursuant to this section is filed with the district board, the tax levying authority of the district shall comply with the requirements of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

CHAPTER 1162

An act to amend Sections 1442, 1442.5, 1505 (as amended by Section 59 of Chapter 102 of the Statutes of 1981), 1505 (as amended by Section 60 of Chapter 102 of the Statutes of 1981), 1505 (as added by Section 61 of the Statutes of 1981), 1597.51, 1597.52, 1597.54, 1597.55, 1597.57, and 1597.59 of, to add Section 1597.501 to, the Health and Safety Code, relating to facilities.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1442 of the Health and Safety Code is amended to read:

1442. The board of supervisors in each county, prior to closing a county hospital or other county medical facility, eliminating any area of service in a county hospital or other county medical facility or reducing the level of services provided to indigents as of January 1, 1975, or prior to leasing, selling, or in any way transferring the management of a county hospital or other county medical facility, shall file with the State Department of Health Services and the appropriate areawide voluntary health planning agency the following:

(a) A description of the county's existing facilities and services, the board's proposal for changing those facilities or services, including a plan for providing the eliminated services or facilities through alternative means.

(b) A copy of any contracts, agreements, or arrangements with any facility or individual to provide services to indigent people.

(c) These documents shall be filed by the county at least 60 days

prior to the effective date of such plan for providing the eliminated services or facilities, or any such contracts, agreements, or arrangements.

(d) The plan filed by a county having a population in excess of 6,000,000 residents shall be reviewed by the department to determine if the plan will have a detrimental impact upon the health care needs of the indigent in the county.

(e) The State Department of Health Services shall file annually with the Legislature a report of all such closings of facilities and reductions or elimination of services.

SEC. 2. Section 1442.5 of the Health and Safety Code is amended to read:

1442.5. Prior to closing a county facility, eliminating or reducing the level of services provided, or prior to the leasing, selling, or transfer of management, the board shall provide public notice, including notice posted at the entrance to all county health care facilities, of public hearings to be held by the board prior to their decision to proceed. Such notice shall be posted not less than 90 days prior to such public hearings.

The board shall make findings based on evidence and testimony from these hearings that their proposed action will not have a detrimental impact on the health care needs of the indigents of the county. Such findings shall be included as part of the official public hearing record.

Notwithstanding the board's closing of a county facility, the elimination of or reduction in the level of services provided, or the leasing, selling, or transfer of management of a county facility subsequent to January 1, 1975, the county shall provide for the fulfillment of its duty to provide care to all indigent people, either directly through county facilities or indirectly through alternative means.

(a) Where this duty is fulfilled by a contractual arrangement with a private facility or individual, the facility or individual shall assume the county's full obligation to provide care to those who cannot afford it, and make their services available to Medi-Cal and Medicare recipients.

(b) Where this duty is fulfilled by alternative means, the facility or individual providing services shall be in compliance with Sections 441.18 and 1277.

(c) Whether this duty is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment received by people who cannot afford to pay for their health care shall be the same as that available to nonindigent people receiving health care services in private facilities in that county.

(d) The board shall designate an agency to provide: a 24-hour information service which can give eligible people immediate information as to the available services and access to them and an agency to receive and respond to complaints from people eligible for services under this chapter. The designated agency may be the

agency which operates the facility. This subdivision shall apply only in instances in which there is a closing of a county facility, an elimination or reduction in the level of services provided, or the leasing, selling, or transfer of such a county facility.

(e) The board shall arrange for all facilities or individuals contracting to provide services to indigent people to be listed in the local telephone directory under county listings, and shall specify therein that such facilities or individuals fulfill the obligations of county facilities.

The provisions of Section 25371 of the Government Code do not relieve the county of the obligation to comply with the provisions of this section.

SEC. 3. Section 1597.501 is added to the Health and Safety Code, immediately following Section 1597.50, to read:

1597.501. (a) It is the intent of the Legislature that family day care homes for children must be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose to occupy the field to the exclusion of municipal zoning regulations regulating the use or occupancy of family day care homes for children as other than residential use or occupancy and to prohibit any restrictions relating to the use of property for family day care homes for children under this chapter.

(b) Family day care homes for children under this chapter shall be considered a residential use of property for purposes of zoning and shall be a permitted use in all zones in which residential uses are permitted, including, but not limited to, zones for single-family dwellings. No conditional use permit or special exception may be required for such residences.

(c) Every provision in a written instrument entered into on or after the effective date of this section relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of such real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(d) Every restriction or prohibition entered into on or after the effective date of this section, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 4. Section 1505 of the Health and Safety Code, as amended

by Section 59 of Chapter 102 of the Statutes of 1981, is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any family day care home for children licensed under Chapter 3.6 (commencing with Section 1597.50).

(d) Any family day care home providing care for the children of only one family, in addition to the operator's own children.

(e) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(f) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 362 of the Welfare and Institutions Code.

(g) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(h) Any residential facility exclusively serving persons of ages 16 to 19 years, inclusive, which is operated by a nonprofit corporation sponsored by a combination of well-recognized, bona fide churches or religious denominations for the purpose of providing moral and spiritual guidance to such persons as well as board, room, and care. In such a facility, all minors are placed in the custody thereof pursuant to a power of attorney executed by the minor's parent or guardian, or pursuant to an order of a court of competent jurisdiction, granting such facility complete authority over the person of the minor until rescinded or revoked. Such a facility shall not receive any form of grant assistance from any agency of federal, state, or local government for the provision of such care.

Any facility desiring an exemption under this subdivision shall make application to the state department, which shall grant the exemption if the facility meets the criteria specified in this subdivision. A facility exempted from licensure pursuant to this subdivision shall nevertheless be subject to all requirements of state and local law and ordinances, including regulations adopted pursuant to this chapter, which prescribe standards of sanitation or fire and life safety applicable to the facility.

(i) Any school dormitory or similar facility determined by the department.

(j) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(k) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(*l*) Any cooperative arrangement between parents for the care of

their children by one or more of the parents where no payment for the care is involved.

(m) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(n) Any similar facility determined by the director.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed unless a later enacted statute which is chaptered prior to January 1, 1983, deletes or extends that date.

SEC. 5. Section 1505 of the Health and Safety Code, as amended by Section 60 of Chapter 102 of the Statutes of 1981, is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any family day care home for children licensed under Chapter 3.6 (commencing with Section 1597.50).

(d) Any family day care home providing care for the children of only one family, in addition to the operator's own children.

(e) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(f) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(g) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(h) Any school dormitory or similar facility determined by the department.

(i) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(j) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the

state department.

(m) Any similar facility determined by the director.

This section shall become operative January 1, 1983, and shall remain in effect only until July 1, 1984, and as of that date is repealed unless a later enacted statute which is chaptered prior to July 1, 1984, deletes or extends that date.

SEC. 6. Section 1505 of the Health and Safety Code, as added by Section 61 of Chapter 102 of the Statutes of 1981, is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(f) Any school dormitory or similar facility determined by the department.

(g) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(h) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(i) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(j) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(k) Any similar facility determined by the director.

This section shall become operative July 1, 1984.

SEC. 7. Section 1597.51 of the Health and Safety Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

1597.51. (a) Notwithstanding the provisions of Chapter 3 (commencing with Section 1500), the State Department of Social Services shall establish, administer, and monitor a program which licenses family day care homes for children consistent with the provisions of this chapter except in those counties conducting pilot projects under Section 1597.62.

(b) The provisions of this chapter shall not apply to any family day care home providing care for the children of only one family, in addition to the operator's own children.

SEC. 8. Section 1597.52 of the Health and Safety Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

1597.52. (a) The department may contract with state, county, or other public agencies for the assumption of certain responsibilities as provided in Section 1511; provided that in exercising the authority so delegated, such agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department promulgated under this chapter.

(b) The department and the local agencies with which it contracts for the licensing of day care facilities for children shall grant or deny a license to a family day care home for children within 30 days after receipt of all appropriate licensing application materials, as determined by the department, and after a home visit has been completed, on the condition that the application includes a statement, signed under penalty of perjury, from the applicant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars ($50) or less. If it is determined that the applicant does have a criminal record pursuant to the criminal records check provided in subdivision (a) of Section 1597.59, the license shall be suspended pending an administrative hearing pursuant to Section 1550. If any other adult living at the same location is found to have a criminal record, the license may be suspended pending an administrative hearing, unless the licensee removes those individuals from the home.

(c) Licensing reviews of care and services of a family day care home for children shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training programs of the facility.

(d) Review of family day care homes for children shall be limited to inspection for compliance with the provisions of this chapter, and shall not include evaluations and rating scales.

SEC. 9. Section 1597.54 of the Health and Safety Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

1597.54. All family day care homes for children, shall apply for an initial license under this chapter, except that any home which on June 28, 1981, had a valid and unexpired license to operate as a family day care home for children under other provisions of law shall be deemed to have a license under this chapter for the unexpired term of the license at which time it may be renewed upon fulfilling the requirements of this chapter.

An applicant for initial licensure as a family day care home for children shall file with the department, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, the following:

(a) A brief statement confirming that the applicant is financially

secure to operate a family day care home for children. The department shall not require any other specific or detailed financial disclosure.

(b) Evidence that the family day care home contains a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal.

(c) The fingerprints of any operator of a family day care home, and any other adult living in the same location.

(d) Evidence of a current tuberculosis clearance for any adult in the home during the time that children are under care.

(e) Such other information as may be required by the department for the proper administration and enforcement of the chapter.

SEC. 10. Section 1597.55 of the Health and Safety Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

1597.55. No site visitations, or unannounced visits or spot checks shall be made under this chapter except as provided in this section.

(a) A site visitation shall be required prior to the initial licensing of the applicant.

(b) A public agency under contract with the department, as provided in Section 1597.52, may make spot checks if it does not result in any cost to the state. However, such spot checks shall not be required by the department.

(c) The department shall make a site visitation on the basis of a complaint and a followup visit as provided in Section 1597.56.

(d) In addition to any site visitation or spot check authorized under this section, the department shall annually make unannounced visits on 10 percent of all family day care homes for children licensed under this chapter. The unannounced visits may be made at any time, including the time of a request for a renewal of a license.

SEC. 11. Section 1597.57 of the Health and Safety Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

1597.57. The department shall:

(a) Develop and utilize one application form for all family day care homes for children requesting a new or renewal license.

(b) Establish for parents a consumer education and awareness package of information on the law and regulations governing family day care homes for children under this chapter and the role of the state and other public entities and local associations in relation to family day care homes for children.

(c) Administer an orientation program for new operators of family day care homes for children which may be conducted directly by the department or by contract with local governments or family day care home associations.

SEC. 12. Section 1597.59 of the Health and Safety Code, as added by Chapter 102 of the Statutes of 1981, is amended to read:

1597.59. (a) The department shall secure from an appropriate law enforcement agency, as required by subdivision (b) of Section 1597.52, a criminal record to determine whether the operator has

ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of any operator or for obtaining a criminal record of any such operator pursuant to this section. If it is found that any operator has been convicted of a crime, other than a minor traffic violation, the application for the license shall be denied, unless the department grants an exemption pursuant to subdivision (b).

(b) After review of the record the department may grant an exemption from disqualification for a license pursuant to subdivision (a), if the department has substantial and convincing evidence to support a reasonable belief that the operator convicted of the crime is of such good character as to justify issuance of the license.

CHAPTER 1163

An act to amend Section 1343 of the Health and Safety Code, to amend Section 700.1 of the Probate Code, and to amend Sections 14009.5, 14017, 14017.5, 14051, 14109.5, 14124.71, 14124.80, 14124.82, 14124.83, 14124.88, 14134, 14134.2, 14171, 14172, 14172.5, 14632, 14660, and 14663 of, to amend and renumber Section 14667 of, to add Sections 14018.2, 14654, 14667, and 14667.5 to, and to repeal and add Section 14105.1 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plan contracts as defined in subdivisions (f) and (n) of Section 1345.

(b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class of persons or plan contracts if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(c) The commissioner, upon request of the State Director of Health Services, shall exempt from the provisions of this chapter any county-operated pilot program contracting with the State Department of Health Services pursuant to Article 7 (commencing

with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code. The commissioner may exempt non-county-operated pilot programs upon request of the State Director of Health Services. Such exemptions may be subject to such conditions as the Director of Health Services deems appropriate.

(d) The provisions of this chapter shall not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by a bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

SEC. 2. Section 700.1 of the Probate Code is amended to read:

700.1. (a) Where a deceased person has received or may have received health care under the provisions of Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200), Part 3, Division 9, Welfare and Institutions Code, the heirs, the executor, the administrator, or the persons in possession of any property of the decedent shall give the Director of Health Services or his or her successor notice of the death no later than 90 days from the date of death. Such notice shall be mailed postage prepaid, and addressed to the director at his or her Sacramento office.

(b) All notices given pursuant to this section shall include a copy of the decedent's death certificate.

(c) The director shall have four months after notice is given pursuant to this section in which to perfect a claim. In the event that assets of the estate have been distributed, the director shall be entitled to a claim against the distributee or distributees to the full extent of the director's claim, or each distributee's share of the distributed assets, whichever is less. The director's entitlement against distributees shall include interest at a rate of interest equal to that earned in the Pooled Money Investment Fund from the date of distribution or the date of presenting the claim by the director, whichever is later, plus other accruing costs as in the case of other executions.

(d) Failure to comply with the provisions of this section shall not affect the validity of any proceeding under this division.

SEC. 3. Section 14009.5 of the Welfare and Institutions Code is amended to read:

14009.5. Notwithstanding any other provision of this chapter, when a decedent has received health care services under this

chapter or Chapter 8 (commencing with Section 14200) the department may claim against the estate of the decedent, or against any recipient of the property of that decedent by distribution or survival an amount equal to the payments for the health care services received. The department may not claim where the eligible person was under 65 when services were received, or where there is a surviving spouse, or where there is a surviving child who is under age 21 or who is blind or permanently and totally disabled, within the meaning of the Social Security Act.

The department may waive its claim, in whole or in part, if it determines that enforcement of the claim would result in substantial hardship to other dependents of the individual against whose estate the claim exists.

SEC. 4. Section 14017 of the Welfare and Institutions Code is amended to read:

14017. Each eligible person under Section 14005.1, and each person eligible under Section 14005.4 or 14005.7 who is certified but is not in possession of a valid California driver's license or identification card issued by the Department of Motor Vehicles shall be provided, by the department, with an identification card containing his or her picture, social security number, identifying characteristics, and signature. This provision shall not apply to:

(a) Persons age 12 and under.

(b) Recipients of aid under Title XVI of the Social Security Act.

(c) Persons in long-term institutional status.

SEC. 5. Section 14017.5 of the Welfare and Institutions Code is amended to read:

14017.5. When the department notifies providers that current Medi-Cal beneficiaries have been issued identification cards in accordance with Section 14017, it shall be the responsibility of the provider prior to rendering nonemergency Medi-Cal reimbursable services to persons presenting themselves as Medi-Cal beneficiaries to verify the person's identity by matching the name and signature on their identification card issued by the department or their valid California driver's license or California identification card issued by the Department of Motor Vehicles, against a signature executed at the time of service and further by visually verifying their likeness to the photograph on the identification card or driver's license.

SEC. 6. Section 14018.2 is added to the Welfare and Institutions Code, to read:

14018.2. (a) Reimbursement shall not be denied to any qualified health care provider for care rendered to an eligible Medi-Cal beneficiary for the sole reason that a proof of eligibility label does not accompany the bill.

Proof of eligibility labels may, however, continue to be used as such and shall be made available to an eligible Medi-Cal beneficiary through the local office which has determined the person's eligibility or through the department.

(b) By March 1982, the department shall report to the Legislature

on the accuracy and reliability of its automated eligibility reporting system so that the Legislature can make a determination as to the continued need for proof of eligibility labels.

(c) It shall remain the responsibility of a Medi-Cal beneficiary to provide information and evidence of Medi-Cal eligibility, restrictions on the eligibility, and non-Medi-Cal health coverage, to that person's health care providers, if this information is requested by those providers prior to rendering services to that beneficiary.

(d) Notwithstanding subdivision (c) of this section, county welfare departments may provide Medi-Cal eligibility information to other governmental agencies and their designated agents as necessary for proper administration of the Medi-Cal program.

SEC. 7. Section 14051 of the Welfare and Institutions Code is amended to read:

14051. (a) "Medically needy person" means an aged, blind or disabled person who could qualify as a public assistance recipient except for income and resources but whose income and resources are insufficient to provide for the costs of health care or coverage.

(b) "Medically needy family person" means a parent or child who could qualify as a public assistance recipient except for income and resources exclusive of those persons specified in subdivision (a), but whose income and resources are insufficient to provide for the costs of health care or coverage. It also includes persons defined in federal regulations as optional categorically needy under Title XIX of the Social Security Act by virtue of meeting the conditions specified under Title IV A of that act.

SEC. 8. Section 14105.1 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 14105.1 is added to the Welfare and Institutions Code, to read:

14105.1. (a) Notwithstanding any other provision of law, to the extent permitted by federal law, reimbursement to hospitals for inpatient services rendered to Medi-Cal program beneficiaries between July 1, 1981 and June 30, 1982, shall be adjusted to provide that the average payment per discharge upon final settlement shall not exceed a rate of increase of 6 percent over the average payment per discharge at final settlement for services rendered during the period of July 1, 1980 to June 30, 1981.

(b) Interim payment rates to hospitals shall be adjusted on October 1, 1981, or as shortly thereafter as reasonably possible and consistent with federal law, to accomplish a rate of payment increase to hospitals for inpatient services for the period of July 1, 1981 to June 30, 1982, which is consistent with the provisions of this section.

(c) It is the intent of the Legislature that the reimbursement principles employed by the department in final settlement pursuant to this section will be the methods in effect prior to October 1, 1981, for any services rendered prior to that time, and for services rendered between October 1, 1981, and June 30, 1982, that reimbursement principles be in accordance with the alternative

methods adopted for use subsequent to October 1, 1981.

(d) Nothing in this section shall be construed to limit adjustments to hospital reimbursement based upon volume or case mix changes.

SEC. 10. Section 14109.5 of the Welfare and Institutions Code is amended to read:

14109.5. Notwithstanding the provisions of Section 14109, effective January 1, 1982, the reimbursement rate for costs specified in Section 14109 shall not exceed the reimbursement rate for similar services established under this chapter.

The fiscal intermediary shall expedite the implementation of any change order resulting only from this section. The department shall provide sufficient funding for any such change order to enable the fiscal intermediary to implement such change order expeditiously and to not have to divert staff or other resources from existing contract tasks, including but not limited to those resources dedicated to the implementation of all other change orders.

SEC. 11. Section 14124.71 of the Welfare and Institutions Code is amended to read:

14124.71. (a) When benefits are provided or will be provided to a beneficiary under this chapter because of an injury for which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of insurance issued pursuant to Insurance Code Section 11580.2, the director shall have a right to recover from such person or carrier the reasonable value of benefits so provided. The Attorney General, or counsel for the fiscal intermediary under the Medi-Cal program with the permission of the Attorney General, or a contractor pursuant to Section 14124.80, or a county through its civil legal adviser, may, to enforce such right, institute and prosecute legal proceedings against the third person or carrier who may be liable for the injury in an appropriate court, either in the name of the director or in the name of the injured person, his guardian, conservator, personal representative, estate, or survivors.

(b) The director may:

(1) Compromise, or settle and release any such claim, or

(2) Waive any such claim, in whole or in part, for the convenience of the director, or if the director determines that collection would result in undue hardship upon the person who suffered the injury, or in a wrongful death action upon the heirs of the deceased.

(c) No action taken in behalf of the director pursuant to this section or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action of the beneficiary, his guardian, conservator, personal representative, estate, dependents, or survivors against the third person who may be liable for the injury, or shall operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder.

SEC. 12. Section 14124.80 of the Welfare and Institutions Code is amended to read:

14124.80. The Legislature finds and declares that:

(a) Many instances of potential third-party liability, particularly workers' compensation claims, are not discovered by the department. Similarly, the Legislature finds that there are private nongovernmental sources of potential claim information which is unique to these private sources and not otherwise readily available to the department. This private information is unique in that, although the information may be shared between private claimants, including potential private lienors, the department is not privy to it and includes past adjudicated claims, expired or expiring health policy claims, long-term care and settlement situations where Medi-Cal is not identified in any application or filing for benefits. Additionally, there are applications and other filings made without any identification of potential Medi-Cal rights which become known to private sources because of this information sharing system. Further, there are other miscellaneous claims that have not been and will not be discovered in the ordinary course of administration by the department.

(b) There is a backlog of potential claims or liens which could result in the recovery of substantial amounts if private sources of information were available to the state.

(c) A cost-effective manner of recovering these potentially large amounts is through the contracting by the state, on a pilot program basis, with a private organization which possesses the expertise and resources required to rapidly discover and recover the lienable amounts owing by third parties for health care services provided by the Medi-Cal program, and which will receive compensation on a contingency fee arrangement, thereby supplementing the ongoing functions of the state in recovering lienable amounts, reducing the cost to the state of the recovery effort, and maximizing the amounts recovered for the Medi-Cal program.

(d) Attorneys or the beneficiary, his guardian, personal representative, estate or survivors of any of them who are currently mandated under Section 14124.79 to report Medi-Cal involvement are excluded from any further remuneration benefits under this section.

SEC. 13. Section 14124.82 of the Welfare and Institutions Code is amended to read:

14124.82. (a) The department shall enter, by October 1, 1981, into at least two at-risk performance type contracts with private organizations that have access to information on cases with potential for the recovery of amounts owing for services rendered under the Medi-Cal program, and that have access to a substantial backlog period of information on past due Medi-Cal claims, as well as current and future potential claims. At least one contract shall cover northern California claims, and at least one contract shall cover southern California claims. Any contractor, otherwise qualified under this section, may separately contract in each geographical area.

(b) Priority, by the terms of the contract or contracts, shall be

given to the identification and recovery of claims nearing the statute of limitations, prior adjudicated claims, and prior existing injury claims. However, all claims which are older, in whole or part, than 12 months, at the time of discovery and notification by the contractor to the department, shall be subject to contractual lien recovery unless departmental personnel have previously identified these claims and have filed appropriate liens, notices, or other payment demands. A claim arises and the 12-month period begins when the department or its fiscal agent has first made payment for medical services related to the personal or workers' compensation action on behalf of a given recipient. The department may waive any time requirement, if it concludes that it will not otherwise discover the claim and be able to effect recovery.

SEC. 14. Section 14124.83 of the Welfare and Institutions Code is amended to read:

14124.83. The agreement shall include, but is not limited to, the following provisions:

(a) The contractor shall discover and recover amounts owing by third parties which may be subject to a claim for reimbursement.

(b) Payment to the contractor shall be based upon a no cost percentage of recovery formula, which shall not exceed 25 percent of the gross recovery upon the claim. It is the intent of the Legislature that "no cost" include all considerations for court costs, legal fees, and the universe of the case processing activity, not including, however, departmental processing.

(c) The contractor shall report periodically to the department concerning its progress in the discovery of cases and the recovery of amounts subject to claim, and shall provide such other information as the department may require to adequately monitor the progress of the contractor. Reports and other information shall be required only at one-month intervals.

SEC. 15. Section 14124.88 of the Welfare and Institutions Code is amended to read:

14124.88. (a) Subsequent to the expiration of the pilot project contract, the department, in its reasonable discretion, may execute a separate, additional agreement for the discovery and recovery of amounts which may be subject to claim pursuant to this article, subject to the provisions of Sections 14124.81 to 14124.87, inclusive.

(b) The department, if it receives a competitive qualified offer of such services within the criteria set forth in Sections 14124.80 through 14124.87, shall separately contract for discovery and recovery of workers' compensation claims with one contract to cover areas of northern California and one to cover areas of southern California.

(c) Priority and inclusion of claims shall be as set forth in Section 14124.82(b) and additionally shall include any matter on file with the Workers' Compensation Appeals Board for a period of more than 12 months unless the department has previously identified these claims and has filed the appropriate lien or liens.

(d) There shall be no cost to the contractor for claim detail reports

provided by the fiscal intermediary. In all cases of workers' compensation appeals, payment shall be made directly to the state and a contractor shall not handle or have access to any moneys owing the state. In these cases a bond required by the state for collection agencies shall be sufficient. Contractor's files shall be subject to audit, pursuant to the contract, but shall remain the property of the contractor. At the request of the department, the contractor shall provide copies of any claims related to a particular recovery.

(e) The contract shall provide that the contractor, with the permission of the Attorney General, may appeal decisions of the Workers' Compensation Appeals Board.

SEC. 16. Section 14134 of the Welfare and Institutions Code is amended to read:

14134. A recipient of services under this chapter shall be required to make copayments as follows:

(a) Except for any person age 12 or under or any woman receiving perinatal care, a copayment of five dollars ($5) shall be made for nonemergency services received in an emergency room. For the purposes of this section, "nonemergency services" means any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of severe medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(b) Except for any person age 65 or over, any person age 12 or under, any person who has a chronic condition requiring multiple prescription as determined by that person's attending physician, or any person who is an inpatient in a facility as defined in Section 1250 of the Health and Safety Code, a copayment of one dollar ($1) shall be made for each drug prescription.

(c) Except for any person age 12 or under, any woman receiving perinatal care, or any person who is an inpatient in a facility as defined in Section 1250 of the Health and Safety Code, a copayment of one dollar ($1) shall be made for each visit for services under subdivisions (a) and (h) of Section 14132.

The above copayment amounts may be collected and retained or waived by the provider. The department shall not reduce the reimbursement otherwise due to providers as a result of such copayment. Such copayment amounts shall be in addition to any reimbursement otherwise due the provider for services rendered under this program.

The provisions of this section shall not apply to any services received by persons covered under the federal program of health insurance for the aged and disabled, for which claims for payment will be billed to the federal program or to any child in AFDC-Foster Care, as defined in Section 11400.

SEC. 17. Section 14134.2 of the Welfare and Institutions Code is amended to read:

14134.2. The reimbursement rate for any three or more laboratory services for the same patient on the same day, which are

commonly performed in an automated manner, as defined by the department, shall be reimbursed at the rate established for automated services. The director shall exempt from this provision laboratory services performed for urgent medical reasons or in rural areas, as defined by the department, if performed as individual tests.

SEC. 18. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall adopt regulations establishing an administrative appeal process to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) The administrative appeal process established by the director shall guarantee a provider the right to present any grievances or complaints arising from the findings of an audit or examination made by or on behalf of the department pursuant to Sections 10722 and 14170 at an impartial hearing which shall include the procedural requirements of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(c) Notwithstanding subdivision (b) of this section, the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (b).

(d) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the rate received on investments in the Pooled Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(e) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(f) The final decision of the director shall be reviewable in

accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 19. Section 14172 of the Welfare and Institutions Code is amended to read:

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider for health care services identified through an audit or examination conducted by or on behalf of the director, and the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the issuance of such final decision, the director may, not later than three years after the payment became due and owing, file in the office of the County Clerk of Sacramento County, and with the county clerk of the county in which the provider has his principal place of business, a certificate containing the following:

(1) The amount due and owing and unpaid plus interest at the rate equal to the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding made pursuant to Sections 10722 and 14170 is mailed.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of such certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. Such judgment may be filed by the county clerk in a looseleaf book entitled "Health Care Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (d) of Section 14171 and notice of such action is properly served on the director within 90 days of the issuance of the final decision of the director, the director shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (d) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the director may file the certificate provided in subdivision (a); provided, however, if the provider seeks judicial review of the final decision of the director more than 90 days from the date of such decision in accordance with subdivision (d) of Section 14171, the director shall within 10 days after receiving notice of such action release any lien imposed pursuant to this article and any judgment entered pursuant to subdivision (a) shall be considered for all purposes null and void.

(c) No certificate shall be filed or judgment entered pursuant to the provisions of this section or Section 14173 against a provider which meets both of the following criteria:

(1) The provider is an unincorporated individual practitioner.

(2) The provider was not certified to participate under the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part, on the date of issuance of the final decision of the director establishing an overpayment.

Nothing in this subdivision shall prevent the director from using any other means available at law to recover amounts due and owing and unpaid from such providers.

SEC. 20. Section 14172.5 of the Welfare and Institutions Code is amended to read:

14172.5. (a) Notwithstanding the provisions of Section 14172 or any other law, when it is established that an overpayment has been made to an institutional provider, the department shall not begin liquidation of such overpayment until 60 days after issuance of the first statement of accountability or demand for repayment after issuance of the audit or examination report establishing such overpayment, except that where the provider has filed a valid request for hearing, liquidation of any disputed overpayment shall be deferred until a final administrative decision is rendered, except as provided in subdivision (b).

(b) If on the basis of reliable evidence, the department has a valid basis for believing that, with respect to a provider, proceedings have been or will shortly be instituted in a state or federal court for purposes of determining whether the provider is insolvent or bankrupt under appropriate state or federal law, or that a provider is or will shortly be taking action which reasonably might seriously hinder or defeat the department's ability to collect overpayments in the future, the department may immediately adjust any payments to the provider to a level necessary to insure that no overpayment to the provider is made.

SEC. 21. Section 14632 of the Welfare and Institutions Code is amended to read:

14632. Reimbursement to a primary care provider under a risk-sharing or capitated contract shall include a rate differential for providing case management in conjunction with Medi-Cal services at least 6 percent higher than the primary care provider's rate.

SEC. 22. Section 14654 is added to the Welfare and Institutions Code, to read:

14654. None of the programs established pursuant to this article shall supersede or replace any existing portion of a pilot program previously established pursuant to Article 7 (commencing with Section 14490) of Chapter 8 which involves a capitated, risk-assuming contract providing payment to a specified class or classes of providers.

SEC. 23. Section 14660 of the Welfare and Institutions Code is amended to read:

14660. The State Department of Mental Health, in consultation with the State Department of Health Services shall conduct a number of county programs which consolidate mental health funds

expended by the Medi-Cal and Short-Doyle programs in order to test whether such consolidation will accomplish more efficient and appropriate delivery of services.

SEC. 24. Section 14663 of the Welfare and Institutions Code is amended to read:

14663. The State Department of Health Services shall determine the amount of Medi-Cal funds expended for mental health services during the 1981–82 fiscal year in each county participating under this article, including inpatient, outpatient, and clinic services. Funds expended for services to mental health clients in skilled nursing facilities with special treatment programs or Short-Doyle augmentations of service shall also be included in the Medi-Cal funding total.

The State Department of Mental Health shall contract with each county selected to participate under this article. Funds provided under the contract shall include all mental health funds, regardless of funding source, contained in the 1981–82 fiscal year budget in accordance with a program plan submitted by the county. The plan shall include units and types of services to be provided to specified types of clients and shall describe how each of the goals of this article is to be achieved, including those funds not previously included in the county Short-Doyle Plan. The plan shall also specify utilization controls to be used and other mechanisms of fiscal accountability. The county plan should include as broad a range of contract services as is consistent with sound management practice and which maintains at least the percentage of contracted Short-Doyle Medi-Cal services that were contracted for the 1980–81 fiscal year.

SEC. 25. Section 14667 of the Welfare and Institutions Code is amended and renumbered to read:

14668. This article shall remain in effect only until July 1, 1985, and on that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, deletes or extends such date.

SEC. 26. Section 14667 is added to the Welfare and Institutions Code, to read:

14667. There shall be an advisory committee established to assist and advise the State Department of Mental Health in the development, implementation, and evaluation of pilot projects established pursuant to this article. The advisory committee shall be comprised of the following:

(a) One staff designee by each of the Chairpersons of the Senate Health and Welfare Committee, Senate Finance Committee, Senate Rules Committee, Assembly Health Committee, Assembly Ways and Means Committee and the Speaker of the Assembly.

(b) One member appointed by the County Supervisors Association of California.

(c) One member appointed by the Director of the Department of Health Services.

(d) One member appointed by the Conference of Local Mental Health Directors.

SEC. 27. Section 14667.5 is added to the Welfare and Institutions Code, to read:

14667.5. Projects established pursuant to this article shall be exempt from the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

SEC. 28. Notwithstanding proviso 5 of the provisions applicable to Items 426-101-001 to 426-001-890, inclusive, of the Budget Act of 1981, Chapter 99 of the Statutes of 1981, where local assistance costs are incurred because of the provisions of Section 14016.3 or 14016.4 of the Welfare and Institutions Code or where interagency agreement is required by Section 14101.7 of the Welfare and Institutions Code, both the federal and nonfederal shares of any money recovered are hereby appropriated and authorized to be expended for medical care and services as defined in Section 14132 of the Welfare and Institutions Code.

SEC. 29. The State Director of Health Services shall adopt regulations implementing the provisions of this act as emergency regulations in accordance with the provisions of the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by any state agency in order to implement the provisions of this act shall not be subject to the review and approval of the Office of Administrative Law until 120 days after the regulations take effect.

SEC. 30. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to insure the expeditious implementation of changes which are necessary to achieve greater effectiveness in the administration of the program, it is necessary that this act go into immediate effect.

CHAPTER 1164

An act to add Sections 14103.7, 14103.8, 14133.6, and 14133.7 to, and to repeal Section 5705.1 of, the Welfare and Institutions Code, relating to health.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 5705.1 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 14103.7 is added to the Welfare and Institutions Code, to read:

14103.7. The department shall develop procedure codes for durable medical equipment and orthotic and prosthetic equipment and services, to enable the fiscal intermediary to efficiently and expeditiously process claims for the equipment or services.

Until the procedure codes developed by the department are implemented, providers shall bill for durable medical equipment and orthotic and prosthetic equipment and services at the manufacturer's suggested retail price. The fiscal intermediary shall reimburse for equipment and services at the manufacturer's suggested retail price. Verification of the manufacturer's suggested retail price shall be by postpayment audit by the department. Upon audit, any amount paid to a provider that exceeds the manufacturer's suggested retail price shall be returned to the department with interest at the rate received by the Pooled Money Investment Fund of the State of California.

(c) For the purposes of this section, durable medical equipment, orthotics, and prosthetics shall include such equipment and accessories as the director may provide by regulation, as authorized by this chapter.

SEC. 3. Section 14103.8 is added to the Welfare and Institutions Code, to read:

14103.8. (a) Medi-Cal services for beneficiaries who are eligible for services under the California Children's Services Act (Article 2 (commencing with Section 248) of Chapter 2 of Division 1 of the Health and Safety Code) as well as the Medi-Cal program shall be subject to prior authorization by the director.

(b) Claims for payment of prior authorized services shall be reviewed by postpayment audit conducted by the department, and shall not be subject to prepayment review under the California Children's Services Act prior to submission to the Medi-Cal fiscal intermediary

(c) The California Children's Services program may require all applicants who are potentially eligible for cash grant public assistance to apply for Medi-Cal eligibility prior to becoming eligible for funded services.

SEC. 4. Section 14133.6 is added to the Welfare and Institutions Code, to read:

14133.6. The State Director of Health Services shall implement and pilot test the use of a micrographics document location and retrieval system in the San Francisco Medi-Cal Field Office during

fiscal year 1981–82 as a means to reduce treatment authorization request requirements on providers in the area served by that field office. The purpose of the pilot test is to demonstrate the feasibility of using a micrographics supported records system to reduce TAR requirements on providers of Medi-Cal services. System implementation shall be through a lease contract with a micrographics company doing business in California. The State Director of Health Services shall report progress on this pilot project to the Legislature by July 31, 1982.

SEC. 5. Section 14133.7 is added to the Welfare and Institutions Code, to read:

14133.7. The department shall not require emergency certification statements for hospital inpatient claims which have been reviewed and approved by the department for appropriateness of emergency admission or length of stay.

SEC. 6. The State Director of Health Services shall study and report to the Legislature by December 31, 1981, on the feasibility of an automated treatment authorization request reporting system for internal recordkeeping and reporting from the department to the Medi-Cal fiscal intermediary.

SEC. 7. The director shall establish, by May 1, 1982, a schedule of differential reimbursement rates for surgery procedures. Those surgery procedures which can safely be performed on an outpatient basis shall be reimbursed at a higher level when performed in an outpatient setting than the same procedures performed on an inpatient basis.

SEC. 8. Regulations adopted to implement the provisions of this act shall be adopted as emergency regulations in accordance with the provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by any state agency in order to implement the provisions of this act shall not be subject to the review and approval of the Office of Administrative Law until 120 days after the regulations take effect.

CHAPTER 1165

An act to repeal Chapter 13 (commencing with Section 7100) of Division 7 of Title 1 of the Government Code, to amend Sections 50052.5, 50073, 50074, 50091, 50092, 50099, 50100, 50150, 50151, 50153, 50154, 50400, 50402, 50505, 50506, 50507, 50508, 50508.5, 50515, 50517.5,

50522, 50530, 50541, 50628, 50661, 50662, 50668, 50669, 50670, 50700, 50701, 50702, 50704, 50705, and 50706 of, to amend the heading of Chapter 8 (commencing with Section 50700) of Part 2 of Division 31 of, to add Section 50076.5 to, to add Chapter 7 (commencing with Section 50680) and Chapter 8.5 (commencing with Section 50710) to Part 2 of Division 31 of, to repeal Sections 50533 and 50699 of, and to repeal Part 2.5 (commencing with Section 34700) of Division 24 of, the Health and Safety Code, relating to housing.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Chapter 13 (commencing with Section 7100) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 2. Part 2.5 (commencing with Section 34700) of Division 24 of the Health and Safety Code is repealed.

SEC. 3. Section 50052.5 of the Health and Safety Code is amended to read:

50052.5. "Affordable housing cost" means, with respect to lower income households, housing cost not exceeding 25 percent of gross income. The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income and housing cost for purposes of determining affordable housing cost for lower income households under this section. Such regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing development.

With respect to lower income households who are tenants of rental housing developments and members or shareholders of cooperative housing developments, or limited equity cooperatives "affordable housing cost" has the same meaning as affordable rent, as defined in Section 50053.

Regulations of the department shall also include a method for determining the maximum construction cost, mortgage loan, or sales price that will make housing available to an income group at affordable housing cost.

SEC. 3.5. Section 50073 of the Health and Safety Code is amended to read:

50073. "Housing development", for the purpose of housing assisted by the department, means any work or undertaking of new construction or rehabilitation, or the acquisition of existing residential structures in good condition, for the provision of housing which is financed pursuant to the provisions of this division for the primary purpose of providing decent, safe, and sanitary housing for persons and families of low or moderate income. "Housing

development" also means housing financed pursuant to this part for rental occupancy of, for resale to, or sold to, persons and families of low or moderate income. Notwithstanding other provisions of this section, "housing development" does not include a work or undertaking financed by a neighborhood improvement loan. A housing development may include housing for other economic groups as part of an overall plan to develop new or rehabilitated communities or neighborhoods, where housing for persons and families of low or moderate income is a primary goal. A housing development may include any buildings, land, equipment, facilities, or other real or personal property which the agency determines pursuant to its rules and regulations to be necessary or convenient in connection with the provision of housing pursuant to this division, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities, such as administrative, community, health, recreational, educational, commercial facilities, and child-care facilities which the agency determines are an integral part of a housing development or developments.

"Housing development" includes the acquisition of a residential structure by a nonprofit housing sponsor, whether or not including rehabilitation, for the purpose of forming a limited-equity housing cooperative as defined in Section 33007.5.

SEC. 4. Section 50074 of the Health and Safety Code is amended to read:

50074. "Housing sponsor", for the purpose of housing assisted by the department, means any individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the agency pursuant to rules and regulations of the agency as qualified to either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division. "Housing sponsor" includes persons and families of low or moderate income who are approved by the agency as eligible to own and occupy a housing development and individuals and legal entities receiving property improvement loans through the agency.

SEC. 5. Section 50076.5 is added to the Health and Safety Code, to read.

50076.5. "Limited equity housing cooperative" means a corporation organized pursuant to Section 33007.5 of this code and Section 11003 4 of the Business and Professions Code For purposes of this division, a limited equity housing cooperative is a nonprofit corporation or nonprofit housing sponsor. However, a limited equity housing cooperative shall not be deemed to be nonprofit for the purpose of Chapter 10 (commencing with Section 50775).

SEC. 6. Section 50091 of the Health and Safety Code is amended to read:

50091. "Nonprofit housing sponsor" or "nonprofit corporation" means a nonprofit corporation incorporated pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code or a corporation or association which is, or will be qualified as, a cooperative housing corporation for purposes of subdivision (a) of Section 17265 of the Revenue and Taxation Code, a nonprofit student housing cooperative, or a limited equity housing cooperative and which is certified by the agency as qualified to own a housing development if financed or assisted by the agency. However, a limited equity housing cooperative shall not be deemed to be nonprofit for the purpose of Chapter 10 (commencing with Section 50775).

SEC. 7. Section 50092 of the Health and Safety Code is amended to read:

50092. "Owner-occupied housing development", for the purpose of housing assisted by the department, means a housing development containing not more than four residential units, one of which is occupied by the owner of the housing development.

SEC. 7.5. Section 50099 of the Health and Safety Code is amended to read:

50099. "Residential structure", for the purpose of housing assisted by the department, means a real property improvement used, or intended to be used, for residential or mixed residential and commercial purposes, or for commercial purposes if, in the judgment of the department, it is an integral part of a residential neighborhood.

SEC. 8. Section 50100 of the Health and Safety Code is amended to read:

50100. "Rules", "regulations", or "rules and regulations" mean regulations as defined in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. All regulations of the department and agency shall be subject to such provisions.

SEC. 9. Section 50150 of the Health and Safety Code is amended to read:

50150. This chapter sets forth the general responsibilities and roles of the Business, Transportation, and Housing Agency, the Department of Housing and Community Development, and the California Housing Finance Agency in carrying out state housing policies and programs. It is declaratory of existing law as to those roles and responsibilities, and shall not be construed as creating additional responsibilities.

SEC. 10. Section 50151 of the Health and Safety Code is amended to read:

50151. The Secretary of the Business, Transportation, and Housing Agency shall be responsible for allocating financial aid and contributions made available directly to state government or to the agency by any agency of the United States for the purpose of

subsidizing housing for persons and families of low or moderate income.

The agency shall have priority among all other units of state government for receipt of federal housing subsidies for use in connection with its lending and insurance programs.

SEC. 11. Section 50153 of the Health and Safety Code is amended to read:

50153. To further the goals of this division and to enable the success of a statewide housing program, it is essential, and the Legislature intends, that the agency and the department shall closely coordinate their activities to assure that the goals and purposes of this division are realized. To this end, the Secretary of the Business, Transportation, and Housing Agency and the director of the department have been given a role on the board which administers the agency and approves major contractual agreements, and a veto power over agency regulations in certain policy areas as specified in Section 50462, and the agency is required to coordinate its activities with the department. Subject to these restrictions, however, and when carrying out its own unique responsibilities, the agency is relatively free of regulation by other agencies of state government.

SEC. 12. Section 50154 of the Health and Safety Code is amended to read:

50154. The California Housing Finance Agency, within the Business, Transportation, and Housing Agency, is a primary agency in the implementation of state housing policy. The agency's role is to make financing opportunities available for the construction, rehabilitation, and purchase of housing for persons and families of low or moderate income by (a) borrowing in the securities markets and relending to housing sponsors, developers, and homeowners and (b) insuring loans made by the agency or by others for the same purposes. In general, the agency pays for its operations out of the excess of its interest revenue from loan repayments over the cost of the money it borrows or, in the case of insurance, by the excess of fees charged for the provision of insurance over the value of claims paid. The agency shall seek to implement the goals, policies, and objectives of the California Statewide Housing Plan and shall annually report on its progress toward compliance with priorities in the California Statewide Housing Plan

SEC. 13. Section 50400 of the Health and Safety Code is amended to read:

50400. The Department of Housing and Community Development is hereby continued in existence in the Business, Transportation, and Housing Agency.

SEC. 14. Section 50402 of the Health and Safety Code is amended to read:

50402. The provisions of Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code apply to the department, and the director is the head of the department within the meaning of such provisions. The director

shall perform all duties, exercise all powers, discharge all responsibility, and administer and enforce all laws, rules, and regulations under the jurisdiction of the department. The director shall keep all books and records necessary for proper and efficient administration of the department. In order to assist in the administration of the department's loan and grant programs, the director may appoint committees of department employees and public representatives, the latter to serve without compensation except for reimbursement of expenses pursuant to law.

SEC. 15. Section 50505 of the Health and Safety Code is amended to read:

50505. The department may enter into agreements to provide staffing to assist government agencies in the conduct of federal loan and grant programs for the provision of housing for persons and families of low or moderate income in this state.

SEC. 16. Section 50506 of the Health and Safety Code is amended to read:

50506. The department may conduct programs of subsidies for occupants of existing housing pursuant to Section 8 of the United States Housing Act of 1937, or other federal programs, but may not submit any competitive application for operation of an existing housing program in a geographic area which includes a local public entity that has applied. However, in conducting subsidy programs pursuant to this section, the department shall not operate housing developments or engage in the purchase, lease, or sublease of housing developments.

SEC. 17. Section 50507 of the Health and Safety Code is amended to read:

50507. The department may, upon request by a local public entity, provide technical assistance of staffing for the purpose of developing applications and plans for community development funding pursuant to the Housing and Community Development Act of 1974 (P.L. 93-383) or other federal programs.

SEC. 18. Section 50508 of the Health and Safety Code is amended to read:

50508. The department shall endeavor to obtain community development funds available under Title I of the Housing and Community Development Act of 1974 (P.L. 93-383) or other federal programs. The department may, if federal funds are available, conduct an innovative neighborhood preservation program in cooperation with a local public entity.

SEC. 19. Section 50508.5 of the Health and Safety Code is amended to read:

50508.5. The department may compile, analyze, and report upon the use in redevelopment project areas, of federal funds granted under selected federal programs, including Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended. The department may report the amounts and percentage of such funds used for the purpose of (1) principally benefiting

persons of low and moderate income, (2) aiding in the prevention or elimination of slums and blight, or (3) meeting other community development needs having a particular urgency. Such analysis may include an assessment of the extent to which the application of such funds meet the specified purposes. Redevelopment agencies and other local agencies shall promptly respond to any requests for information from the department in connection with its duties under this section.

The department shall publish its analysis and assessment as necessary.

SEC. 20. Section 50515 of the Health and Safety Code is amended to read:

50515. As used in Section 50516 and Section 50517:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Revolving loan fund" means the Housing Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(c) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for production, conversion, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. Predevelopment loans may include, but are not limited to loans covering costs associated with land purchase or options to buy land, with professional services such as architectural, engineering, or legal services, with permit or application fees, and with bonding, site preparation, related water or sewer development, or material expenses. In addition, such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

SEC. 22. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) The department shall establish a Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families. Under such program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to such housing. No part of a grant made pursuant to this section may be used for project organization or planning.

Such program shall be administered by the Director of Housing and Community Development and such officers and employees of the department as he may designate.

It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for

year-round occupancy and ownership by agricultural employees, including ownership of the sites upon which such dwellings are located.

(b) The Farmworker Housing Grant Fund is hereby created in the State Treasury. All money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering such grant program.

There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys which the department receives in repayment or return of grants from the fund, including any interest therefrom.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section.

(4) Require as a condition precedent to a grant of funds that the grantee be record owner in fee of the assisted real property and that such grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

In the event that funds granted pursuant to this section constitute

less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may such regulations provide for the application of the agreement to a percentage of units in a project which is less than the percentage of total development costs which funds granted pursuant to this section represent.

Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property which is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. The department shall adopt by regulation criteria for the determination of the lien period. Such regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction.

Pursuant to regulations adopted by the department, the department is authorized to execute and cause to be recorded in the office of the recorder of the county, in which a notice of lien has been recorded, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in such subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant funds.

(B) Upon the sale or conveyance of the real property, or any part thereof, for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that such

person agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that such lien shall at the time of the transfer of the property to the new owner be extended for such additional lien period, as determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, such lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4) of this subdivision.

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit which is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Farmworker Housing Grant Program. Such report shall include, but need not be limited to: (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each such source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) "Housing" may include, but need not be limited to, conventionally constructed units, and manufactured housing.

SEC. 23. Section 50522 of the Health and Safety Code is amended to read:

50522. The department may obtain federal assistance pursuant to Section 8 of the United States Housing Act of 1937, or any other federal housing program, for use in providing relocation benefits to persons subject to potential or actual displacement by public or private action, where local relocation benefits or rental subsidies are not immediately available.

SEC. 24. Section 50530 of the Health and Safety Code is amended to read:

50530. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for construction, conversion, or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. Purposes for which loans may be made include, but are not limited to, costs of, or associated with, land purchase or options to buy land, professional services such as architectural, engineering, or legal services, permit or application fees, and bonding, site preparation, and related water or sewer development. In addition, such loans may be made for an extension of an option or advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(c) "Loan fund" means the Urban Housing Development Loan Fund.

SEC. 25. Section 50533 of the Health and Safety Code is repealed.

SEC. 26. Section 50541 of the Health and Safety Code is amended to read:

50541. For the purposes of this chapter:

(a) "Mobilehome park" means a "mobilehome park" as defined by Section 18214.

(b) "Mobilehome" means any housing unit, construction of which is subject to the provisions of Part 2 (commencing with Section 18000) of Division 13.

SEC. 26.2. Section 50628 of the Health and Safety Code is amended to read:

50628. The department shall require that a local advisory board be included in the planning, implementation, and evaluation of each local program. Such an advisory board shall include persons from the community with expertise in the program being funded and shall include representatives who are participants in the home management training program. The department shall require that each local program make full use of supportive community services. To the fullest extent possible, projects with a predominance of participants who speak a language other than English shall have staff members who are conversant with the language and culture of those participants, or shall utilize the services of a local organization in

which that language is spoken.

SEC. 27. Section 50661 of the Health and Safety Code is amended to read:

50661. There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increment resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in such fund, notwithstanding Section 16305.7 of the Government Code. All money in such fund is continuously appropriated to the department (a) for making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter; (b) for making deferred-payment loans as provided in Sections 50669 and 50670; (c) for related administrative expenses of the department; and (d) for related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable such entities and corporations to implement a program pursuant to this chapter. The department shall ensure that not less than 20 percent of the funds loaned pursuant to this chapter shall be allocated to rural areas.

There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys which the department receives in repayment of loans made from the fund, including any interest thereon.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

SEC. 28. Section 50662 of the Health and Safety Code is amended to read:

50662. The department shall adopt regulations establishing terms upon which deferred-payment rehabilitation loans may be made. The amount of a deferred-payment rehabilitation loan shall in no case exceed the costs of meeting rehabilitation standards. The amount, when combined with other financing provided, shall in no case exceed the combined costs of meeting rehabilitation standards and refinancing existing indebtedness. Except for loans made to local agencies pursuant to Section 50664, deferred-payment rehabilitation loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance. In the discretion of the department, which may differentiate among the types of programs specified in Section 50663, such interest shall either be payable periodically as it accrues during the term of the loan or payment of interest shall be deferred until payment of the principal is due. However, regulations of the department may provide for waiver of interest payments when a local public entity or nonprofit corporation contracting pursuant to Section 50663 remits to the department in advance on behalf of the borrower a sum equal to not less than 15 percent of the original

principal balance, which may be in lieu of interest. The regulations of the department may also provide for payment of interest as accrued, in circumstances determined appropriate by the department to serve the purposes of this chapter. In the case of a deferred-payment rehabilitation loan to an elderly person who is the owner of an owner-occupied one-to-four family residence, the note and deed of trust securing the loan shall require payment of the obligation upon transfer of the property. In the case of a deferred-payment rehabilitation loan to a nonelderly person who is the owner of an owner-occupied one-to-four family residence, payment shall be required after five years or upon transfer of the property, whichever first occurs. However, the loan may be renewed for additional five-year terms so long as the property is not transferred and the owner is unable to refinance the obligation when the debt comes due. In the case of a deferred-payment rehabilitation loan to an owner of a residence other than an owner-occupied one-to-four family residence, payment shall be required after five years unless it is determined by the department that a longer term is required to ensure the economic feasibility of obtaining other rehabilitation financing or accepting subsidies. The loan may be renewed for up to five additional five-year terms so long as persons of low income residing in the residence will benefit. The department shall establish standards and determine eligibility for renewal. Regulations of the department shall permit the assumption of a deferred-payment rehabilitation loan authorized by this section when the property which has been rehabilitated by such loan is transferred to a person who meets the eligibility requirements of this section, as determined by the department.

SEC. 28.5. Section 50668 of the Health and Safety Code is amended to read:

50668. (a) Except as provided in subdivision (b) or in Section 50664, deferred-payment loans may be made only through agreements between the local public entity which has received a fund commitment and the owner of the dwelling unit or rental housing development or through agreements approved by the local public entity between a nonprofit corporation which has received a fund commitment and the owner of the dwelling unit or rental housing development. The agreements shall regulate contractor selection, work to be done, and the schedule of contractor payments, and shall require that the loan be secured by a deed of trust or other adequate security. Agreements regarding housing other than owner-occupied one- to four-family dwellings shall have the prior approval of the department.

(b) The department may provide deferred payment loans directly to the owner-occupant of a dwelling unit or owner of a rental housing development if it has been determined by the department that the dwelling unit to be assisted is located in an eligible geographical area pursuant to the provisions of this chapter and no eligible local public entity exists in that area.

(c) All moneys received by the department in repayment of loans made pursuant to this chapter, including interest and payments in advance in lieu of future interest, shall be deposited in the Housing Rehabilitation Loan Fund.

SEC. 29. Section 50669 of the Health and Safety Code is amended to read:

50669. As used in Section 50670:

(a) "Deferred-payment loan" means a loan for acquisition and rehabilitation of a rental housing development which (1) has a term of not more than 30 years, but which shall not in any event exceed the useful life of the rental housing development for which such loan is made, as determined by the department, whichever is less, and (2) is repaid in a single payment upon refinancing of such development at the end of the term of the loan. Such loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance, provided however, that the department may reduce or eliminate interest payments on a loan for any year or alternatively defer interest payments until the deferred-payment loan is repaid, if in the exercise of sound discretion, the department determines such action is necessary to provide affordable rents to elderly or handicapped households of very low and low income.

(b) "Rental housing development" means a residential structure or structures containing five or more rental dwelling units, provided that each unit is equipped with a kitchen and bathroom, or a structure or structures intended for use as a group home by five or more handicapped individuals.

(c) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department as qualified to own, manage, and rehabilitate a rental housing development. A sponsor may be organized for profit or limited profit or be nonprofit.

SEC. 30. Section 50670 of the Health and Safety Code is amended to read:

50670. (a) The department shall establish a Demonstration Housing Rehabilitation Program for the Elderly and Handicapped under which it may make deferred-payment loans to sponsors for the rehabilitation or the acquisition and rehabilitation of rental housing developments to be occupied by elderly or handicapped households of very low and low income. The department may make such loans in an amount necessary to acquire and rehabilitate a rental housing development and to provide affordable rents, when considered in conjunction with other financing on or assistance to such development, for elderly or handicapped households of very low and low income for the term of the regulatory agreement pursuant to subdivision (d). In no event, may the amount of the loan exceed 90 percent of the combined amount of the fair market value of the rental housing development and the cost of rehabilitation work to be

undertaken. However, with respect to a nonprofit sponsor or local public entity, the department may loan up to 100 percent of such combined amount.

(b) In making a loan pursuant to this section, the department may disburse funds in a manner and in accordance with a schedule which ensures the economic feasibility of the rental housing development and the completion of the rehabilitation work and which protects the interests of the state.

(c) Prior to making a loan commitment pursuant to this section, the department shall do all of the following:

(1) Inspect the rental housing development to be assisted pursuant to this section to determine the economic feasibility of rehabilitating such development.

(2) Approve a plan submitted by the sponsor which includes a plan for occupancy of the development, a description of the nature and costs of rehabilitation to be undertaken, and projections as to rental levels in such development.

(d) Prior to disbursement of any funds pursuant to this section, the department shall enter into a regulatory agreement with the sponsor which provides for the limitation on profits in the operation of the rental housing development. When the sponsor is not a nonprofit sponsor or a local public entity, the regulatory agreement with the sponsor shall limit the distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development. The regulatory agreement shall also set standards for tenant selection to ensure occupancy by elderly or handicapped households of very low and low income for the term of such agreement, govern the terms of occupancy agreements, and contain other provisions necessary to carry out the purposes of this section. Upon recordation of the agreement in the office of the county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding upon the sponsor and successors in interest for the original term of the loan, as determined by the department, but for a period of not more than 30 years.

(e) The department shall fix and alter, from time to time, a schedule of rents on each development as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the financial integrity of such development. No sponsor shall increase the rent on any unit without the prior permission of the department which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development. However, in the event that the department does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

(f) The department may annually inspect rental housing

developments assisted pursuant to this section to ensure compliance with the terms of the regulatory agreement and may require such audits, financial statements, and other documents as are necessary to ensure compliance with the terms of the regulatory agreement and to ensure occupancy by elderly or handicapped households of very low and low income.

(g) With respect to rental housing developments rehabilitated pursuant to this section:

(1) The department shall make payments and shall provide advisory assistance to persons and families permanently displaced as a result of such rehabilitation in accordance with the requirements of subdivisions (b) and (e) of Section 7265.3 of the Government Code.

(2) The department shall provide affordable temporary housing to elderly and handicapped households of very low and low income who reside in a rental housing development prior to rehabilitation or acquisition and rehabilitation of such housing development, who are required to move during the period of rehabilitation, and who occupy a unit in such development upon completion of rehabilitation. Such temporary housing shall be provided until units in the rental housing development are available for occupancy by such households.

(3) For the purposes of subdivision (f) of Section 7265.3 of the Government Code, moneys appropriated for purposes of this chapter by Chapter 1043 of the Statutes of 1979, whether or not reappropriated for transfer to the Housing Rehabilitation Loan Fund, shall constitute available state funds.

(4) Elderly and handicapped households of very low and low income displaced as a result of rehabilitation pursuant to this section shall be accorded first priority in occupying units in the rental housing development, from which they were displaced, subsequent to rehabilitation.

SEC. 31. Chapter 7 (commencing with Section 50680) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 7. SPECIAL HOUSING PROGRAMS FOR THE DEVELOPMENTALLY DISABLED, MENTALLY DISORDERED, AND PHYSICALLY DISABLED

50680. The Legislature finds and declares that recent deemphasis of programs of institutional care for the developmentally disabled, the mentally disordered, and the physically disabled has resulted in participation by many of such persons in programs of rehabilitation, education, and social services within the community. Because of the outpatient status of persons enrolled in such programs, there is a need to provide housing for them which will aid in accomplishment and maintenance of the objectives of such programs, thereby minimizing the numbers of developmentally disabled, mentally disordered, and physically disabled persons in public institutions and

improving the quality of life for such persons. In order to assist in providing the variety of living arrangements required for such purpose, it is necessary that the state cooperate with cities, counties, cities and counties, and nonprofit corporations in obtaining federal housing subsidies therefor.

It is the intent of the Legislature in enacting this chapter to vest in the Department of Housing and Community Development authority to obtain federal housing subsidies for housing for persons requiring continuing care, as defined in this part. Assessment of needs and priorities shall, however, be performed by the State Department of Developmental Services or the State Department of Mental Health, which has overall responsibility for programs for the developmentally disabled and mentally disordered at the state level.

50681. As used in this chapter, "department" means the Department of Housing and Community Development.

50682. As used in this chapter, "developmentally disabled" means affected by a disability specified in subdivision (a) of Section 4512 of the Welfare and Institutions Code, and also means persons affected by such a disability.

50683. As used in this chapter, "local agency" means a city, county, or city and county.

50684. As used in this chapter, "mentally disordered" means affected by a mental disorder rendering the affected person eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, and also means persons affected by such a mental disorder.

50685. As used in this chapter, "physically disabled" means affected by a physical disability rendering the affected persons eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, and also means persons affected by such a physical disability.

50685.5. As used in this chapter, "persons requiring continuing care" means persons not confined in an institution under the jurisdiction of the State Department of Health who are eligible to receive housing assistance pursuant to federal law because of financial inability to provide adequate housing for themselves or persons dependent upon them and who meet any of the following criteria.

(a) The person shall have been determined to be developmentally disabled by the State Department of Health, a county health department, or a regional center established pursuant to Section 38101.

(b) The person shall have been determined to be mentally disordered by a local director of mental health services, or by the designated representative thereof.

(c) The person shall have been determined to be physically disabled by the State Department of Health.

50686. Notwithstanding any other provision of law, the department shall have all the powers granted to housing authorities

pursuant to Part 2 (commencing with Section 34200) of Division 24 for the purpose of obtaining financial subsidies or assistance from any agency of the United States to provide leased housing pursuant to this chapter for persons requiring continuing care.

50686.5. Any local agency or nonprofit corporation incorporated pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code which is providing, or proposes to provide, housing for persons requiring continuing care may apply to the department for assistance in obtaining federal housing subsidies therefor.

50687. Notwithstanding the provisions of Section 37111, for the purposes of this chapter the department may do any or all of the following:

(a) Enter into contracts with any agency of the United States for the purpose of obtaining funds for dispersal to local agencies, nonprofit corporations, and owners and developers of housing to subsidize housing for persons requiring continuing care.

(b) Enter into contracts with local agencies, nonprofit corporations, and owners and developers of housing for persons requiring continuing care for the purpose of disbursing federal housing subsidies.

50687.5. The department, after consultation with the State Department of Developmental Services or the State Department of Mental Health, may adopt, amend or repeal regulations for the administration of this chapter. The State Department of Developmental Services or the State Department of Mental Health shall review all applications submitted pursuant to this chapter for assistance in obtaining federal housing subsidies and shall recommend priorities on the basis of need and greatest impact. The State Department of Developmental Services or the State Department of Mental Health shall annually, or as often as reasonably required, solicit from local agencies and nonprofit corporations proposals for utilization of federal housing subsidies for persons requiring continuing care.

Based upon the recommendations of the State Department of Developmental Services or the State Department of Mental Health, the Department of Housing and Community Development shall at least annually submit one or more applications for federal housing subsidies for persons requiring continuing care.

50688. The Legislature finds and declares that proper housing serves as a stabilizing factor and is an important facet of any program designed to rehabilitate mentally disordered, developmentally disabled, and physically disabled persons and that the disruption of continued occupancy in a dwelling could cause a setback in treatment in particular cases. It is, therefore, the intent of the Legislature that persons who have received housing under a program established pursuant to this part shall be allowed to continue to occupy their dwelling after termination of participation in a public program of rehabilitation, education, or social services if

the persons meet the criteria established by federal regulations governing low-rent housing programs.

50689. (a) It is the intent of the Legislature in enacting this section to provide housing assistance for the developmentally or physically disabled, and mentally disordered where such assistance is for the purpose of providing a transition from an institutional to an independent setting, and where such assistance is administered in the context of ongoing local programs leading to rehabilitation and independence.

(b) The department shall establish a program for the purpose of housing assistance for the physically or developmentally disabled, or mentally disordered. The department shall contract with local agencies or nonprofit corporations incorporated pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code which provide supportive services for such individuals, where such services are designed to provide a transition to independent living. The local agencies or nonprofit corporation shall ensure that recipients of housing assistance are income qualified under guidelines for programs of the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended (42 United States Code 1437(f)), and shall not contract for housing which exceeds such guidelines for fair market rents for the Section 8 program. Public and private agencies participating in the program established pursuant to this section shall be those whose program philosophies and activities conform substantially to the principles of community living under Chapter 12 (commencing with Section 4830) of Division 4.5, community residential treatment under Chapter 5 (commencing with Section 5450) of Part 1 of Division 5, and independent living under Chapter 8 (commencing with Section 19800) of Part 2 of Division 10, of the Welfare and Institutions Code.

(c) Any local agency making application for housing assistance payments to the department shall, in its application, explain how such housing assistance payments are part of its ongoing programs to establish independent living for its disabled clientele. The department, in reviewing such applications, may consult with the Department of Developmental Disabilities, the Department of Mental Health, and the Department of Rehabilitation.

(d) In order to receive housing assistance payments for any specific structure pursuant to the provisions of this section, the local agency or nonprofit corporation shall not contract for rental of more than 12 units, or for rental of space for more than 24 persons, in the structure. No individual shall remain in a payment assisted unit for more than 18 months.

50689.5. Housing and housing programs developed or assisted pursuant to this chapter shall be consistent with the housing element, as required by Section 65302 of the Government Code, of the general plan of the jurisdiction in which the housing is proposed.

SEC. 32. Section 50699 of the Health and Safety Code is repealed.

SEC. 33. The heading of Chapter 8 (commencing with Section 50700) of Part 2 of Division 31 of the Health and Safety Code is amended to read:

CHAPTER 8. RURAL LAND PURCHASE FUND

SEC. 34. Section 50700 of the Health and Safety Code is amended to read:

50700. As used in this chapter:

(a) "Eligible sponsors" means local governmental agencies or nonprofit corporations, including cooperative housing corporations.

(b) "Land purchase costs" means the costs of, and associated with, obtaining an option on or purchasing suitable land for a low-income housing development, including transfer of title, appraisals, payment of property taxes, surveys, and necessary maintenance of the land.

SEC. 35. Section 50701 of the Health and Safety Code is amended to read:

50701. There is hereby created in the State Treasury the Land Purchase Fund. All money in the Land Purchase Fund is continuously appropriated to the department for the purpose of making loans to eligible sponsors of assisted housing for land purchase costs incurred by them in connection with the provision of housing for low-income persons in rural areas.

All interest, dividends, and pecuniary gains from investments or deposits of moneys in the loan fund shall accrue to the fund notwithstanding Section 16305.7 of the Government Code.

There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys which the department receives in repayment or return of loans made from the fund, including any interest thereon.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

SEC. 36. Section 50702 of the Health and Safety Code is amended to read:

50702. The department may make loans to eligible sponsors to enable such sponsors to exercise options or to purchase land on which no option can be obtained even though the sponsor is not able at the time to proceed to the development of assisted housing on the purchased site, which shall be in a rural area. All such loans shall be adequately secured, as determined by the department, by a security interest in the purchased land to the benefit of the state, or in the case of Indian Trust Land a mortgage on a leasehold interest in the land shall be acceptable.

In the event the eligible sponsor is unable to proceed to the development of assisted housing on the purchased site within three years of its acquisition, the sponsor shall convey the site to the department, which shall transfer the site to the Department of

General Services. The Department of General Services, subject to the approval of the State Public Works Board, shall offer such land for sale for a consideration authorized by law at a price which is no less than the current market value. The net proceeds from any such sale shall be paid into the Rural Land Purchase Fund established pursuant to Section 50701.

SEC. 37. Section 50704 of the Health and Safety Code is amended to read:

50704. The department may not commit more than 20 percent of the total moneys appropriated to the Rural Land Purchase Fund to any single sponsor at any one time.

All options acquired under this chapter shall be made assignable to the department to secure the loan. Land purchased with the proceeds of loans made pursuant to this chapter shall be adequately secured, as determined by the department, by a security interest in the purchased land to the benefit of the state, or in the case of Indian Trust Land a mortgage on the leasehold interest.

SEC. 38. Section 50705 of the Health and Safety Code is amended to read:

50705. (a) Except as provided in subdivision (b), all loans made pursuant to this chapter shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the investment of state funds through the Pooled Money Investment Board for the five fiscal years immediately preceding the year in which the loan payment is made.

(b) The department may reduce or eliminate interest on loans made pursuant to this chapter if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households. If the department eliminates interest on a loan pursuant to this subdivision, it shall charge a loan origination fee of not more than 2 percent of the loan amount.

(c) All moneys received in repayment of such loans, including interest, and any other moneys received by the department pursuant to this chapter shall be deposited in the Rural Land Purchase Fund.

SEC. 39. Section 50706 of the Health and Safety Code is amended to read:

50706. The department shall report annually to the Legislature and the Governor on the administration of the Rural Land Purchase Fund. Such report shall include, but need not be limited to, (1) the location, size, and cost of land and option rights purchased, (2) the loans made to eligible sponsors for obtaining options or purchase of land and the use of these moneys, and (3) recommendations, as needed, to improve operations of the Rural Land Purchase Fund.

SEC. 40. Chapter 8.5 (commencing with Section 50710) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 8.5. SPECIAL HOUSING PROGRAM FOR MIGRATORY WORKERS

50710. The Director of Housing and Community Development may contract with school districts, housing authorities, health agencies, and other appropriate local public and private nonprofit agencies, for the procurement, or construction of housing or shelter and to obtain services for migratory agricultural workers in the fields of education and sanitation, to obtain day care services for the children of those workers, and the director may adopt regulations as the director deems necessary in order to provide that housing service.

50711. The Director of Housing and Community Development shall have possession and control of all records and papers held previously by the Director of Employment Development relating to the purposes and activities of Section 7100 of the Government Code as it read prior to January 1, 1982.

50712. Any county, city, or other local agency may enter into contracts of the nature described in Section 50710, to the extent that such an agency is otherwise authorized by law to engage in the activity which it contracts to undertake.

SEC. 41. It is the intent of the Legislature that no augmentation of the amount appropriated by Item 224-101-001 of the Budget Act of 1981 (Chapter 99, Statutes of 1981) will be provided for support of the California Housing Advisory Service during the 1981–82 fiscal year. That program shall be conducted within the fiscal resource limitations of Item 224-101-011 of the Budget Act of 1981.

CHAPTER 1166

An act to add Section 14530.5 to the Government Code, and to amend Section 2 of Chapter 1060 of the Statutes of 1979, relating to transportation.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 14530.5 is added to the Government Code, to read:

14530.5. Annually, as part of the state transportation improvement program, the commission shall adopt a list of supplementary projects for which the department shall perform project development work. These projects shall be developed expediently to serve both as substitutes for state transportation improvement program projects which are delayed and as projects proposed for inclusion in subsequent state transportation

improvement programs. The list shall be restricted to new facilities, operational improvements, and exclusive public mass transit guideway projects for which project development requires five or more years.

The projects in the supplementary list shall be listed by funding categories by which they would be funded, and the total estimated cost of all the projects in a funding category shall not exceed 15 percent of the funds estimated to be available for that program over the five-year period of the state transportation improvement program. Proposed projects may be submitted to the commission by regional transportation planning agencies and county transportation commissions as part of the regional transportation improvement programs and shall be submitted by the department as part of its proposed state transportation improvement program.

SEC. 2. Section 2 of the Chapter 1060 of the Statutes of 1979 is amended to read:

Sec. 2. The sum of eight million dollars ($8,000,000) is hereby appropriated to the Department of Transportation, payable from the State Highway Account in the State Transportation Fund, in augmentation of the appropriation made by Item 164.1 of Chapter 259 of the Statutes of 1979.

The two million dollars ($2,000,000) appropriated by Item 164.1 and the funds appropriated by this section shall be available for expenditure for three years and shall be used by the department, notwithstanding the first proviso of Item 164.1, to bring construction projects to a ready-to-advertise point of readiness at least three months in advance of the scheduled advertising date, as set forth in the department's project management control system data base on November 1, 1979, by June 30, 1981, and up to six months in advance of the scheduled advertising date by June 30, 1982, and thereafter. First priority for this additional project effort shall be new facilities and other projects with an estimated construction cost of one million dollars ($1,000,000) or more.

CHAPTER 1167

An act to add Sections 10534 and 12430 to the Government Code, relating to state audits.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. The Legislature finds and declares that audits of state agencies are presently conducted by the Auditor General, the Controller, the Director of Finance, the internal auditors of state agencies, and independent contractors. It is the intent of the

Legislature that the audit activities of state government be coordinated to ensure comprehensive review and examination of the financial condition of the state, to promote the effectiveness and efficiency of audits in state government, and to satisfy the requirements and standards established by the federal government to receive federal funding and the requirements of national bond rating companies.

Therefore, it is the intent of the Legislature that the audit activities of the Auditor General, the Controller, the Director of Finance, the internal auditors of state agencies, and independent public accountants be coordinated.

SEC. 2. Section 10534 is added to the Government Code, to read:

10534. (a) The Auditor General shall annually issue an auditor's report based upon the general purpose financial statements included in the Controller's annual report which is submitted to the Governor pursuant to Section 12460. The auditor's report shall be in accordance with the "Standards for Audits of Governmental Organizations, Programs, Activities and Functions", published by the Comptroller General of the United States, and the standards published by the American Institute of Certified Public Accountants.

(b) The Auditor General shall, in the performance of this annual audit, have the power and authority to examine all the financial records, accounts, and documents of all state agencies.

(c) The Auditor General shall rely to the maximum extent possible upon the audits performed by the Controller, Department of Finance, internal auditors of state agencies, and independent contractors. The Director of Finance shall be responsible to coordinate and provide technical assistance to the internal auditors of the state agencies. Nothing in this article is intended to reduce or restrict the operations of internal auditors whose review of internal financial and administrative controls of state agencies is essential for coordinated audits.

(d) State agencies receiving federal funds shall be primarily responsible for arranging for federally required financial and compliance audits. State agencies shall immediately notify the Director of Finance, the Auditor General, and the Controller when they are required to obtain federally required financial and compliance audits. The Director of Finance, the Auditor General, and the Controller shall coordinate the procurement by state agencies, including any negotiations with cognizant federal agencies, of federally required financial and compliance audits.

(e) To prevent duplication of the annual audit conducted by the Auditor General pursuant to subdivision (a), except for those state agencies which are required by state law to obtain an annual audit, no state agency shall enter into a contract for a financial or compliance audit without prior written approval of the Controller and the Director of Finance, which approval shall state the reason for the contract and shall be filed with the Chairman of the Joint Legislative Audit Committee at least 30 days prior to award of the

contract. No funds appropriated by the Legislature shall be encumbered for the purpose of funding any contract for an audit which duplicates the annual financial audit conducted by the Auditor General.

(f) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the constitutional or statutory authority of the Controller to superintend the fiscal concerns of the state.

(g) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the statutory authority of the Director of Finance to supervise the financial and business policies of the state.

SEC. 3. Section 12430 is added to the Government Code, to read:

12430. Annually, the Controller, the Auditor General, and the Director of the Department of Finance shall each prepare a plan to meet their audit responsibilities. With respect to audits to fulfill the requirements necessary for the receipt of federal funds, the Auditor General shall be primarily responsible for financial audits, and the Director of Finance or the Controller shall be primarily responsible for compliance audits, and the Director of Finance shall be primarily responsible for coordinating state agency internal audits and determining when agencies are required to obtain federally mandated audits. Upon completion of these audit plans, the Controller, Auditor General, and Director of Finance shall meet to review and discuss the plans with the purpose of coordinating their audit efforts to avoid unnecessary duplication and negotiation with federal agencies regarding federally mandated audits.

Subsequent to their review of the audit plans and negotiations with federal agencies if the Controller, the Director of Finance, or the Auditor General determines that the proposed audit plan of the other does not fulfill all audit requirements necessary for the receipt of federal funds, they may expand the scope of their audit of state agencies to meet the additional federal audit requirements. The financial audit report issued by the Auditor General and the compliance audit report issued by the Controller or the Director of Finance or both are intended to fulfill federally mandated audit requirements. These audit reports shall be performed in accordance with the "Standards for Audits of Governmental Organizations, Programs, Activities and Functions," published by the Comptroller General of the United States, and the standards published by the American Institute of Certified Public Accountants.

Nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the duty of the Auditor General to conduct annual financial audits pursuant to Section 10534 or to limit, restrict, or otherwise infringe upon the authority of the Joint Legislative Audit Committee to direct the Auditor General to conduct any audit of state government pursuant to Chapter 4 (commencing with Section 10500) of Part 2 of Division 2 of Title 2

SEC. 4. There shall be deposited in the Federal Trust Fund in the

State Treasury any amount received by the state for an audit required by federal law and regulation.

CHAPTER 1168

An act to amend Sections 9074, 10525, 10527, 13297, 13298, 13299, and 19683 of, to add Sections 10533 and 13299.1 to, to add and repeal Section 10532 of, and to repeal and add Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2 of Title 2 of, the Government Code, relating to the Auditor General.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 9074 of the Government Code is amended to read:

9074. All requests to inspect any legislative record shall be made to the appropriate Rules Committee of each house of the Legislature or the Joint Rules Committee, except that all requests to inspect any legislative record in the possession of the Auditor General shall be made to the Joint Legislative Audit Committee. Such committees shall be considered to have custody of all legislative records and shall be responsible for making all legislative records available for inspection. Such committees shall promptly inform any person whether any legislative record shall be made available for inspection. Such legislative records shall be made available for inspection promptly and without unnecessary delay. Whenever such committee withholds any legislative record from inspection, within four working days of the request to inspect such record, the committee shall justify in writing the withholding of such record by demonstrating that the record in question is exempt under the express provisions of this article or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record, provided that when the Legislature is not in session, such committee shall furnish such written justification within 10 working days of the request to inspect such record. The Rules Committee of each house, the Joint Rules Committee, and the Joint Legislative Audit Committee shall adopt written guidelines stating the procedures to be followed when making legislative records available for inspection.

The amendment of this section made at the 1981–82 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. Section 10525 of the Government Code is amended to read:

10525. All books, papers, records, and correspondence of the bureau pertaining to its work are legislative records subject to the provisions of Article 3.5 (commencing with Section 9070) of Chapter 1.5 of Part 1 and shall be filed at any of the regularly maintained offices of the Auditor General, except:

(a) Papers or memoranda that are of no further use may be destroyed upon approval of the Joint Legislative Audit Committee.

(b) Personal papers and correspondence of any person receiving assistance from the Auditor General when such person has requested in writing that his papers and correspondence be kept private and confidential. Such papers and correspondence shall become legislative records whenever the Auditor General or the Legislature shall so order or the written request is withdrawn.

(c) Papers, correspondence, or memoranda pertaining to any audit or investigation not completed, when in the judgment of the Auditor General, disclosure of such papers, correspondence, or memoranda will impede such audit or investigation.

(d) Papers, correspondence, or memoranda pertaining to any audit or investigation which has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit or investigation.

The amendment of this section made at the 1981–82 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 3. Section 10527 of the Government Code is amended to read:

10527. (a) Notwithstanding any other provision of law, the Auditor General during regular business hours shall have access to, and authority to examine, any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property, of any agency of the state, whether created by the Constitution or otherwise, and any public entity, including any city, county, and special district which receives state funds, and it shall be the duty of any officer or employee of any such agency or entity, having such records or property in his possession or under his control, to permit access to, and examination thereof upon the request of the Auditor General or his authorized representative.

(b) For the purposes of access to and examination of the records and property described in subdivision (a), an authorized representative of the Auditor General shall be deemed to be an employee of the agency or public entity involved and shall be subject to any limitations on release of the information as may apply to an employee of the agency or public entity. For the purpose of conducting any audit or investigation, the Auditor General or his authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the agency or public entity being audited or investigated to the same extent that employees of that agency or

public entity have access. No provision of law providing for confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination pursuant to subdivision (a). The provisions of this subdivision shall not apply to records compiled pursuant to Chapter 1 (commencing with Section 10200).

(c) Any officer or person who shall fail or refuse to permit access and examination, as required by this section, shall be guilty of a misdemeanor.

SEC. 4. Section 10532 is added to the Government Code, to read:

10532. Notwithstanding any other provision of law, every contract involving the expenditure of state funds in excess of ten thousand dollars ($10,000) entered into by a public entity which receives state funds, including a city, county, city and county, or district, shall contain a provision which provides that the contracting parties shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

SEC. 5. Section 10533 is added to the Government Code, to read:

10533. The Auditor General, in connection with any audit or investigation conducted pursuant to this chapter, shall be deemed to be a department head for the purposes of Section 11189.

SEC. 6. Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code is repealed.

SEC. 7. Article 3 (commencing with Section 10540) is added to Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code, to read:

Article 3. Reporting of Improper Governmental Activities

10540. This article shall be known as and may be cited as the "Reporting of Improper Governmental Activities Act."

10541. It is the intent of the Legislature that state employees should disclose, to the extent not expressly prohibited by law, improper governmental activities.

10542. For the purposes of this chapter:

(a) "Employee" means any individual appointed by the Governor or employed or holding office in a state department or agency.

(b) "Improper governmental activity" means any activity by a state agency or by an employee which is undertaken in the performance of the employee's official duties, whether or not such action is within the scope of his employment, and which is (1) in violation of any state or federal law, including, but not limited to, corruption, malfeasance, bribery, theft of government property,

fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency.

(c) "Person" means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(d) "Committee" means the Joint Legislative Audit Committee.

10543. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to the Joint Legislative Audit Committee matters within the scope of this article.

(b) For the purpose of subdivision (a), "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

10544. The committee shall administer the provisions of this article and investigate and report those improper governmental activities which it deems appropriate.

10545. The committee, upon receiving specific information that any employee or state agency has engaged in an improper governmental activity, may require the Auditor General to conduct an investigation of the matter as the committee deems appropriate. Except in the case of a criminal investigation by a law enforcement agency, the identity of the person providing the information which initiated the investigation shall not be disclosed without the written permission of the person providing the information.

In addition, the committee may, on its own initiative, investigate incidences of improper governmental activities.

10546. The committee may request the assistance of any state department or agency in conducting any investigation required by this article. No information obtained by any department or agency as a result of the request shall be divulged or made known to any person without the prior approval of the committee.

10547. (a) If the committee determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper governmental activity, it shall report the nature and details of the activity to the head of the employing agency, or the appropriate appointing authority, and, if appropriate, to the Attorney General, the policy committees of the Senate and Assembly

having jurisdiction over the subject involved, and to such other authority as the committee determines appropriate.

(b) The committee shall have no enforcement power. In any case in which the committee submits a report of alleged improper activity to the head of the employing agency, that individual shall report to the committee with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than 30 days after the date of the committee's report and monthly thereafter until final action has been taken. Every investigation shall be kept confidential, except that the committee may issue any report given to the head of the employing agency or the appropriate appointing authority pursuant to subdivision (a) that it deems necessary to serve the interests of the state.

(c) This section shall not limit any authority conferred upon the Attorney General or any other department or agency of government to investigate any matter.

SEC. 8. Section 13297 of the Government Code is amended to read:

13297. The money in the Treasury shall be counted by the Auditor General at least twice each year, without giving the Treasurer any previous notice of the day or hour of counting.

At any counting the Auditor General may place any sum in bags or boxes and mark and seal them with a seal adopted and kept by him or her. At any subsequent counting he or she may count each sealed bag or box separately and credit at the value stamped thereon the contents of the bags or boxes as part of the money counted without making a detailed count of the contents.

SEC. 9. Section 13298 of the Government code is amended to read:

13298. The Auditor General shall count as cash all evidence of money belonging to the state upon deposit outside the treasury that may be held by the Treasurer in accordance with law and shall determine for himself or herself whether such evidence is sufficient according to law.

SEC. 10. Section 13299 of the Government Code is amended to read:

13299. After each count of money the Auditor General shall make and file with the Secretary of State and cause to be published in some newspaper in the City of Sacramento, an affidavit showing:

(a) The amount of money or credit which should be in the treasury.

(b) The amount and kind of money or credit actually therein.

SEC. 11. Section 13299.1 is added to the Government Code, to read:

13299.1. Securities held in the treasury for safekeeping purposes shall be counted, at least annually, by the Auditor General. After each count of securities, the Auditor General shall issue his or her report on the State Treasurer's statement of security accountability.

SEC. 12. Section 19683 of the Government Code, as added by

Section 3 of Chapter 584 of the Statutes of 1979, is amended to read:

19683. No state officer or employee nor any person whatsoever shall directly or indirectly use or threaten to use any official authority or influence in any manner whatsoever which tends to discourage, restrain, interfere with, coerce or discriminate against any other state officer or employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General, or the Joint Legislative Audit Committee pursuant to Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2, or any other appropriate authority any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto. Any person guilty of such an act may be liable in an action for civil damages brought against him by the offended party. Notwithstanding the provisions of Section 19682, a violation of this section shall not be a misdemeanor.

SEC. 13. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1169

An act to add Article 4 (commencing with Section 52180) of Chapter 7 of Part 28 to the Education Code, relating to bilingual teacher training, making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Article 4 (commencing with Section 52180) is added to Chapter 7 of Part 28 of the Education Code, to read:

Article 4. Bilingual Teacher Training Assistance Program

52180. It is the intent of the Legislature that school districts, county offices of education and institutions of higher education, with the assistance of the State Department of Education, shall continue to provide training for teachers under bilingual teacher waivers.

52181. The State Bilingual Teacher Training Assistance Program is hereby established for teachers who are granted waivers under the provisions of Section 52178 and who are enrolled and participating

in a program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural competence. The program shall be administered by the State Department of Education which shall, in consultation with the Commission for Teacher Preparation and Licensing and representatives of bilingual educators from institutions of higher education, county offices of education, and school districts, develop annual and long-range goals and objectives for the program, based upon the reports required under subparagraph (B) of paragraph (2) of subdivision (a) of Section 52171.6 and under Section 52178.

52182. (a) The State Department of Education shall establish minimum standards and criteria for the State Bilingual Teacher Training Assistance Program, and shall conduct appropriate training programs, or provide for training services by contract with existing state staff development resource centers, county offices of education, public or private four-year institutions or postsecondary education, bilingual programs consortia, or cooperatives formed among two or more of these groups.

(b) Contracts for training programs conducted under the provisions of this article shall be primarily directed towards school districts with high concentrations of pupils of limited-English-proficiency and teachers on waiver under Section 52178.

(c) In awarding contracts pursuant to subdivision (a), the department shall adopt evaluative criteria demonstrating the contractor's ability to provide appropriate training services. The adopted criteria shall include, but need not be limited to, the following:

(1) Demonstrated commitment to bilingual education and bilingual teacher training.

(2) Demonstrated capability to fully prepare candidates for bilingual certificates of competence in accordance with the criteria for assessment in language, methodology, and culture.

(3) The availability of bilingual education staff with demonstrated experience and knowledge of bilingual education training programs.

(4) Demonstrated management and supportive services necessary to efficiently and effectively meet the intent of this article.

(5) District matching funds or in-kind matching resources in support of teachers participating in training programs under this article.

(d) Agencies maintaining programs for the training of bilingual teachers on waiver shall have their programs approved for a period not to exceed three consecutive years, contingent upon:

(1) The availability of funds.

(2) The submission of acceptable plans and modifications thereof.

(3) An annual evaluation which demonstrates that participants have made significant progress toward passing competency requirements leading to bilingual teachers certification. Upon the successful completion of a three-year cycle, centers shall be eligible

to reapply for continued funding.

52183. The department shall establish minimum requirements for teachers who may wish to participate in the program, including, but not limited to, the following requirements:

(1) That the teacher is working in a bilingual classroom serving pupils of limited-English-proficiency and is under a bilingual teacher waiver issued pursuant to Section 52178.

(2) That the teacher's waiver application includes a certification by an assessor agency approved by the Commission on Teacher Preparation and Licensing issued pursuant to Section 52178.

(3) That the teacher is enrolled and participating in a program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5.

(4) That the teacher demonstrates the ability and commitment to meet the requirements of the certificate of competence within the time period specified in Section 52178.

52184. The department shall prepare and submit to the Legislature an annual report regarding the number of participants in the State Bilingual Teacher Training Assistance Program, the success of the program in assisting teachers under waiver in the geographic areas of the state with high concentrations of pupils of limited-English-proficiency and teachers under waiver, and the number of teachers who have received assistance under the program and who have been certified as bilingual-crosscultural teachers.

52185. Contractors funded under the provisions of Section 52182 to provide training services shall report annually to the Superintendent of Public Instruction the information required under Section 52184.

52186. The department shall provide ongoing technical assistance and support for districts establishing or continuing bilingual teacher training assistance programs under this article.

SEC. 2. Notwithstanding Proviso 21 of the provisions applicable to Item 610-101-001 of the Budget Act of 1981 to the contrary, from the funds appropriated by category (g) of Item 610-101-001 of the Budget Act of 1981, there is hereby reappropriated from the General Fund to the State Department of Education the sum of seven hundred eighty-two thousand two hundred fifty dollars ($782,250), without regard to fiscal years, for training programs established for the purposes of Article 4 (commencing with Section 52180) of Chapter 7 of Part 28 of the Education Code, fifty-five thousand dollars ($55,000) of which shall be allocated for administrative costs incurred pursuant to that article.

In order to be eligible for funding under the funds appropriated by this act, for the 1981–82 fiscal year, agencies which were funded in the 1980–81 fiscal year pursuant to Item 328 of the Budget Act of 1980 shall submit an application that meets the standards and criteria specified in subdivisions (a) through (c) of Section 52182.

Funding for the 1982–83 fiscal year and subsequent years shall be

in accordance with the provisions of this act

CHAPTER 1170

An act to amend Section 2802 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 2802 of the Vehicle Code is amended to read:

2802. (a) Any traffic officer having reason to believe that a vehicle is not safely loaded or that the height, width, length, or weight of a vehicle and load is unlawful may require the driver to stop and submit to an inspection, measurement, or weighing of the vehicle. The weighing may be done either by means of portable or stationary scales and the officer may require that the vehicle be driven to the nearest scale facility, in the event the scales are within five miles.

(b) Selected inspection facilities and platform scales operated by the Department of the California Highway Patrol may, at the discretion of the commissioner, be open for extended hours, up to and including 24 hours every day. The primary purpose of the extended hours is to assist in the detection of overweight vehicles. These inspection facilities and platform scales shall be located near primary border route points of entry into the state and key routes within the state.

(c) An amount not to exceed one million dollars ($1,000,000) shall be available annually from the Motor Vehicle Account in the State Transportation Fund, upon appropriation by the Legislature, for the expanded operation of the scale facilities, as specified in subdivision (b). It is the intent of the Legislature that the funds made available pursuant to this subdivision shall be the only funds available for purposes of this section.

CHAPTER 1171

An act to amend Sections 68073.1 and 68073.2 of, and to add Section 68073.4 to, the Government Code, and to amend and repeal Section 1464 of, to add Section 1206.8 to, and to repeal Sections 1206.5 and 1206.6 of, the Penal Code, relating to counties.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 68073.1 of the Government Code is amended to read:

68073.1. (a) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, until such time as the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, or within the Downey Municipal Court District, until such time as the County of Los Angeles has fulfilled the requirements of subdivision (a) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, and at least eight million dollars ($8,000,000) on courthouse construction within the Los Cerritos Municipal Court District, and at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District

(c) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(d) Notwithstanding any other provision of law, to assist the County of Los Angeles in the funding of courtroom construction, the Board of Supervisors of Los Angeles County shall establish in the county treasury a Courthouse Temporary Construction Fund. Deposits shall be made to the fund, as follows·

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the

Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses pursuant to subdivision (b) of Section 1206.8 of the Penal Code in the fund.

(e) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund shall be payable only for courtroom construction as authorized in subdivision (a) and, after the requirement of subdivision (a) has been met, shall be payable only for courtroom construction as authorized in subdivision (b)

(f) Deposits to the fund in accordance with subdivision (d) shall continue through and including either (1) the 20th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to expend the minimum sums on construction provided for in this section, whichever time shall be longer.

SEC. 2. Section 68073.2 of the Government Code is amended to read:

68073.2. (a) Notwithstanding any other provision of law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidential to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco shall establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d), (e), and (f). The moneys of the San Francisco Courthouse Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed or financed or (2) to acquire, rehabilitate, construct or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a

later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(e) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(f) The county treasurer shall place all additional assessment amounts collected on nonparking offenses pursuant to subdivision (b) of Section 1206.8 of the Penal Code in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

Deposits to the fund in accordance with subdivisions (d), (e), and (f) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

(g) Subdivisions (a) to (f), inclusive, of this section shall become operative upon the adoption of a resolution by the Board of Supervisors of the City and County of San Francisco stating that the provisions of this act are necessary to the establishment of adequate courtroom facilities in the City and County of San Francisco, setting forth the surcharge or surcharges to be levied, the amount of such surcharge or surcharges, and the manner in which such surcharge or surcharges shall be collected, and instructing the Clerk of the City and County of San Francisco to transmit, on the next business day following the adoption of said resolution, a copy of said resolution to the Clerk of the Municipal Court of the City and County of San Francisco.

SEC. 3. Section 68073.4 is added to the Government Code, to read:

68073.4. Notwithstanding any other provision of law , to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, the board of supervisors, operative upon the

adoption of a resolution stating that the provisions of this section and Section 1206.8 of the Penal Code are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(a) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(b) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(c) The county treasurer shall place all additional assessment amounts collected on nonparking offenses pursuant to subdivision (b) of Section 1206.8 of the Penal Code in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund shall be payable only for construction, reconstruction, expansion, or improvement of county criminal justice and court facilities, and for improvement of criminal justice automated information systems. For purposes of this section, "county criminal justice facilities" includes, but is not limited to jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

Deposits to the fund in accordance with subdivisions (a), (b), and (c) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

SEC. 4. Section 1206.5 of the Penal Code is repealed.

SEC. 5. Section 1206.6 of the Penal Code is repealed.

SEC. 6. Section 1206.8 is added to the Penal Code, to read:

1206.8. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 68073.1, 68073.2, or 68073.4 of the Government Code are necessary to the establishment of adequate facilities in the county, the following surcharges and assessments shall be collected:

(1) With respect to each fund established, for every parking offense where a fine or forfeiture is imposed, a surcharge of one

dollar and fifty cents ($1.50) shall be included in the fine or forfeiture.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this subdivision.

In those cities, districts, or other issuing agencies which elect to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the surcharge provided for by this section.

(b) With respect to each fund established, there shall be levied an additional amount of one dollar ($1) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 68073.1, 68073.2 or 68073.4 of the Government Code

(c) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to Section 68073.1, 68073.2, or 68073.4 of the Government Code.

SEC. 7. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in

proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1982, shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 8. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of

Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on July 1, 1982.

SEC. 9. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family

(e) After a determination by the court of the amount due, the

clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 34.03 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1982, shall remain in effect only until July 1, 1982, and as of that date is repealed.

SEC. 10. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section

1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30 83 percent of the funds deposited in the Assessment Fund during the preceding month

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44 17 percent

of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on July 1, 1982, shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 11. Section 1464 of the Penal Code, as added by Section 3 of Senate Bill 210, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment

levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1986.

SEC. 12. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge

may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 13. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle

Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace

Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1983

SEC. 14. Section 1464 of the Penal Code, as amended by Section 7 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 34.03 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 15. Section 1464 of the Penal Code, as amended by Section 8 of Chapter 166 of the Statutes of 1981, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in

proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 30.83 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on January 1, 1983, and shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 16. The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the

provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of Section 1206.8 of the Penal Code, as added by this act, and Section 68073.1 of the Government Code, as amended by this act, are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirement of Section 1206.8 of the Penal Code.

SEC. 17. Section 2 of this act shall become operative upon the adoption of a resolution by the Board of Supervisors of the City and County of San Francisco stating that the provisions of this act are necessary to the establishment of adequate courtroom facilities in the City and County of San Francisco.

SEC. 18. It is the intent of the Legislature, if this bill, and Senate Bill 210 or Assembly Bill 1297, are chaptered and become effective on or before January 1, 1982, and this bill amends Section 1464 of the Penal Code, and Senate Bill 210 amends and adds Section 1464, or Assembly Bill 1297 amends Section 1464, and this bill is chaptered last, that the changes to Section 1464 proposed by the bills which are chaptered be given effect and incorporated in Section 1464 as follows:

(a) If this bill, Senate Bill 210, and Assembly Bill 1297 are all chaptered and become effective on or before January 1, 1982, and this bill is chaptered last, Sections 11, 14, and 15 shall become operative, and Sections 7, 8, 9, 10, 12, and 13, shall not become operative.

(b) If this bill and Senate Bill 210 are both chaptered and become effective on or before January 1, 1982, this bill is chaptered last, and Assembly Bill 1297 is not chaptered, Sections 9, 10, and 11 shall become operative, and Sections 7, 8, 12, 13, 14, and 15 shall not become operative.

(c) If this bill and Assembly Bill 1297 are both chaptered and become effective on or before January 1, 1982, this bill is chaptered last, and Senate Bill 210 is not chaptered, Sections 12 and 13 shall become operative, and Sections 7, 8, 9, 10, 11, 14, and 15 shall not become operative.

(d) If this bill is chaptered, and neither Assembly Bill 1297 nor Senate bill 210 are chaptered, then Sections 7 and 8 shall become operative, and Sections 9, 10, 11, 12, 13, 14, and 15 shall not become operative.

CHAPTER 1172

An act to add Section 1024 to the Labor Code, relating to labor.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 1024 is added to the Labor Code, to read:

1024. All civil penalties collected pursuant to this chapter shall be deposited in the Industrial Relations Construction Industry Enforcement Fund, which is hereby created. All moneys in the fund shall be used for the purpose of enforcing Section 226.2 and the provisions of this chapter, as appropriated by the Legislature.

It is the intent of the Legislature in enacting this section to provide for the prompt and effective enforcement of labor laws relating to the construction industry.

CHAPTER 1173

An act to amend Sections 30300, 30333, 30335, 30500, 30501, 30511, 30512, 30513, 30520, 30600, 30601, 30602, 30612, 30620.5, 30624, and 30802 of, to add Sections 30108.1, 30305, 30512.1, 30512.2, 30517.5, 30517.6, and 30600.5 to, and to repeal Sections 30302, 30303, 30305, 30311, 30333.5, 30518, and 30807 of, the Public Resources Code, relating to the California coastal zone.

[Approved by Governor October 1, 1981. Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 30108.1 is added to the Public Resources Code, to read:

30108.1. "Federal coastal act" means the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), as amended.

SEC. 1.5. Section 30300 of the Public Resources Code is amended to read:

30300. There is in the Resources Agency the California Coastal Commission.

SEC. 2. Section 30302 of the Public Resources Code is repealed.

SEC. 3. Section 30303 of the Public Resources Code is repealed.

SEC. 4. Section 30305 of the Public Resources Code is repealed.

SEC. 5. Section 30305 is added to the Public Resources Code, to read:

30305. Except as otherwise provided in this division, the commission shall succeed to any and all obligations, powers, duties, responsibilities, benefits, or legal interests of regional coastal commissions which existed prior to July 1, 1981.

SEC. 6. Section 30311 of the Public Resources Code is repealed.

SEC. 7. Section 30333 of the Public Resources Code is amended to read:

30333. Except as provided in Section 18930 of the Health and Safety Code, the commission may adopt rules and regulations to carry out the purposes and provisions of this division, and to govern procedures of the commission.

Except as provided in Section 18930 of the Health and Safety Code and paragraph (3) of subdivision (a) of Section 30620, these rules and regulations shall be adopted in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. These rules and regulations shall be consistent with this division and other applicable law.

SEC. 8. Section 30333.5 of the Public Resources Code is repealed.

SEC. 9. Section 30335 of the Public Resources Code is amended to read:

30335. The commission shall appoint an executive director who shall be exempt from civil service and shall serve at the pleasure of his or her appointing power. The commission shall prescribe the duties and salaries of the executive director, and, consistent with applicable civil service laws, shall appoint and discharge any officer, house staff counsel, or employee of the commission as it deems necessary to carry out the provisions of this division.

SEC. 10. Section 30500 of the Public Resources Code is amended to read:

30500 (a) Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any such local government may request, in writing, the commission to prepare a local coastal program, or a portion thereof, for the local government. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

(b) Amendments to a local general plan for the purpose of developing a certified local coastal program shall not constitute an amendment of a general plan for purposes of Section 65361 of the Government Code.

(c) The precise content of each local coastal program shall be determined by the local government, consistent with Section 30501, in full consultation with the commission and with full public participation.

SEC. 11. Section 30501 of the Public Resources Code is amended to read:

30501. The commission shall, within 90 days after January 1, 1977, adopt, after public hearing, procedures for the preparation, submission, approval, appeal, certification, and amendment of any local coastal program, including, but not limited to, the following:

(a) A common methodology for the preparation of, and the determination of the scope of, the local coastal programs, taking into account the fact that local governments have differing needs and characteristics.

(b) Recommended uses that are of more than local importance that should be considered in the preparation of local coastal programs. Such uses may be listed generally or the commission may, from time to time, recommend specific uses for consideration by any local government.

SEC. 12. Section 30511 of the Public Resources Code is amended to read:

30511. Local coastal programs shall be submitted in accordance with the schedule established pursuant to Section 30517.5. At the option of the local government, this program may be submitted and processed in any of the following ways:

(a) At one time, in which event the provisions of Section 30512 with respect to time limits, resubmission, approval, and certification shall apply. However, the zoning ordinances, zoning district maps, and, if required, other implementing actions included in the local coastal program shall be approved and certified pursuant to the standards of subdivisions (a) and (f) of Section 30513.

(b) In two phases, in which event, the land use plans shall be processed first pursuant to the provisions of Section 30512, and the zoning ordinances, zoning district maps, and, if required, other implementing actions, shall be processed thereafter pursuant to the provisions of Section 30513.

(c) In separate geographic units consisting of less than the local government's jurisdiction lying within the coastal zone, each submitted pursuant to sudivision (a) or (b), if the commission finds that the area or areas proposed for separate review can be analyzed for the potential cumulative impacts of development on coastal resources and access independently of the remainder of the affected jurisdiction.

SEC. 13. Section 30512 of the Public Resources Code is amended to read:

30512. (a) The land use plan of a proposed local coastal program shall be submitted to the commission. The commission shall, within 90 days after the submittal, after public hearing, either certify or refuse certification, in whole or in part, the land use plan pursuant to the following procedure:

(1) No later than 60 days after September 15, 1981, or 60 days after a land use plan has been submitted to it, whichever date is later, the commission shall, after public hearing and by majority vote of those present, determine whether the land use plan, or a portion thereof applicable to an identifiable geographic area, raises no substantial issue as to conformity with the policies of Chapter 3 (commencing with Section 30200).

If the commission determines that no substantial issue is raised, the land use plan, or portion thereof applicable to an identifiable area, which raises no substantial issue, shall be deemed certified as submitted. The commission shall adopt findings to support its action.

(2) Where the commission determines pursuant to paragraph (1) that one or more portions of a land use plan applicable to one or more

identifiable geographic areas raise no substantial issue as to conformity with the policies of Chapter 3 (commencing with Section 30200), the remainder of that land use plan applicable to other identifiable geographic areas shall be deemed to raise one or more substantial issues as to conformity with the policies of Chapter 3 (commencing with Section 30200). The commission shall identify each such substantial issue for each such geographic area.

(3) The commission shall hold at least one public hearing on the matter or matters which have been identified as substantial issues pursuant to paragraph (2). No later than 90 days after September 15, 1981, or 90 days after the submittal of the land use plan, whichever is later, the commission shall either certify or refuse to certify the land use plan, in whole or in part. If the commission fails to act within the required 90-day period, the land use plan, or portion thereof, shall be deemed certified by the commission.

(b) Where a land use plan is refused certification, in whole or in part, the commission shall provide a written explanation and may suggest modifications, which, if adopted and transmitted to the commission by the local government, shall be deemed certified upon confirmation of the executive director. The local government may elect to meet the commission's refusal of certification in a manner other than as suggested by the commission and may then resubmit its revised land use plan to the commission. If a local government requests that the commission not recommend or suggest modifications which, if made, will result in certification, the commission shall refuse certification with the required findings.

(c) The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (b), a decision to certify or refuse certification shall require a majority vote of the appointed membership of the commission.

(d) This section shall become inoperative and shall have no force or effect on the date, if any, of a final judicial decision that its provisions are inconsistent with the requirements of the federal coastal act. On and after that date, any reference to this section shall be deemed to be reference to Section 30512.1.

SEC. 13.5. Section 30512.1 is added to the Public Resources Code, to read:

30512.1. (a) The land use plan of a proposed local coastal program shall be submitted to the commission. The commission shall, within 90 days after the submittal, after public hearing, either approve or disapprove, in whole or in part, the land use plan. If the proposed land use plan is not acted upon within the 90-day period, it shall be deemed approved and certified by the commission.

(b) Where a land use plan is refused certification, in whole or in part, the commission shall provide a written explanation and may suggest modifications, which, if adopted and transmitted to the

commission by the local government, will be deemed certified upon confirmation of the executive director. The local government may elect to meet the commission's refusal of certification in a manner other than as suggested by the commission and may then resubmit its revised land use plan to the commission. If a local government requests that the commission not recommend or suggest modifications which if made will result in certification, the commission shall refuse certification with the required findings.

(c) The commission shall approve and certify a land use plan, or any amendments thereto, if the commission finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200).

(d) This section shall become operative on the date that Section 30512 becomes inoperative.

SEC. 13.6. Section 30512.2 is added to the Public Resources Code, to read:

30512.2. The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512·

(a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.

(b) The commission shall require conformance with the policies and requirements of Chapter 3 (commencing with Section 30200) only to the extent necessary to achieve the basic state goals specified in Section 30001.5.

SEC. 14. Section 30513 of the Public Resources Code is amended to read:

30513. The local government shall submit to the commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions which are required pursuant to this chapter.

If within 60 days after receipt of the zoning ordinances, zoning district maps, and other implementing actions, the commission, after public hearing, has not rejected the zoning ordinances, zoning district maps, or other implementing actions, they shall be deemed approved. The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.

The commission may suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the commission, shall be deemed approved upon confirmation by the executive director.

The local government may elect to meet the commission's rejection in a manner other than as suggested by the commission and may then resubmit its revised zoning ordinances, zoning district maps, and other implementing actions to the commission.

If a local government requests that the commission not suggest modifications in the rejected zoning ordinances, zoning district maps, or other implementing ordinances, the commission shall not do so.

SEC. 15. Section 30517.5 is added to the Public Resources Code, to read:

30517.5. (a) Within 60 days from the effective date of this section, the commission shall establish a schedule for the submittal of all land use plans that have not been submitted, pursuant to Section 30501, to a former regional commission or the commission on or before July 1, 1981. This schedule shall be based on the commission's assessment, in consultation with local governments, of each local government's current status and progress. The schedule shall specify that submittals may not be made sooner than nor later than certain specified dates and in no event later than January 1, 1983.

(b) If a local government fails to meet the schedule established pursuant to subdivision (a), the commission may take any of the following actions:

(1) Waive the deadlines for commission action on a submitted land use plan, or any portion thereof, as set forth in Sections 30511 and 30512.

(2) Prepare and adopt, after a public hearing but not sooner than September 1, 1983, a land use plan for the land area within the local government's jurisdiction. After adoption of the land use plan, the commission shall determine the permissibility of proposed developments pursuant to the provisions of the adopted plan. The affected local government may choose to adopt, in whole or in part, the commission's prepared and adopted land use plan in which event the commission shall certify the plan, in whole or in part, or it may continue to prepare its own land use plan consistent with the provisions of this chapter.

(3) Report the matter to the Legislature with recommendations for appropriate action.

SEC. 16. Section 30517.6 is added to the Public Resources Code, to read:

30517.6. (a) Within 30 days after the certification of a land use plan, or any portion thereof, the commission shall, after consultation with the appropriate local government, establish a date for that local government to submit the zoning ordinances, zoning district maps,

and, where necessary, other implementing actions. In no event shall that date be later than January 1, 1984.

(b) If a local government fails to meet the schedule established pursuant to subdivision (a), the commission may waive the deadlines for commission action on submitted zoning ordinances, zoning district maps, and, where necessary, other implementing actions, as set forth in Sections 30511 and 30513.

SEC. 17. Section 30518 of the Public Resources Code is repealed

SEC. 18. Section 30520 of the Public Resources Code is amended to read:

30520. (a) If the application of any certified local coastal program, or any portion thereof, is prohibited or stayed by any court, the permit authority provided for in Chapter 7 (commencing with Section 30600) shall be exercised pursuant to the following provisions until a final court order has withdrawn such prohibition or stay A coastal development permit shall be issued by the affected local government or the commission on appeal, if that local government or the commission on appeal finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) or the applicable certified land use plan if the court-ordered prohibition or stay applies only to the zoning ordinances, zoning district maps, or, where necessary, the other implementing actions which are required pursuant to this chapter Any development approved by a local government pursuant to this subdivision may be appealed to the commission by any person, including the executive director or any commissioner during the period the permit provisions of this section are in effect

(b) Until a local government has adopted the interim ordinance, the permit authority provided for in Chapter 7 (commencing with Section 30600) shall be reinstated in the commission. A coastal development permit shall be issued by the commission if the commission finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) or the applicable certified land use plan, if the court-ordered prohibition or stay applies only to zoning ordinances, zoning district maps, or, where necessary, the other implementing actions which are required pursuant to this chapter.

(c) The permit authority provided for in this section shall be limited to only those developments which would be affected by the court-ordered prohibition or stay.

SEC. 19. Section 30600 of the Public Resources Code is amended to read:

30600. (a) In addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, on or after January 1, 1977, any person wishing to perform or undertake any development in the coastal zone, other than a facility subject to the provisions of Section 25500, shall obtain a coastal development permit.

(b) Prior to certification of its local coastal program, a local

government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620, and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Such procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government. A coastal development permit from a local government shall not be required by this subdivision for any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required.

(c) If prior to certification of its local coastal program, a local government does not exercise the option provided in subdivision (b), or a development is not subject to the requirements of subdivision (b), a coastal development permit shall be obtained from the commission or from a local government as provided in subdivision (d).

(d) After certification of its local coastal program or pursuant to the provisions of Section 30600.5, a coastal development permit shall be obtained from the local government as provided for in Section 30519 or Section 30600.5.

SEC. 20. Section 30600.5 is added to the Public Resources Code, to read:

30600.5. (a) Prior to the certification of a local coastal program and notwithstanding the provisions of subdivision (a) of Section 30519, after the effective date of this section, the authority for issuance of coastal development permits provided for in Chapter 7 (commencing with Section 30600) shall be delegated to local governments pursuant to the provisions of this section.

(b) Except for any development specified in subdivision (b) of Section 30519 and Section 30601 or with respect to any development proposed by any state agency, the authority for issuance of coastal development permits provided for in Chapter 7 (commencing with Section 30600) shall be delegated to the respective local governments within 120 days after (1) the effective date of certification of a land use plan pursuant to Chapter 6 (commencing with Section 30500) or (2) the effective date of this section, whichever occurs last. This delegation shall only apply with respect to those areas governed by the certified land use plan or a certified portion thereof, applicable to an identifiable geographic area.

(c) Notwithstanding any other provision of this division, after delegation of authority to issue coastal development permits pursuant to subdivision (b), a coastal development permit shall be issued by the respective local government or the commission on appeal, if that local government or the commission on appeal finds that the proposed development is in conformity with the certified land use plan.

(d) Any action taken by a local government on a coastal

development permit application pursuant to the provisions of this section may be appealed to the commission pursuant to Section 30602. The commission shall hear an appeal brought pursuant to the provisions of this section, unless it determines that the local government action taken raises no substantial issue as to conformity with the certified land use plan. For purposes of this division, failure by any local government to act within any time limit specified in this division shall constitute an "action taken."

(e) The commission shall, following a public hearing and within 90 days after the effective date of this section, adopt minimum standards for public notice, hearing, and appeal procedures to govern local government review of coastal development permit applications pursuant to this section. The standards shall, as nearly as practical, follow the standards required for local agencies after certification of local coastal programs for appealable developments and shall ensure that the notice and hearing required for the coastal development permit can be provided at the same time as the notice and hearing requirements for other local land use decisions which may be necessary for the project requiring the permit. Within 60 days prior to assumption of authority for issuance of coastal development permits pursuant to this section, the local government shall provide drafts of all procedures for issuance of coastal development permits to the executive director of the commission. Delegation of the authority to issue coastal development permits pursuant to subdivision (b) shall not occur until the local government has provided copies of all the adopted procedures for the issuance of coastal development permits to the executive director of the commission.

(f) Notwithstanding any other provision of law, a local government subject to the provisions of this section shall, consistent with the provisions of subdivision (e), following the notice pursuant to Section 65856 of the Government Code and a public hearing, adopt an interim ordinance governing the review of coastal development permit applications and prohibiting any uses which may be in conflict with contemplated implementing ordinances that are being prepared to carry out the policies of its certified land use plan. Notwithstanding the provisions of Section 65858 of the Government Code, the adoption of such ordinances shall not require a four-fifths vote of the governing body and shall not be required to be extended after 90 days. The ordinances shall expire upon the certification of the local coastal programs. The ordinances adopted pursuant to this section shall be deemed to be local procedures necessary to implement the state permit program. The ordinances shall not constitute local zoning regulations, and the provisions of this section shall apply to charter cities and shall supersede any inconsistent city charter provisions.

(g) In order to expedite certification of complete local coastal programs and the transfer of coastal development controls to local government, the commission shall, on request from a local

government, prepare the ordinances necessary for that local government to implement the coastal permit responsibilities of this division.

(h) The limits set forth in subdivision (b) shall be extended, by right, for not more than 90 days if a local government, by resolution of its governing body, so requests.

(i) The provisions of this section shall have no further force or effect or application to a local government after that local government's local coastal program has been certified and taken effect pursuant to the provisions of this division.

(j) This section shall become inoperative and shall have no force or effect on the date, if any, of a final judicial decision that its provisions are inconsistent with the requirements of the federal coastal act.

SEC. 21. Section 30601 of the Public Resources Code is amended to read:

30601. Prior to certification of the local coastal program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the commission for any of the following:

(1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Any development which constitutes a major public works project or a major energy facility.

SEC. 22. Section 30602 of the Public Resources Code is amended to read:

30602. Prior to certification of its local coastal program, any action taken by a local government on a coastal development permit application may be appealed by the executive director of the commission, any person, including the applicant, or any two members of the commission to the commission. Such action shall become final after the 20th working day after receipt of the notice required by subdivision (c) of Section 30620.5, unless an appeal is filed within that time.

SEC. 23. Section 30612 of the Public Resources Code is amended to read:

30612. An application for a coastal development permit to demolish a structure shall not be denied unless the agency authorized to issue that permit, or the commission, on appeal, where appeal is authorized by this division, finds, based on a preponderance of the evidence, that retention of that structure is feasible.

SEC. 24. Section 30620.5 of the Public Resources Code is

amended to read:

30620.5. (a) A local government may exercise the option provided in subdivision (b) of Section 30600, if it does so for the entire area of its jurisdiction within the coastal zone and after it establishes procedures for the issuance of coastal development permits. Such procedures shall incorporate, where applicable, the interpretive guidelines issued by the commission pursuant to Section 30620.

(b) If a local government elects to exercise the option provided in subdivision (b) of Section 30600, the local government shall, by resolution adopted by the governing body of such local government, notify the commission and shall take appropriate steps to assure that the public is properly notified of such action. The provisions of subdivision (b) of Section 30600 shall take effect and shall be exercised by the local government on the 10th working day after the date on which the resolution required by this subdivision is adopted.

(c) Every local government exercising the option provided in subdivision (b) of Section 30600 or acting on coastal development permits prior to certification of its local coastal program pursuant to Sections 30520, 30600.5, and 30624, shall within five working days notify the commission and any person who, in writing, has requested such notification, in the manner prescribed by the commission pursuant to Section 30600.5 or 30620, of any coastal development permit it issues.

(d) Within five working days of receipt of the notice required by subdivision (c), the executive director of the commission shall post, at a conspicuous location in the commission's office, a description of the coastal development permit issued by the local government. Within 15 working days of receipt of such notice, the executive director shall, in the manner prescribed by the commission pursuant to subdivision (a) of Section 30620, provide notice of the locally issued coastal development permit to members of the commission.

SEC. 25. Section 30624 of the Public Resources Code is amended to read:

30624. The commission shall provide, by regulation, for the issuance of coastal development permits by the executive director of the commission or, where the coastal development permit authority has been delegated to a local government pursuant to Section 30600.5, by an appropriate local official designated by resolution of the local government without compliance with the procedures specified in this chapter in cases of emergency, other than an emergency provided for under Section 30611, or for improvements to any existing structure, any single family dwelling, any development of four dwelling units or less within any incorporated area that does not require demolition, any other developments not in excess of one hundred thousand dollars ($100,000) other than any division of land, and any development specifically authorized as a principal permitted use and proposed in an area for which the land use portion of the applicable local coastal program has been certified.

Such permit for nonemergency development shall not be effective until after reasonable public notice and adequate time for the review of such issuance has been provided. If one-third of the appointed members of the commission so request, at the first meeting following the issuance of such permit, such issuance shall not be effective, and, instead, the application shall be processed in accordance with the commission's procedures for permits and pursuant to the provisions of this chapter.

Any permit issued by a local official pursuant to the provisions of this section shall be scheduled on the agenda of the governing body of the local agency at its first scheduled meeting after that permit has been issued. If, at that meeting, one-third of the members of that governing body so request, the permit issued by the local official shall not go into effect and the application for a coastal development permit shall be processed by the local government pursuant to Section 30600.5.

No monetary limitations shall be required for emergencies covered by the provisions of this section.

SEC. 26. Section 30802 of the Public Resources Code is amended to read:

30802. Any person, including an applicant for a permit or the commission, aggrieved by the decision or action of a local government that is implementing a certified local coastal program or certified port master plan, or is exercising its powers pursuant to Section 30600.5, which decision or action may not be appealed to the commission, shall have a right to judicial review of such decision or action by filing a petition for writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 60 days after the decision or action has become final. The commission may intervene in any such proceeding upon a showing that the matter involves a question of the conformity of a proposed development with a certified local coastal program or certified port master plan or the validity of a local government action taken to implement a local coastal program or certified port master plan. Any local government or port governing body may request that the commission intervene. Notice of this action against a local government or port governing body shall be filed with the commission within five working days of the filing of this action. When an action is brought challenging the validity of a local coastal program or certified port master plan, a preliminary showing shall be made prior to proceeding on the merits as to why such action should not have been brought pursuant to the provisions of Section 30801.

SEC. 27. Section 30807 of the Public Resources Code is repealed.

SEC. 28. If any provision of this act becomes inoperative as provided in this act, any action undertaken or carried out pursuant to any such provision prior to the date it becomes inoperative shall continue to be valid on and after that date and shall not be construed to deprive any person or public agency of any substantial right which

existed prior to the date that its provision becomes inoperative.

CHAPTER 1174

An act to amend Sections 69503, 69845, and 69845.5 of, and to add Sections 26202.6, 34090.6, and 69503.4 to, the Government Code, relating to records.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 26202.6 is added to the Government Code, to read:

26202.6. Notwithstanding the provisions of Sections 26202, 26205, and 26205.1, the head of a department of a city, county, or city and county, public safety communications center, or the head of a special district after 100 days may destroy recordings of telephone and radio communications maintained by the department or the special district. Such destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that such recordings are evidence in any claim filed or any pending litigation, such recordings shall be preserved until pending litigation is resolved

For purposes of this section, "recordings of telephone and radio communications" means the routine daily taping and recording of telephone communications to and from a city, county, city and county, or special district department and all radio communications relating to the operations of such departments or special district.

SEC. 1.1. Section 34090.6 is added to the Government Code, to read:

34090.6. Notwithstanding the provisions of Section 34090, the head of a department of a city, county, or city and county, public safety communications center, or the head of a special district after 100 days may destroy recordings of telephone and radio communications maintained by the department or the special district. Such destruction shall be approved by the legislative body and the written consent of the agency attorney shall be obtained. In the event that such recordings are evidence in any claim filed or any pending litigation, such recordings shall be preserved until pending litigation is resolved.

For purposes of this section, "recordings of telephone and radio communications" means the routine daily taping and recording of telephone communications to and from a city, county, city and county, or special district, department, and all radio communications relating to the operations of such departments or special districts.

SEC 1.3 Section 69503 of the Government Code is amended to

read:

69503. (a) Notwithstanding any other provision of law relating to the destruction of court records, after complying with the requirements of subdivisions (c) and (d), the county clerk may cause to be destroyed any documents, records, instruments, books, depositions, transcripts, or other papers filed in any action or proceeding in the superior court or otherwise filed in his office pursuant to law, if the action or proceeding in which the papers were filed is not pending or on appeal in any court and any of the following events have occurred.

(1) The dismissal of the entire action has been entered.

(2) A period of three years has elapsed since a deposition or a transcript of a preliminary hearing or coroner's inquest was filed.

(3) A period of five years has elapsed since the papers in a domestic relations action or proceeding were filed.

(4) A period of five years has elapsed since the papers in any other action or proceeding were filed.

(b) Notwithstanding any other provision of law relating to the destruction of court records, after complying with the requirements of subdivision (c), the county clerk may cause to be destroyed any will delivered to him or her pursuant to Section 320 of the Probate Code, if a period of eight years has elapsed since the delivery of the will.

(c) The county clerk shall maintain for the use of the public a microphotographic film print or copy of each will, document, record, instrument, book, deposition, transcript, or other paper so destroyed prepared pursuant to the procedure specified in Sections 1531 and 1551 of the Evidence Code. The county clerk shall promptly seal and store at least one original negative of each microphotographic film print or copy in a manner and place that reasonably assures its preservation indefinitely against loss, theft, defacement, or destruction.

(d) The county clerk shall not destroy any transcript of a preliminary hearing without the written consent of the district attorney.

(e) The county clerk may microfilm only the documents listed below, which microfilm shall be permanently retained. Documents not listed may be destroyed pursuant to subdivision (a) or (b), except for criminal and probate records which shall be microfilmed prior to their destruction.

(1) Domestic relations:

(i) Petitions for dissolution, legal separation, or nullity.

(ii) Interlocutory judgments of dissolution.

(iii) Final judgments of dissolution, legal separation, or nullity.

(iv) Any orders or modifications signed by a judge which amend the interlocutory or final judgment.

(v) Financial declarations.

(vi) Petitions to establish paternity and orders establishing paternity

(vii) Confessions of judgment.
(viii) Reciprocal support documents.
(ix) Petition for and order of adoption.
(x) Minute orders.
(2) Civil:
(i) All civil complaints, cross complaints, petitions, responses, orders signed by a judge, judgments, offer to compromise, order to compromise, and bank deposit and withdrawal records.
(ii) Dismissal orders.
(iii) Satisfactions of judgment.
(iv) Confessions of judgment.
(v) Requests for default.
(vi) Minute orders.
(vii) Stipulated judgments.

SEC. 2. Section 69503.4 is added to the Government Code, to read:

69503.4. (a) Notwithstanding Section 69503, 69503.1, or 69503.2, or any other law relating to the destruction of court records, the county clerk may cause to be transferred to a city or county museum any civil, criminal or probate superior court case records, except records which are not open to inspection except upon court order, if 15 years have elapsed since the filing of any paper in the action or proceeding and the records of the county clerk do not show that the action or proceeding is pending on appeal in any court.

(b) Prior to the transfer of such records, the county clerk shall obtain from the director of the city or county museum a statement in writing that he or she will maintain such records, will make them available to the general public, and will assume the duties as custodian of such records.

SEC. 3. Section 69845 of the Government Code is amended to read:

69845. The clerk of the superior court may keep a register of actions in which shall be entered the title of each cause, with the date of its commencement and a memorandum of every subsequent proceeding in the action with its date.

SEC. 4. Section 69845.5 of the Government Code is amended to read:

69845.5. In lieu of maintaining a register of actions as described in Section 69845, the clerk of the superior court may maintain a register of actions by means of photographing, microphotographing, or mechanically or electronically storing the content of all papers and records listed in subdivision (e) of Section 69503

All such reproductions shall be placed in convenient, accessible files, and provision shall be made for preserving, examining and using them.

Any photograph, microphotograph or photocopy which is made pursuant to this section shall be made in such manner and on such paper as will comply with the minimum standards of quality approved therefor by the National Bureau of Standards.

CHAPTER 1175

An act to amend Sections 14551, 14571, 14581, 56704, and 68104 of, to amend Section 64722, as added by Assembly Bill 960, of, to add Sections 55522.5, 56182.5, 56711 to, and to repeal Section 56711 of, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

I am deleting the appropriations contained in Sections 13 and 14 of Assembly Bill No 984

I have been advised that the University of California has agreed to allocate $40,000 of existing resources to the walnut blackline disease project, and the walnut industry has committed an additional $86,000.

With these deletions, I approve Assembly Bill No. 984

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 14551 of the Food and Agricultural Code is amended to read:

14551. Every person who manufactures or distributes commercial fertilizer, agricultural minerals, packaged soil amendments, or auxiliary soil and plant substances shall, before he or she engages in such activity, obtain a license from the director for each plant or business location from which he or she operates. However, a person who only distributes or who makes only retail sales of packaged commercial fertilizer, agricultural minerals, soil amendments, or auxiliary soil and plant substances which bear the registered label of a currently licensed person shall not be required to obtain such license.

A person is not entitled to a license unless he or she has a permanent place of business.

SEC. 2. Section 14571 of the Food and Agricultural Code is amended to read:

14571. Each manufacturer or label guarantor, the registrant's name appearing on the label, shall pay to the director an assessment not to exceed 2 mills per dollar of sales, for all sales of commercial fertilizers, agricultural minerals, or auxiliary soil and plant substance products Each person licensed in accordance with Article 4 (commencing with Section 14551) shall pay to the director an assessment not to exceed two mills per dollar of sales, for all sales of bulk commercial fertilizers, agricultural minerals, or auxiliary soil and plant substance products to unlicensed purchasers in this state if the assessment was not paid pursuant to any other requirements of this section. A mill tax assessment for packaged soil amendments shall be one-half of the rate established for commercial fertilizer, agricultural minerals, or auxiliary soil and plant substance products. The director may, based on the finding and recommendation of the board, reduce the mill tax assessment rate to a lower rate which

provides sufficient revenue to carry out the provisions of this chapter.

SEC. 3. Section 14581 of the Food and Agricultural Code is amended to read:

14581. The last licensee selling or distributing a commercial fertilizer or agricultural mineral or both shall submit a summary tonnage report on a form approved by the director of shipments or deliveries made during specified periods, at such time as required by the director by regulation. This report shall show the county of consignment, the amounts in tons by grade of commercial fertilizer or an analysis of agricultural mineral with the amount in tons, or such information determined necessary by the director pursuant to regulations adopted in accordance with this chapter.

The tonnage of specialty fertilizers and agricultural minerals packaged for nonfarm use shall be reported by the manufacturer or guarantor in a manner required by the director by regulation.

SEC. 4. Section 55522.5 is added to the Food and Agricultural Code, to read:

55522.5. (a) It is unlawful for a licensee that has changed its legal entity to continue to operate after the change. The new legal entity shall, before conducting business requiring a license, obtain a new license for the business.

(b) Notwithstanding the provisions of subdivision (a), if a licensee conducts business without a new license as a result of a change of legal entity, it may, upon a showing of no substantial change in financial resources and liabilities, petition the director to grant a new license retroactive to the first day of the month during which the change occurred, and the director may grant the license with retroactive effect upon a finding that doing so would be consistent with the purposes of this chapter. Upon granting the petition, the director shall (1) require the licensee to pay an additional fee in an amount that will cover the expenses of the department in the matter, but not to exceed the fee for a new license, (2) place such conditions on the license as are consistent with the purposes of this chapter as the director deems appropriate, and (3) require the licensee to pay an amount, for deposit in the Farm Products Trust Fund, equal to the amount that would have been required had the license been obtained in accordance with subdivision (a) of this section.

SEC. 5. Section 56182.5 is added to the Food and Agricultural Code, to read:

56182.5. (a) It is unlawful for a licensee that has changed its legal entity to continue to operate after the change The new legal entity shall, before conducting business requiring a license, obtain a new license for the business

(b) Notwithstanding the provisions of subdivision (a), if a licensee conducts business without a new license as a result of a change of legal entity, it may, upon a showing of no substantial change in financial resources and liabilities, petition the director to grant a new license retroactive to the first day of the month during which the

change occurred, and the director may grant the license with retroactive effect upon a finding that doing so would be consistent with the purposes of this chapter. Upon granting the petition, the director shall (1) require the licensee to pay an additional fee in an amount that will cover the expenses of the department in the matter, but not to exceed the fee for a new license, (2) place such conditions on the license as are consistent with the purposes of this chapter as the director deems appropriate, and (3) require the licensee to pay an amount, for deposit in the Farm Products Trust Fund, equal to the amount that would have been required had the license been obtained in accordance with subdivision (a) of this section.

SEC. 6. Section 56704 of the Food and Agricultural Code is amended to read:

56704. The money deposited in the products fund shall only be used to pay for farm products grown or produced within this state, which have not been otherwise paid for; however, claims made against the fund may include charges for services which by custom of the trade are incidental to the sale and generally accepted as being included in the purchase price. Any moneys remaining in the products fund after all the claims have been settled, discharged, or paid in any year shall be credited to the funds to be used in any other year, and the director, in view of this, shall adjust the fees provided for under Section 56703 in accordance with the provisions of that section.

SEC. 7. Section 56711 of the Food and Agricultural Code is repealed.

SEC. 8. Section 56711 is added to the Food and Agricultural Code, to read:

56711. A creditor's claim shall be paid under this chapter only if the claim is based on a transaction with a processor, dealer, broker, or commission merchant who was licensed pursuant to the provisions of Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) at the time of entering into the contract involved or at the time of delivery of the farm products

In any case where the director has notified the creditor before delivery of the farm product that the license authorizing the contract has been revoked or suspended, or the creditor has independent knowledge thereof, and the creditor thereafter makes delivery of the farm products to the former or suspended licensee, the claim shall be disallowed.

In addition, the director may disallow any claim, in whole or in part, upon a finding of lack of good faith in entering into the contract, collusion to violate any provision of Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101), or fraud against the products fund.

The provisions of this section shall not be construed to authorize any person subject to this chapter to continue to perform any of the functions of a licensee while the license is revoked or suspended or to release the person whose license has been revoked or suspended

from any damages which may accrue to the other party to the contract, or to others, as a result of the legal inability to perform because of the license discipline.

SEC. 9. Section 64722 of the Food and Agricultural Code, as added by Assembly Bill 960, is amended to read:

64722. There is a presumption affecting the burden of producing evidence pursuant to Section 604 of the Evidence Code that any out-of-state beef processor who causes beef to be received in this state is subject to the provisions of this chapter, including the payment of assessments provided for in this article.

SEC. 10. Section 68104 of the Food and Agricultural Code is amended to read:

68104. All proprietary information obtained by the commission or the director from producers or handlers, and all lists of producers in the possession of the commission or the director shall be confidential and shall not be disclosed except when required in a judicial proceeding. However, this section shall not be construed as preventing any person subject to the provisions of this chapter from personally inspecting any such list of producers at a time and location established by the director or the commission. This inspection shall not allow for duplicating or in any other way copying all or a portion of the information contained on any such list. Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies; financial reports to the commission or aggregate sales and inventory information; and any other such information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission.

SEC. 11. Agriculture is the number one industry in California and is continuing to grow in importance to the state, nation, and the world. Walnuts rank within the 10 largest crops grown in this state which has nearly 100 percent of the nation's total walnut acreage.

In 1980, California's walnut production grossed over two hundred million dollars ($200,000,000). Exports annually represent somewhere between seventy-five million dollars ($75,000,000) and one hundred million dollars ($100,000,000), which represents a significant contribution to California's economy.

There are over 200,000 acres of walnuts commercially planted throughout the state, but principally in the northern and central portions of California. Commercial walnut production is a significant crop in over 21 counties. On a noncommercial basis, walnut trees are located nearly statewide, on many homes and businesses.

Both commercial and noncommercial English walnut trees, particularly in several major walnut-producing counties, are affected by the blackline disease. The blackline disease progressively decreases the productivity of affected trees, ultimately killing the trees within four to nine years.

Since 1973, the United States Department of Agriculture has provided research on the blackline disease. Since 1978, this research

has been expanded to include the University of California, the University of California Extension Service, and county farm advisers.

The Legislature finds and declares that, because of its wide geographical distribution and its high incidence and destructiveness in English walnut trees, the blackline disease presents a serious threat to California's walnut industry.

The Legislature finds and declares that the blackline disease is both transmitted by and affected by trees coming from commercial and noncommercial properties.

SEC. 12. The University of California is urged to sample and inventory the significant walnut growing areas of the state to determine the full extent of the blackline disease. university may work in cooperation with the United States Department of Agriculture, the Department of Food and Agriculture, the University of California Extension Service, county farm advisers, and county agricultural commissioners in preparation of this inventory

The university is urged to complete the inventory and report its results to the Legislature on or before September 1, 1982.

SEC. 13. The sum of forty thousand dollars ($40,000) is hereby allocated to the University of California from the unencumbered balance of the appropriation made for the support of the University of California by Item 644-001-001 of the Budget Act of 1981, to carry out the university's duties contained in Section 12 of this act.

SEC. 14. Sections 12 and 13 of this act shall not become operative unless additional funding in an amount of not less than twenty-five thousand dollars ($25,000) is made available either through assessments on walnut producers or through funds generated from federal marketing order No. 984 which regulates the handling of walnuts grown in California. No state or private funds shall be expended until the method and scope of the sampling and inventory required by Section 12 of this act is agreed upon by the University of California, the Department of Food and Agriculture, and representatives of the walnut industry.

CHAPTER 1176

An act to amend Section 41402 of, and to add Sections 1241.5, 35200.5, and 56361.5 to, the Education Code, relating to schools.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 1241.5 is added to the Education Code, to read.

1241 5. The superintendent of schools of each county, prior to entering into any contract for personal consulting services, except

legal services or services for the fiscal audit of county office finances by a private auditing firm, shall do all of the following:

(a) Examine the abilities of employees of the districts of the county to provide the services.

(b) Examine the abilities of employees of the office of the county superintendent of schools in that particular county to provide the services.

(c) Examine the abilities of employees of adjoining districts or county offices of education to provide the services.

(d) Enter into the minutes of a meeting of the board of education of the county a finding that the county superintendent has followed steps (a) through (c) above, and has determined that the services available from those sources will not meet the needs of the county. The reference in the minutes shall occur prior to the execution of a personal consulting services contract.

SEC. 2. Section 35200.5 is added to the Education Code, to read:

35200.5. The governing board of any school district, prior to entering into any contract for personal consulting services, except legal services or services for the fiscal audit of the school district finances by a private auditing firm, shall do all of the following:

(a) Examine the abilities of employees of the district to provide the services.

(b) Examine the abilities of employees of the office of the county superintendent of schools in that particular county to provide the services.

(c) Examine the abilities of employees of districts or county offices of education adjoining the particular district to provide the services.

(d) Enter into the minutes of a meeting of the governing board of the district a finding that the district has followed steps (a) through (c) above, and has determined that the services available from those sources will not meet the needs of the district. The reference in the minutes shall occur prior to the execution of a personal consulting services contract.

SEC. 3. Section 41402 of the Education Code is amended to read:

41402. For the purposes of this article, and subject to the provisions of Section 41402.1, the maximum ratios of administrative employees to each 100 teachers in the various types of school districts shall be as follows:

(a) In elementary school districts—9.

(b) In unified school districts—8.

(c) In high school districts—7.

This section shall not apply to any school district which has only one school and one administrator.

SEC. 4. Section 56361.5 is added to the Education Code, to read:

56361.5. (a) In addition to the continuum of program options listed in Section 56361, a district, special education services region, or county office may contract with a hospital to provide designated instruction and services, as defined in subdivision (b) of Section

56363, required by the individual with exceptional needs, as specified in the individualized education program. However, a district, special education services region, or county office of education may not contract with a sectarian hospital for instructional services. A district, special education services region, or county office shall contract with a hospital for designated instruction and services required by the individual with exceptional needs only when no appropriate public education program is available.

For the purposes of this section "hospital" means a health care facility licensed by the State Department of Health Services.

(b) Contracts with hospitals pursuant to subdivision (a) shall be subject to the procedures prescribed in Sections 56365, 56366, and 56366.5.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1177

An act to add Section 11342.3 to the Government Code, and to amend Sections 12631, 17920.7, 17921, and 18930 of, and to amend, repeal, and add Section 12630 of, and to add Section 12638 to, the Health and Safety Code, relating to fire and panic safety.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 11342.3 is added to the Government Code, to read:

11342.3. (a) Except as provided in subdivision (b), on and after January 1, 1982, no new regulation, or the amendment or repeal of any regulation, which regulation is intended to promote fire and panic safety or provide fire protection and prevention, including fire suppression systems, equipment, or alarm regulation, is valid or effective unless it is submitted by, or approved in writing by, the State Fire Marshal before transmittal to the Secretary of State or the Office of Administrative Law.

(b) Approval of the State Fire Marshal is not required if the regulation is expressly required to be at least as effective as federal standards published in the Federal Register pursuant to Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91-596) within the time period specified by federal law and as provided in subdivision (b) of Section 142.4 of the Labor Code, and as approved

by the Occupational Safety and Health Administration of the United States Department of Labor as meeting the requirements of subdivision (a) of Section 142.3 of the Labor Code, unless the regulation is determined by the State Fire Marshal to be less effective in promoting fire and panic safety than regulations adopted by the State Fire Marshal.

SEC. 2. Section 12630 of the Health and Safety Code is amended to read:

12630. Except as otherwise provided in Sections 12631 and 12632, the original and annual renewal fee for fireworks licenses shall be as follows:

Manufacturer	$ 500
Wholesaler	1,000
Importer and exporter	100
Retailer	100
Public display (special)	25
Public display (limited)	25
Public display (general)	100
Pyrotechnic operator	10

This section shall remain in effect only until July 1, 1982, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1982, deletes or extends that date.

SEC. 3. Section 12630 is added to the Health and Safety Code, to read:

12630. Except as otherwise provided in Sections 12631 and 12632, the original and annual renewal fee for fireworks licenses shall be as follows:

Manufacturer	$1,000
Wholesaler	1,500
Importer and exporter	500
Retailer	100
Public display (special)	25
Public display (limited)	25
Public display (general)	100
Pyrotechnic operator	10

This section shall become operative July 1, 1982.

SEC. 4. Section 12631 of the Health and Safety Code is amended to read:

12631. The original and annual renewal license fee to manufacture, import, export, or wholesale, or any combination thereof, agricultural and wildlife fireworks shall be one hundred dollars ($100).

This section shall become operative July 1, 1982.

SEC. 5. Section 12638 is added to the Health and Safety Code, to read:

12638. Revenues derived from the changes in Sections 12630 and

12631 enacted by the Statutes of 1981 shall be used as a source of funding to add additional personnel to the Office of the State Fire Marshal and to pay other costs for the fire services education and training program, for public education, and for enforcement and fire prevention focusing on illegal and legal fireworks.

SEC. 6. Section 17920.7 of the Health and Safety Code is amended to read:

17920.7. (a) Except as provided in Section 18930, the State Fire Marshal shall adopt, amend, and repeal fire safety rules and regulations, and, except as otherwise provided in this part, the State Fire Marshal shall enforce building standards published in the State Building Standards Code and those other rules and regulations adopted by the State Fire Marshal for the provision of structural fire safety and fire-resistant exits in multiple-story structures existing on January 1, 1975, let for human habitation including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor. The State Fire Marshal shall adopt, amend, or repeal and shall submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5. The rules and regulations and building standards shall provide adequate safety to the occupants and the general public, and shall be consistent with the requirements contained in subdivisions (d), (e), (f), (g), (h), (i), (k), and (*l*) of Section 1313 of Chapter 13 of the appendix of the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

Except as provided in Section 18930, the commission, with the written approval of the State Fire Marshal, may allow reasonable exceptions to subdivisions (e) and (g) of Section 1313 to permit the continued use of existing stairs and to subdivision (*l*) of Section 1313 to permit equivalent protection in lieu of occupancy separations. However, the exceptions shall not impair occupant safety and shall be consistent with the legislative intent of this section.

The building standards adopted by the State Fire Marshal and submitted for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 shall not require that interior stairs and vertical openings be enclosed in two-story buildings.

(b) Notwithstanding the provisions of subdivision (a), any city, county, or city and county may adopt building standards for structural fire safety and fire-resistant exits in structures subject to the provisions of this section, provided that those building standards are substantially equivalent in fire safety to the building standards published in the State Building Standards Code. Each city, county, or city and county adopting alternative standards shall submit a detailed statement, with supporting data, to the State Fire Marshal demonstrating the equivalency of the alternate standards to the state building standards and other regulations adopted by the State Fire Marshal. The State Fire Marshal shall make a finding as to the equivalency of alternate local standards to such requirements. It is

the intention of the Legislature that the building standards adopted and published in the State Building Standards Code shall be consistent with the requirements for new construction contained in the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials, except as otherwise required by state or federal law.

(c) The provisions of this section shall not apply to any apartment house, hotel, or motel existing on May 14, 1979, having floors, as measured from the top of the floor surface, used for human occupancy located more than 75 feet above the lowest floor level having building access which is subject to the provisions of Chapter 3 (commencing with Section 13210) of Part 2 of Division 12 relating to high rise buildings existing on May 14, 1979.

(d) The enforcement agency shall make inspections to the extent necessary to identify the structures within its jurisdiction in violation of the rules and regulations adopted by the State Fire Marshal pursuant to this section, and all structures subject to the provisions of this section shall be conformed to the requirements contained in those regulations.

SEC. 7. Section 17921 of the Health and Safety Code is amended to read:

17921. (a) Except as provided in subdivision (b), the commission shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the commission shall adopt, amend, and repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public governing the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court, area, sanitation, ventilation and maintenance of all hotels, motels, lodginghouses, apartment houses, and dwellings, and buildings and structures accessory thereto. Except as otherwise provided in this part, the department shall enforce those building standards and those other rules and regulations. The other rules and regulations adopted by the commission may include a schedule of fees to pay the cost of enforcement by the department under Sections 17952 and 17965.

(b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodginghouses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

SEC. 8. Section 18930 of the Health and Safety Code is amended

to read:

18930. (a) Any building standard adopted by state agencies shall be submitted to and approved by the State Building Standards Commission prior to codification. In order to accomplish this task, building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standard does not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of such building standards.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable based on the overall benefit to be derived from such building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if intended to promote fire and panic safety, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the following:

(1) Except as provided in subdivision (b) of Section 11342.3 of the Government Code, the record of the proceedings of the adopting agency.

(2) The evidence submitted to and considered by the adopting agency.

(c) The commission shall give great weight to the determinations and analysis of the adopting agency on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that such factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency.

Whenever the commission makes such a finding, it shall return the standard to the adopting agency for a reexamination of its original determination of the disputed fact.

(d) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a

"factual determination" for purposes of subdivision (c). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (c). Whenever a building standard is intended to promote fire and panic safety, the commission shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(e) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a) that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of such building standard, the commission shall not consider or review whether such adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

SEC. 9. Any rule, regulation, or standard subject to the provisions of this act in effect on the effective date of this act shall remain in effect until amended, repealed, or superseded by regulations adopted by the State Fire Marshal.

SEC. 10. Sections 2, 3, 4, and 5 of this act shall only become operative if Senate Bill 999 of the 1981–82 Regular Session of the Legislature is chaptered and becomes effective on or before January 1, 1982, and in such case those sections shall become operative on the effective date of this act.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1178

An act to amend Sections 76002, 78201.5, 84603, 84604, 84605, 84606, 84608, 84609, 84620, 84621, 84630, 84641, 84720, and 85000 of, to add Sections 72023.7, 84604.8, 84606.5, 84622, and 84631 to, to repeal Sections 85000.5, 85003.5, and 85023.5 of, and to repeal and add Sections 84607, 85003, and 85023 to, the Education Code, relating to community colleges.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 72023.7 is added to the Education Code, to read:

72023.7. (a) Notwithstanding the provisions of Section 72023.5 to the contrary, the student member or members selected to serve on

the governing board of a community college district pursuant to Section 72023.5 may:

(1) Make and second motions at the discretion of the governing board.

(2) Attend executive sessions, other than executive sessions on personnel matters or collective bargaining matters, at the discretion of the governing board.

(3) Receive compensation, at the discretion of the governing board, up to the amount prescribed by Section 72425.

(4) Serve a term commencing on July 1, 1981, and ending on May 15, 1982, and serve a term of one year commencing on May 15, 1982, and May 15 of each year thereafter, at the discretion of the governing board.

(b) It is the intent of the Legislature that any decision or actions, including any contracts entered into pursuant thereto, upon the motion or second of a motion of a student member, shall be fully legal and enforceable against the district or any party thereto.

(c) The governing board of each community college district which affords the student member or members of the board any of the privileges enumerated in subdivision (a) shall, by May 15 of each year, adopt rules and regulations implementing this section. Such rules and regulations shall be effective until May 15 of the following year.

SEC. 1.5. Section 76002 of the Education Code is amended to read:

76002. (a) The president of any community college may admit to the summer session of the community college as a special student any student, with parental consent:

(1) Whose admission to summer session is recommended by the principal of the school which the student attends.

(2) Who has demonstrated adequate preparation in the discipline to be studied.

(3) Who has availed himself or herself of all opportunities to enroll in an equivalent course at his or her school of attendance.

(b) A principal may recommend such a student as a special student pursuant to rules and regulations which may be adopted by the governing board of the school district. The principal of a school shall not recommend a number of students who have completed a particular grade in excess of 5 percent of the total number of students in the school who have completed that grade immediately prior to the time of recommendation.

(c) The attendance as a special summer session student, of a student who has completed the 10th grade, at a community college pursuant to this section shall be credited to the district maintaining the community college for the purposes of allowances and apportionments from the State School Fund. No additional units of attendance shall be credited for apportionment purposes for students who have not completed the 10th grade. Instead, the school district shall enter a contract with the community college district to

reimburse the community college district for current expenses incurred on account of the attendance of such students. The student shall receive credit for community college courses which he or she completes, in the same manner as a regularly enrolled community college student.

(d) Sections 76001 and 48800 to 48802, inclusive, do not apply to the special students authorized to be admitted to a community college summer session pursuant to this section.

SEC. 2. Section 78201.5 of the Education Code is amended to read:

78201.5. (a) For the purposes of this article, a credit course is a course which is either:

(1) A requisite for the awarding of an associate degree.

(2) Determined to be of college level and is approved by the board of governors as part of a course of study leading toward an associate degree or is part of an occupational program beyond the high school level leading to an associate degree or occupational certificate or both and is taught by a credentialed instructor.

(3) Recognized by the University of California, the California State University and Colleges, or an accredited independent college or university in California as part of the required or elective preparation toward a major degree or as part of a general education requirement, and is subject to the published standards for matriculation, attendance, and achievement of the university, college, or system.

(b) Any course not within subdivision (a) is, for the purposes of this article, a noncredit course and shall be subject to the provisions of Chapter 3 (commencing with Section 78400) of this part.

(c) This section shall be repealed on April 1, 1982, if the board of governors adopts regulations in Title 5 of the California Administrative Code implementing a program classification system by April 1, 1982.

SEC. 3. Section 84603 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84603. (a) The Legislature hereby finds and declares that the Board of Governors of the California Community Colleges adopted in November, 1980, a program classification system.

(b) The Board of Governors of the California Community Colleges shall collect data on all programs, courses, and classes offered by community college districts in the 1981–82 fiscal year in both credit and noncredit modes and the board of governors shall develop classification criteria which shall establish uniformity of classification of credit and noncredit modes among all districts by July 1, 1982.

(c) The Chancellor of the California Community Colleges shall collect information on course offerings and activities for each community college district based on the program classification system adopted by the board of governors.

(1) The chancellor shall report this information to the California

Postsecondary Education Commission and to the Legislature by March 1, 1982.

(2) The California Postsecondary Education Commission shall review the information collected and advise the Legislature with regard to the accuracy and uniformity of the information by April 1, 1982. The commission shall assist the chancellor in monitoring the collection of the information and determining the format for presentation.

SEC. 4. Section 84604 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84604. The base 1981–82 fiscal year revenues for each community college district shall be those revenues received pursuant to Section 84720, exclusive of Section 84724, minus the child development program deduction computed pursuant to Item 388.1 of the Budget Act of 1980, except in the event that the general state aid plus local property tax revenues available for the purposes of Sections 84720 to 84724, inclusive, are less than 0.98 times the revenues calculated pursuant to Sections 84720 to 84724, inclusive, in which case the base 1981–82 fiscal year revenues shall be the amount in subdivision (b) plus the amount in subdivision (c) minus the child development program deduction computed pursuant to Item 388.1 of the Budget Act of 1980, but in no case less than the amount in subdivision (a) minus the child development program deduction computed pursuant to Item 388.1 of the Budget Act of 1980:

(a) The total general revenue for the district received for the 1979–80 fiscal year pursuant to Section 84700, exclusive of Section 84705, multiplied by 1.01.

(b) 0.99 multiplied by the amount computed pursuant to Section 84721 plus the amount computed pursuant to Section 84723.

(c) The amount computed pursuant to Section 84722 multiplied by the deficit factor which results in a total statewide apportionment equal to the amount budgeted for state general apportionment for the 1980–81 fiscal year.

SEC. 5. Section 84604.8 is added to the Education Code, to read:

84604.8. For each college child development program provided by a community college district in the 1981–82 fiscal year, the local general fund contribution of each district shall be no less than 100 percent of the district local general fund contribution for child development in the 1980–81 fiscal year adjusted by the district's percentage increase in base revenues for inflation in the 1981–82 fiscal year.

SEC. 6. Section 84605 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84605. For the 1981–82 fiscal year, the chancellor shall apportion state aid to community college districts according to the following procedure:

(a) The 1981–82 fiscal year revenues for each community college district shall be its base 1981–82 fiscal year revenues, as defined in Section 84604, as adjusted by Section 84604.5, plus or minus the

average daily attendance adjustments based on incremental costs, as defined in Sections 84606 and 84607 subject to the provisions of subdivision (g); plus the inflation adjustment specified in Section 84608; plus the capital outlay or lease-purchase assistance, if any, as specified in Section 84609.

(b) The chancellor shall adjust the amounts determined pursuant to subdivision (a) to provide for prior year adjustments or adjustments which are required pursuant to Section 84330, as well as adjustments for the effects of annexation or transfer of territory occurring after June 30, 1978.

(c) From the 1981–82 fiscal year revenues of each community college district, as adjusted by subdivision (b), the chancellor shall subtract local property tax revenues, specified by law for the general operating support of community colleges, exclusive of bond interest and redemption, and motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code. The remainder shall be the state general apportionment for each such district.

(d) The Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor. However, no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1982.

(e) On or before March 1, 1982, the chancellor shall publish and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges. The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1980–81 and 1981–82. The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the base for the calculation of revenues per unit of average daily attendance.

(f) For purposes of this article, "average daily attendance" shall mean the attendance of state residents attending within the district.

(g) Statewide average daily attendance computed for apportionment purposes shall not exceed 1.025 times 1980–81 fiscal year statewide average daily attendance. To the extent possible, statewide workload changes to be funded on a district by district basis shall be determined by the chancellor, in cooperation with the Department of Finance, and shall include such factors as changes in adult population in the district, unemployment rates, and increases in refugee population.

SEC. 7. Section 84606 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84606. The base revenues for each community college district shall be adjusted for changes in noncredit average daily attendance based on costs according to the following procedure:

(a) The chancellor shall determine the increase or decrease in the number of units of noncredit average daily attendance reported by

each district between fiscal years 1980–81 and 1981–82.

(b) The chancellor shall multiply the increase or decrease in such units of average daily attendance by the appropriate incremental cost rate pursuant to subdivision (c) for the 1981–82 fiscal year only, and shall multiply the increase or decrease by one thousand one hundred dollars ($1,100) for the 1982–83 fiscal year.

(c) The incremental cost rate is one thousand one hundred dollars ($1,100) for all increases in noncredit average daily attendance above the 1980–81 fiscal year noncredit average daily attendance level. For decreases in noncredit average daily attendance below the 1980–81 fiscal year level, the incremental cost rate is the effective incremental cost rate used for the 1980–81 fiscal year as determined pursuant to subdivision (k) of Section 84720 for declining average daily attendance for all growth noncredit average daily attendance experienced by the district during the 1980–81 fiscal year from the 1979–80 fiscal year level, and is one thousand one hundred dollars ($1,100) for all decreases in noncredit average daily attendance below the 1979–80 fiscal year noncredit average daily attendance subject to the provisions of Section 84606.5

SEC. 8. Section 84606.5 is added to the Education Code, to read:

84606.5. (a) Growth in credit average daily attendance in the 1980–81 fiscal year in excess of the decline in credit average daily attendance in the 1981–82 fiscal year may be used in determining the incremental cost rate for decline in noncredit average daily attendance in the 1981–82 fiscal year.

(b) Growth in noncredit average daily attendance in the 1980–81 fiscal year in excess of the decline in noncredit average daily attendance in the 1981–82 fiscal year may be used in determining the incremental cost rate for decline in credit average daily attendance in the 1981–82 fiscal year.

(c) In no case may the transfer of average daily attendance pursuant to subdivision (a) and subdivision (b) be greater than the growth in average daily attendance experienced by the district in the 1980–81 fiscal year.

SEC. 9. Section 84607 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is repealed.

SEC. 10. Section 84607 is added to the Education Code, to read:

84607. The base revenues for each community college district shall be adjusted for changes in credit average daily attendance based on incremental costs according to the following procedure:

(a) The chancellor shall determine the increase or decrease in the number of units of credit average daily attendance reported by each district between fiscal years 1980–81 and 1981–82

(b) The chancellor shall multiply the increase or decrease in such units of average daily attendance by the appropriate incremental cost rate pursuant to subdivision (c) for the 1981–82 fiscal year only, and shall multiply the increase or decrease by the appropriate incremental cost rate pursuant to subdivision (d) for the 1982–83 fiscal year

(c) For the 1981–82 fiscal year the incremental cost rate is determined as follows:

(1) For districts reporting 3,000 or more units of total average daily attendance for fiscal year 1980–81 and which have decreased in credit average daily attendance since the 1980–81 fiscal year, the incremental cost rate is the effective incremental cost rate used for the 1980–81 fiscal year as determined pursuant to subdivision (k) of Section 84720 for declining credit average daily attendance for all growth credit average daily credit experienced by the district during the 1980–81 fiscal year from the 1979–80 fiscal year level, and is two-thirds of the district's revenues per unit of total average daily attendance for fiscal year 1980–81 for all decreases in credit average daily attendance below the 1979–80 credit average daily attendance level of the district subject to the provisions of Section 84606.5.

(2) For districts reporting fewer than 3,000 units of total average daily attendance for fiscal year 1980–81 and which have decreased in credit average daily attendance since the 1980–81 fiscal year, the incremental cost rate is the effective incremental cost rate used for the 1980–81 fiscal year as determined pursuant to subdivision (k) of Section 84720 for declining credit average daily attendance for all growth credit average daily attendance experienced by the district during the 1980–81 fiscal year from the 1979–80 fiscal year level, and is two-thirds of the statewide revenues per unit of total average daily attendance for fiscal year 1980–81 for all decreases in credit average daily attendance below the 1979–80 credit average daily attendance level subject to the provisions of Section 84606.5.

(3) For all districts which have increased in credit average daily attendance since fiscal year 1980–81, the incremental cost rate is two-thirds of the statewide revenues per unit of total average daily attendance for fiscal year 1980–81.

(d) For the 1982–83 fiscal year the incremental cost rate is determined as follows:

(1) For districts reporting 3,000 or more units of total average daily attendance for fiscal year 1981–82 and which have decreased in credit average daily attendance since the 1981–82 fiscal year, the incremental cost rate is two-thirds of the district's revenues per unit of total average daily attendance for fiscal year 1981–82. For districts reporting fewer than 3,000 units of total average daily attendance for fiscal year 1981–82 and which have decreased in credit average daily attendance since fiscal year 1981–82, the incremental cost rate is two-thirds of the statewide revenues per unit of total average daily attendance for fiscal year 1981–82.

(2) For all districts which have increased in credit average daily attendance since fiscal year 1981–82, the incremental cost rate is two-thirds of the statewide revenues per unit of total average daily attendance for fiscal year 1981–82.

SEC. 11. Section 84608 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84608. (a) For districts reporting 3,000 or more total units of

average daily attendance for fiscal year 1980–81, the chancellor shall determine the product of: 0.05 times the statewide revenues per unit of total average daily attendance for fiscal year 1980–81, times the district general equity factor, times the total average daily attendance for the district for fiscal year 1981–82.

(b) For districts reporting fewer than 3,000 units of total average daily attendance for fiscal year 1980–81, the chancellor shall determine the product of: 0.05 times the statewide revenues per unit of total average daily attendance for fiscal year 1980–81; times the small district multiplier specified in subdivision (d); times the district general equity factor, times the total average daily attendance for the district for fiscal year 1981–82.

(c) The chancellor shall determine the district general equity factor as follows:

(1) Except as provided in subparagraph (A), the district general equity factor is the quotient of statewide revenues per unit of total average daily attendance for fiscal year 1980–81 divided by district revenues per unit of total average daily attendance for fiscal year 1980–81.

(A) For each district reporting 3,000 or more units of total average daily attendance in the 1980–81 fiscal year which receives a general equity factor of less than 1.0 pursuant to paragraph (1) and which meets three of the following four conditions, the district general equity factor shall be 1.0 and the district revenues per unit of total average daily attendance for fiscal year 1980–81 shall be used for the purpose of subdivision (a):

(i) Where district expenditures per unit of total average daily attendance in the 1980–81 fiscal year for student services, as defined in Activity Code 6200 to 6400, inclusive, of the California Community College Accounting Manual, are in the upper quartile for the state.

(ii) Where fiscal year 1980–81 expenditures per unit of total average daily attendance in the 1980–81 fiscal year for Activity Code 6500 of the California Community College Accounting Manual, are in the upper quartile for the state.

(iii) Where the fall 1980 minority student enrollment of the district exceeds 50 percent of the total student enrollment.

(iv) A participation rate of less than 6 percent for the 1980–81 fiscal year. "Participation rate" means the sum of the district fall 1980 first census enrollment and the fall 1980 enrollment in adult schools within the district divided by the number of adults residing in the district, as determined by the Department of Finance, multiplied by 100.

(d) Determine a small district multiplier equal to 1.0/ (a + b×) where:

a = .47615

b = .0001746

× = the district 1980–81 fiscal year total average daily attendance.

SEC. 12 Section 84609 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84609. For fiscal year 1981–82, community college districts not receiving an adjustment to their base revenues pursuant to subdivision (d) of Section 84604 shall also receive an amount determined by the chancellor not to exceed the sum of:

(a) Revenues derived for fiscal year 1978–79, pursuant to Section 84904, from the capital outlay matching tax authorized by Section 85100 if the purpose for which the tax was levied has not been fulfilled prior to July 1, 1981.

(b) Revenues derived for fiscal year 1978–79, pursuant to Section 84904, from the lease-purchase tax authorized by Section 84006 if the purpose for which the tax was levied has not been fulfilled prior to July 1, 1981.

SEC. 13. Section 84620 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84620. For the 1982–83 fiscal year only the Chancellor shall apportion state aid to community college districts according to the procedures specified in Article 2 (commencing with Section 84605), except that the base 1982–83 fiscal year revenues shall be the sum of revenues received for the prior fiscal year pursuant to Article 2, except for Section 84609 and provided that references to a fiscal year shall be deemed to be references instead to the succeeding fiscal year.

Furthermore, for the 1982–83 fiscal year, Section 84608 shall apply only to average daily attendance generated in credit courses and programs.

SEC. 14. Section 84621 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84621. The factor of 0.05 prescribed by subdivisions (a) and (b) of Section 84608 shall be reduced to zero for the 1982–83 fiscal year unless the board of governors adopts a program classification system, which includes uniform classification of credit and noncredit modes pursuant to subdivision (b) of Section 84603, by April 1, 1982, for implementation not later than July 1, 1982.

SEC. 14.5. Section 84622 is added to the Education Code, to read:

84622. (a) The chancellor shall, in the 1982–83 fiscal year, increase the base revenues of urban community college districts that truly reflect the urban areas they serve, and whose district enrollment in the 1981–82 fiscal year exceeds 30,000. At least 40 percent of the average daily attendance shall consist of students eligible for financial aid under community college extended opportunity programs and services established pursuant to Article 8 (commencing with Section 69640) of Chapter 2 of Part 42. The increase in the base revenues shall be the amount computed pursuant to subdivision (b).

(b) The chancellor shall multiply fifteen dollars ($15) times the 1981–82 fiscal year average daily attendance reported for each district specified in subdivision (a).

(c) No community college district which received increased revenues pursuant to subdivision (a) of Section 84704 shall be eligible

for the allowance computed pursuant to this section.

SEC. 15. Section 84630 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84630. For the 1981–82 and 1982–83 fiscal years, in the event that General Fund appropriations and local property tax and other local tax revenues allocated to community college districts are less than the amounts computed for all districts for the fiscal year, pursuant to Section 84605 or 84620, as appropriate, the chancellor shall apportion general aid to the community college districts according to the following procedure:

(a) The chancellor shall fund in total for all community college districts the base as specified in Section 84604 or 84620, as appropriate, less the workload adjustment as specified in Section 84606 or 84607 for districts experiencing a loss in either noncredit or credit average daily attendance, and the following purposes in the following order:

(1) Inflation adjustments calculated pursuant to Section 84608.

(2) Lease and capital outlay commitments calculated pursuant to Section 84609.

(3) Workload increases in accordance with subdivision (g) of Section 84605.

(4) Program changes calculated pursuant to Section 84640.

(b) Unless otherwise provided in this article, in cases where total available funds are less than the total amount calculated for all districts for a particular purpose, the chancellor shall apportion funds for that purpose to each district eligible for the funds by multiplying the amounts determined in paragraphs (1) and (2):

(1) The total amount available for the purpose divided by the total of all districts' calculated amounts for that purpose.

(2) The calculated amount for that purpose for the district during the fiscal year.

SEC. 16. Section 84631 is added to the Education Code, to read:

84631. (a) For the 1981–82 fiscal year, in the event the General Fund appropriations and local property tax revenues allocated to community college districts are greater than the amounts necessary to fund the provisions of Section 84605, the 1981–82 base revenues computed pursuant to Section 84604 shall be adjusted upwards by the chancellor, not to exceed the greater of the amounts computed pursuant to Section 84720, exclusive of Section 84724, or subdivision (a) of Section 84604.

(b) The chancellor shall allocate the revenues specified in subdivision (a) to restore any deficits in the 1981–82 base revenues of community college districts resulting from, first, subdivision (c) of Section 84604 and, secondly, subdivision (b) of Section 84604.

SEC. 17. Section 84641 of the Education Code, as added by Chapter 103 of the Statutes of 1981, is amended to read:

84641. (a) For purposes of this chapter, the following noncredit courses and classes shall be eligible for funding pursuant to Sections 84605, 84606, 84608, 84630, and 84631:

(1) Parenting, including parent co-operative preschools, classes in child growth and development and parent-child relationships, and classes in parenting.

(2) Elementary and secondary basic skills and other courses and classes such as remedial academic courses or classes in reading, mathematics, and language arts.

(3) English as a second language.

(4) Citizenship for immigrants.

(5) Education programs for substantially handicapped.

(6) Short-term vocational programs with high employment potential

(7) Education programs for older adults.

(8) Education programs in home economics.

(9) Health and safety education.

(b) No state apportionment shall be made for any course or class which is not set forth in subdivision (a) and for which no credit is given

SEC. 18. Section 84720 of the Education Code, as amended by Chapter 103 of the Statutes of 1981, is amended to read:

84720. For the 1980–81 fiscal year, the chancellor shall apportion general state aid to community college districts according to the following procedure:

(a) The 1980–81 fiscal year revenues for each community college district shall be its base 1980–81 fiscal year revenues, as defined in Section 84721; plus or minus the average daily attendance adjustment based on incremental costs, as defined in Section 84722; plus the inflation adjustment specified in Section 84723; plus the capital outlay or lease-purchase assistance, if any, as specified in Section 84724.

(b) The chancellor shall adjust the amount determined pursuant to subdivision (a) to provide for prior year adjustments or adjustments which are required pursuant to Section 84330, as well as adjustments for the effects of annexation for transfer of territory occurring after June 30, 1979.

(c) For any district whose revenues computed pursuant to this article are less than 1.01 times the revenues received by the district for fiscal year 1979–80, as defined in Section 84700, exclusive of Section 84705, the district shall receive 1.01 times revenues received for fiscal year 1979–80, as defined in Section 84700, exclusive of Section 84705, in lieu of amounts computed pursuant to this article.

(d) From the 1980–81 fiscal year revenues of each community college district, as adjusted pursuant to subdivisions (b) and (c), the chancellor shall subtract the following revenues: (1) local property tax revenues, exclusive of bond interest and redemption for the general operating support of community colleges, and (2) motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code. The remainder shall be the state general apportionment for each such district.

(e) The Controller shall draw warrants on the State Treasury in

favor of the county treasurer of each county containing a community college district at such times and in such amounts as determined by the chancellor; provided that no more than 75 percent of the state general apportionment provided for in this section shall be made prior to February 1, 1981.

(f) On or before February 15, 1981, the chancellor shall publish, and shall provide to the Legislature, a report on revenues per unit of average daily attendance in the community colleges. The report shall include comparisons on a district-by-district basis, as well as on a statewide basis, of revenues per unit of average daily attendance for fiscal years 1979–80 and 1980–81. The report shall also include information on the amounts of actual and estimated sources of revenue that comprise the basis for the calculation of revenues per unit of average daily attendance.

(g) For purposes of this article "average daily attendance" and "attendance ADA" shall mean the attendance of state residents attending within the district.

(h) If the revenues appropriated by Section 84728 are insufficient to provide for the state general apportionment as calculated pursuant to this section, the amounts appropriated by Section 84728 shall be allocated on a pro rata basis, so that all community college districts receive the same percentage of their general revenues that they are otherwise entitled to receive, except in the event that the general state aid appropriated in lieu of Section 84728 plus local property tax revenues available for the purposes of Sections 84720 to 84724, inclusive, are less than 0.98 times the revenues calculated pursuant to Sections 84720 to 84724, inclusive, in which case the amounts appropriated in lieu of Section 84728 shall be allocated so that the total general revenues for each district, is equal to the amount in subdivision (j) plus the amount in subdivision (k) plus the amount in subdivision (*l*), but in no case less than the amount in subdivision (i) plus the amount in subdivision (*l*).

(i) The total general revenues for the district received for fiscal year 1979–80 pursuant to Section 84700, exclusive of Section 84705, multiplied by 1.01.

(j) 0.99 multiplied by the amount computed pursuant to Section 84721 plus the amount computed pursuant to Section 84723.

(k) The amount computed pursuant to Section 84722 multiplied by the deficit factor which results in a total statewide apportionment equal to the amount budgeted for state general apportionments for the 1980–81 fiscal year.

(*l*) The amount for capital outlay or lease-purchase assistance, or both, if any, as specified in Section 84724.

SEC. 19. Section 85000 of the Education Code is amended to read:

85000. On or before the 15th day of September of each year the governing board of each community college district shall prepare and keep on file for public inspection a statement of all receipts and expenditures of the district for the preceding fiscal year and a statement of the estimated total expenses for the district for the

current fiscal year.

SEC. 20. Section 85000.5 of the Education Code is repealed.

SEC. 21. Section 85003 of the Education Code is repealed.

SEC. 22. Section 85003 is added to the Education Code, to read:

85003. The governing board of each community college district shall hold a public hearing on the proposed budget for the ensuing fiscal year in a district facility, or some other place conveniently accessible to the residents of the district, any day during or before the first week in September but at least three days following availability of the proposed budget for public inspection, at which any resident in the district may appear and object to the proposed budget or any item in the budget.

The hearing may be concluded on the proposed budget when there are no requests for further hearing on file. The budget shall not be finally adopted by the governing board of the district until after the public hearing has been held.

The proposed budget, showing program expenditures, cash balances, and all the appropriations from the state as required to be tabulated in Section 85021 for the ensuing and last preceding fiscal year, and the district tax requirement computed pursuant to subdivision (c) of Section 85023 for the college year to which the proposed budget is intended to apply, and any recommendations made by the county superintendent pursuant to subdivision (b) of Section 85023 shall be made available by the district for public inspection in a facility of the district or in some other place conveniently accessible to residents of the district, during or before the last week in August.

Notification of dates and location or locations at which the proposed budget may be inspected by the public and the date, time and location of the public hearing on the proposed budget shall be published by the county superintendent of schools in a newspaper of general circulation in the district, or if there is no such newspaper, then in any newspaper of general circulation in the county, at least three days prior to the availability of the proposed budget for public inspection. The cost of the publication shall be a legal and proper charge against the community college district for which the publication is made.

SEC. 23. Section 85003.5 of the Education Code is repealed.

SEC. 24. Section 85023 of the Education Code is repealed.

SEC. 25. Section 85023 is added to the Education Code, to read·

85023. (a) On or before the first day of July in each year, each community college district shall file a tentative budget with the county superintendent of schools.

(1) The budget shall indicate the date, time, and location at which the governing board of the district will hold the public hearing required pursuant to Section 85003.

(2) If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and principal on outstanding

general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(3) For the 1981–82 fiscal year only, the information specified in paragraphs (1) and (2) may be filed separately, but no later than August 1, 1981.

(b) On or before August 1, in each year, the county superintendent of schools:

(1) Shall examine and may make technical corrections to the tentative budget, and indicate changes desirable or necessary to determine the tax requirement.

(2) Shall make any recommendations necessary to ensure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board of the community college district a written explanation of the reasons for such changes.

(3) May make written recommendations as to anticipated revenues at any time prior to final adoption of the budget by the governing board of the district.

(4) May accept changes in the date, time, or location of the public hearing pursuant to Section 85003 and changes in the statement required by paragraph (2) of subdivision (a) of this section of the amount or portion for which a property tax levy shall not be made.

(c) The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes which exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each community college district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

(d) On or before the seventh day of September the governing board of each community college district shall adopt a final budget including any tax requirements computed pursuant to subdivision (c) as adjusted by paragraph (2) of subdivision (a) and shall file the budget with the county superintendent of schools.

(e) On or before the 15th day of September, the county superintendent shall approve the adopted budget for each community college district as officially adopted and submitted by its governing board, and shall file one copy of the adopted budget of each community college district with the county board of supervisors, one copy with the county auditor, and two copies with the office of the Chancellor of the California Community Colleges.

SEC. 26. Section 85023.5 of the Education Code is repealed.

SEC. 27. Of the amounts appropriated by category (e) of Item 687-101-001 of the Budget Act of 1981, no more than nine million nine

hundred forty-seven thousand dollars ($9,947,000) shall be available as necessary upon certification by the Chancellor of the California Community Colleges for the purpose of funding community college related and supplemental instruction pursuant to Section 3074 of the Labor Code, as provided in Section 8153 of the Education Code.

SEC. 28. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 29. Sections 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 27 of this act shall be deemed operative for the entire 1981–82 fiscal year as though they had been enacted into law and become operative on July 1, 1981. The Chancellor of the California Community Colleges and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section B of the State School Fund.

CHAPTER 1179

An act to add Article 8 (commencing with Section 84390) to Chapter 3 of Part 50 of the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

The people of the State of California do enact as follows

SECTION 1. The Legislature finds and declares that the purpose of student affirmative action projects in community colleges is to accomplish the following:

(a) Identify potential transfer students from underrepresented students who are attending California community colleges and provide them with support services.

(b) Provide opportunities for these students to enroll concurrently at a four-year institution in an attempt to acquaint them with the academic skills necessary for success at a four-year institution.

(c) Orient two- and four-year college personnel to increase their sensitivity and responsiveness to the special problems of underrepresented potential transfer students.

(d) To increase the transfer rate of those students identified by the chancellor as being underrepresented in four-year universities

and colleges.

SEC. 2. Article 8 (commencing with Section 84390) is added to Chapter 3 of Part 50 of the Education Code, to read:

Article 8. Student Affirmative Action Projects

84390. For the 1981–82 fiscal year, two hundred twenty-two thousand dollars ($222,000), and for the 1982–83 fiscal year, one hundred eleven thousand dollars ($111,000), of the amount transferred from Section B of the State School Fund to the loan portion of the Community College Fund for Instructional Improvement, pursuant to Section 84385, is hereby reappropriated to the Chancellor of the California Community Colleges for the support of three student affirmative action pilot projects.

84391. For the purposes of providing technical support and statewide coordination for the 1981–82 fiscal year, thirty-two thousand five hundred fifty-six dollars ($32,556) of the amount transferred from Section B of the State School Fund to the administrative expenses portion of the Community College Fund for Instructional Improvement pursuant to Sections 84383 and 84385 is hereby reappropriated to the Chancellor of the California Community Colleges.

84392. The California Postsecondary Education Commission shall, by December 31, 1983, report to the Legislature on the effectiveness of student affirmative action projects in the community colleges.

CHAPTER 1180

An act to amend Section 621 of the Evidence Code, relating to paternity.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 621 of the Evidence Code is amended to read:

621. (a) Except as provided in subdivision (b), the issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.

(b) Notwithstanding the provisions of subdivision (a), if the court finds that the conclusions of all the experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing with Section 890) of Division 7 are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly.

(c) The notice of motion for blood tests under subdivision (b) may be raised by the husband not later than two years from the child's date of birth.

(d) The notice of motion for blood tests under subdivision (b) may be raised by the mother of the child not later than two years from the child's date of birth if the child's biological father has filed an affidavit with the court acknowledging paternity of the child.

(e) The provisions of subdivision (b) shall not apply to any case coming within the provisions of Section 7005 of the Civil Code or to any case in which the wife, with the consent of the husband, conceived by means of a surgical procedure.

(f) The notice of motion for the blood tests pursuant to subdivision (b) shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court. This requirement shall not apply to any case pending before the court on September 30, 1980.

(g) The provisions of subdivision (b) shall not apply to any case which has reached final judgment of paternity on September 30, 1980.

CHAPTER 1181

An act to amend Sections 54780, 54782.5, and 54784 of, and to add Section 54780.1 to, the Government Code, relating to local agencies.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 54780 of the Government Code is amended to read:

54780. There is hereby created in each county a local agency formation commission. Except as provided in Sections 54780.1, 54781, and 54782, the commission shall consist of five members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. He or she is authorized to serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

In the event the office of a regular county member becomes vacant the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the cities in the county, each of whom shall be a city officer, appointed by the city selection committee. The city

selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 54784.

(c) One representing the general public appointed by the other four members of the commission.

SEC. 1.5. Section 54780 of the Government Code is amended to read:

54780. There is hereby created in each county a local agency formation commission. Except as provided in Sections 54780.1, 54780.2, 54781, and 54782, the commission shall consist of five members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. He or she is authorized to serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

In the event the office of a regular county member becomes vacant the alternate member is authorized to serve and vote in place of such regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the cities in the county, each of whom shall be a city officer, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 54784.

(c) One representing the general public appointed by the other four members of the commission.

SEC. 2. Section 54780.1 is added to the Government Code, to read:

54780.1. In a county with a population in excess of 4,000,000 persons, the commission shall consist of seven members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from its own membership. The board of supervisors shall also appoint a third supervisor who shall be an alternate member of the commission. He or she is authorized to serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

In the event the office of a regular county member becomes vacant, the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the county, appointed by the board of supervisors, who shall not be a member of the board of supervisors but who shall be a resident of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093). The board of supervisors shall also appoint an alternate member who shall not be a member of the board of supervisors but who shall be a resident of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093). He or she is authorized to serve and vote in

place of the member appointed pursuant to this subdivision if the member is absent or disqualifies himself or herself from participating in a meeting of the commission.

In the event the office of the regular member becomes vacant, the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular member to fill the vacancy.

(c) Two representing cities in the county, each of whom shall be a city officer, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 54784

(d) One representing a city in the county having a population in excess of 30 percent of the total population of the county who shall be a member of the legislative body of the city, appointed by the presiding officer of the legislative body. The presiding officer of the legislative body shall also designate an alternate member who shall be a member of the legislative body. He or she is authorized to serve and vote in place of the member appointed pursuant to this subdivision if the member is absent or disqualifies himself or herself from participating in a meeting of the commission.

In the event the office of the regular member becomes vacant, the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular member to fill the vacancy.

Prior to the end of each fiscal year, the city shall pay to the county that portion of the amount payable or paid by the county during the fiscal year pursuant to Section 54776.1 that is attributable to administrative costs incurred by the county on behalf of members serving on the commission pursuant to subdivisions (b) and (d).

(e) One representing the general public appointed by the other six members of the commission.

SEC. 3. Section 54782.5 of the Government Code is amended to read:

54782.5 When appointing a public member pursuant to Section 54780, 54780.1, 54781, or 54782, the commission may also appoint an alternate public member who shall be authorized to serve and vote in place of a regular public member who is absent or disqualifies himself or herself from participating in a meeting of the commission.

In the event the office of a regular public member becomes vacant the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular public member to fill the vacancy.

SEC. 4 Section 54784 of the Government Code is amended to read.

54784. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5. Regular members of

the commission shall be appointed by the city selection committee pursuant to Section 54780 or 54780.1.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, or is automatically disqualified from participating therein pursuant to this section, the alternate member is authorized to serve and vote in his or her place for that meeting. Except in the case of counties with not more than two cities, when the commission is considering a proposal for the annexation of territory to a city of which one of the members of the commission is an officer, the member is disqualified from participating in the proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place for such purpose.

In the event the office of a regular city member becomes vacant the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 4.3. Section 54784 of the Government Code is amended to read:

54784. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5. Regular members of the commission shall be appointed by the city selection committee pursuant to Section 54780 or 54780.1.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, or is automatically disqualified from participating therein pursuant to this section, the alternate member is authorized to serve and vote in his or her place for that meeting. Except in the case of counties with not more than two cities where a local commission's rules and regulations authorize members' participation pursuant to Section 54784.1, when the commission is considering a proposal for the annexation of territory to a city of which one of the members of the commission is an officer, the member is disqualified from participating in the proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in his or her place for such purpose.

In the event the office of a regular city member becomes vacant the alternate member is authorized to serve and vote in his or her place until the appointment and qualification of a regular city member to fill the vacancy.

SEC. 4.5. Section 54784 of the Government Code is amended to

read:

54784. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5. Regular members of the commission shall be appointed by the city selection committee pursuant to Section 54780 or 54780.1.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member is authorized to serve and vote in place of such regular city member for that meeting.

In the event the office of a regular city member becomes vacant the alternate member is authorized to serve and vote in place of such regular city member until the appointment and qualification of a regular city member to fill the vacancy.

SEC 5. The Legislature finds and declares that Section 2 of this act is necessary since special facts and circumstances are applicable to the County of Los Angeles which are not generally applicable statewide. The Legislature further finds and declares that because of the size of the County of Los Angeles it is necessary to increase the number of representatives serving on the local agency formation commission in order to provide adequate representation.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 2003 are both chaptered and become effective January 1, 1982, both bills amend Section 54780 of the Government Code, and this bill is chaptered after Assembly Bill 2003, that the amendments to Section 54780 proposed by both bills be given effect and incorporated in Section 54780 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 2003 are both chaptered and become effective January 1, 1982, both amend Section 54780, and this bill is chaptered after Assembly Bill 2003, in which case Section 1 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature that if this bill and Assembly Bill 1158 or Assembly Bill 2004, or both, are chaptered and become effective January 1, 1982, each of the bills amends Section 54784 of the Government Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows

(1) If this bill and Assembly Bill 1158 are both chaptered and become effective January 1, 1982, both bills amend Section 54784 of the Government Code, but Assembly Bill 2004 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 1158, the amendments proposed by both bills shall be given effect and incorporated in Section 54784 in the form set forth in Section 4 3 of this act. Therefore, if this bill and Assembly

Bill 1158 are both chaptered and become effective January 1, 1982, both bills amend Section 54784, this bill is chaptered after Assembly Bill 1158, and Assembly Bill 2004 is not chaptered or as chaptered does not amend that section, Section 4.3 of this act shall be operative and Sections 4 and 4.5 of this act shall not become operative.

(2) If this bill and Assembly Bill 2004 are both chaptered and become effective January 1, 1982, both bills amend Section 54784 of the Government Code, but Assembly Bill 1158 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2004, the amendments proposed by both bills shall be given effect and incorporated in Section 54784 in the form set forth in Section 4.5 of this act. Therefore, if this bill and Assembly Bill 2004 are both chaptered and become effective January 1, 1982, both bills amend Section 54784, this bill is chaptered after Assembly Bill 2004, and Assembly Bill 1158 is not chaptered or as chaptered does not amend that section, Section 4.5 shall be operative and Sections 4 and 4.3 of this act shall not become operative.

(3) If this bill and Assembly Bill 1158 and Assembly Bill 2004 are all chaptered and become effective January 1, 1982, all three bills amend Section 54784 of the Government Code, and this bill is chaptered after Assembly Bill 1158 and Assembly Bill 2004, the amendments proposed by this bill and Assembly Bill 2004 shall be given effect and incorporated in Section 54784 in the form set forth in Section 4.5 of this act. Therefore, if this bill and Assembly Bill 1158 and Assembly Bill 2004 are all chaptered and become effective January 1, 1982, all three bills amend Section 54784 of the Government Code, and this bill is chaptered after Assembly Bill 1158 and Assembly Bill 2004, Section 4 5 of this act shall be operative and Sections 4 and 4.3 of this act shall not become operative.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1182

An act to amend Sections 188.3, 30102, 30884, 30888, and 30889 of, and to add Section 30102.5 to, the Streets and Highways Code, relating to toll bridges.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1. It is the intent of the Legislature that toll bridge revenue be pledged primarily for the redemption of all outstanding bonds and the interest thereon. The Legislature recognizes the dependence of some transit systems upon current law which provides capital support for public transit. However, the use of toll bridge revenues for public transportation development is contrary to Section 30204.3 of the Streets and Highways Code, which provides that tolls shall be used directly, concurrently, and exclusively for the redemption of bonds. Furthermore, it has traditionally been the state policy to ultimately eliminate all toll charges on state bridges. It is the legislative intent of this act to limit tolls to the payment of outstanding debt and the interest thereon with the exception of maintaining current transit support until alternative methods of financing can be found.

SEC. 2. Section 188.3 of the Streets and Highways Code is amended to read:

188.3. The cost of maintenance of all toll bridges under the jurisdiction of the commission shall be paid out of money in the State Highway Account, except that the commission shall fund the maintenance costs of each toll bridge from the same source used to fund that maintenance cost during the 1980–81 fiscal year.

SEC. 3. Section 30102 of the Streets and Highways Code is amended to read:

30102. Except as provided in Section 30102.5, the commission, in establishing toll charges, shall give consideration to the cost of operating and maintaining any particular toll bridge or other toll highway crossing, including the cost of insurance, the cost of operating and maintaining any ferry established and operated pursuant to Section 30356, and the amount required annually to meet the redemption of bonds and interest payments thereon. At all times, the tolls and charges shall be fixed at rates to yield annual revenue equal to the annual operating and maintenance expenses, including insurance costs, the cost of operating and maintaining any ferry established and operated pursuant to Section 30356, and all redemption payments and interest charges of the bonds issued for any particular toll bridge or other toll highway as they fall due.

SEC 4 Section 30102 5 is added to the Streets and Highways Code, to read.

30102.5 (a) Notwithstanding any other provision of this chapter, on and after January 1, 1982, the commission, in establishing toll charges for any particular toll bridge within the area of jurisdiction of the Metropolitan Transportation Commission, shall give consideration to the cost of operating toll bridges or other toll highways, the tolls on which are pledged as security for bonds issued and outstanding. The cost of operating toll bridges and other toll highways includes the cost of insurance, and the amount required annually to meet the redemption of bonds issued and outstanding for

which the tolls are pledged as security, and interest payments and interest charges of the bonds issued and outstanding as they fall due for any particular toll bridge or other toll highway. For the Richmond-San Rafael Bridge, costs may include amounts necessary to repay loans from the General Fund.

(b) In establishing toll charges for the toll bridges within the area of jurisdiction of the Metropolitan Transportation Commission, the commission shall also maintain net revenues to be used exclusively for transit capital improvements. The net revenues may not exceed the average financial commitment made toward transit capital improvements from toll revenues, as audited, during the 1977–78 and 1978–79 fiscal years, but may be adjusted annually according to the appropriate inflationary index adopted by the Metropolitan Transportation Commission.

(c) No new bonds may be issued that are secured by tolls of any particular toll bridge or toll highway within the area of jurisdiction of the Metropolitan Transportation Commission, except for those bonds necessary to finance the completion of the new Dumbarton Bridge and the payment by the Richmond-San Rafael Bridge of loans from the General Fund.

(d) No new loans shall be made from the General Fund or the State Highway Account for any toll bridge or toll highway within the area of jurisdiction of the Metropolitan Transportation Commission.

SEC. 5. Section 30884 of the Streets and Highways Code is amended to read:

30884. "Net revenues" means those revenues of a toll bridge that are in excess of the amount required (a) to pay necessary costs of operation, rehabilitation, and necessary safety improvements, (b) to meet the obligations assumed by the authority under any bond resolution applicable to the toll bridge, and (c) to repay any advances made to the department from any other source for studies and work preliminary to the financing of any toll bridge project.

SEC. 6. Section 30888 of the Streets and Highways Code is amended to read·

30888. The authority shall expeditiously approve the toll schedule proposed by the commission, unless the authority finds and determines that proposed toll schedule:

(a) Will not generate sufficient revenues (1) to pay required costs of operation, rehabilitation, and necessary safety improvements, (2) to meet the obligations assumed by the authority under any bond resolution applicable to the toll bridge, and (3) to repay any advances made to the department from any source for studies and work preliminary to the financing of any toll bridge project.

(b) Will adversely affect any state interest, including, but not limited to, the safe and efficient movement of traffic and the collection of tolls.

SEC. 7. Section 30889 of the Streets and Highways Code is amended to read:

30889. The commission, in establishing toll charges for toll bridges, shall give consideration to the cost of operating toll bridges, the tolls on which are pledged as security for bonds issued and outstanding. The cost of operation shall include the cost of insurance, the amount required annually to meet the redemption of bonds issued and outstanding from which tolls are pledged as security, and the interest payments of the bonds issued and outstanding as they fall due for any particular toll bridge. The commission shall also establish tolls in order to generate net revenues to be used exclusively for transit capital improvements. The net revenues may not exceed the average annual financial commitment made toward transit capital improvements from toll revenues, as audited, during the 1977–78 and 1978–79 fiscal years, but may be adjusted annually according to the appropriate inflationary index. In adopting a toll schedule for a toll bridge, the commission may also seek to (a) decrease traffic flow on the bridge, (b) change peak traffic characteristics to achieve more efficient utilization of the bridge, and (c) change traffic network patterns.

CHAPTER 1183

An act to amend Sections 14000.5 and 14038 of, to amend and renumber Section 14036 of, to add Sections 14031.6, 14031.7, 14031.8, 14031.9, 14031.10, 14034, 14035.3, 14036, 14038.5, and 14538 to, and to repeal and add Section 14035 of, the Government Code, and to amend Sections 707, 99313, and 99316.5 of, to add Sections 708, 730.7, and 763.1 to, and to repeal Section 99318.5 of, the Public Utilities Code, relating to transportation.

[Approved by Governor October 1, 1981 Filed with Secretary of State October 2, 1981]

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

SECTION 1 Section 14000.5 of the Government Code is amended to read:

14000.5. The Legislature further finds and declares that the role of the state in transportation shall be to:

(a) Encourage and stimulate the development of urban mass transportation and interregional high-speed transportation where found appropriate as a means of carrying out the policy of providing balanced transportation in the state.

(b) Implement and maintain a state highway system which supports the goals and priorities determined through the transportation planning process, which is in conformity with comprehensive statewide and regional transportation plans, and which is compatible with statewide and regional socioeconomic and environmental goals, priorities and available resources.

(c) Assist in the development of an air transportation system that is consistent with the needs and desires of the public, and in which airports are compatible in location with, and provide services meeting, statewide and regional goals and objectives.

(d) Develop a rail passenger network consistent with the needs and desires of the public, and in which the location of rail corridors and their service characteristics are compatible with statewide and regional goals and objectives, except that nothing in this section shall be construed to discourage the development of passenger rail service by privately owned carriers.

(e) Encourage research and development of technological innovation in all modes of transportation in cooperation with public agencies and the private sector.

SEC. 2. Section 14031.6 is added to the Government Code, to read·

14031.6. (a) The Governor shall include in the Budget Bill an appropriation from the Transportation Planning and Development Account in the State Transportation Fund to subsidize the operating costs of commuter and intercity passenger services pursuant to Section 14035 and an appropriation for capital improvements to intercity routes pursuant to Section 14038.

(b) The department shall recommend and the commission shall allocate to specific routes all funds appropriated for the purposes of Sections 14035 and 14038.

(c) The department shall request funding for capital improvements to commuter routes to which it provides subsidies through the program for exclusive public mass transit guideways established by Sections 99316 to 99317.9, inclusive, of the Public Utilities Code.

SEC 3. Section 14031 7 is added to the Government Code, to read:

14031.7 Prior to any allocation pursuant to subdivision (b) of Section 14031.6, for any recommended service, the department shall submit a report to the commission consisting of the following.

(a) The speeds and other service attributes needed.

(b) Needed facilities and manpower specifications

(c) The avoidable costs of direct services joint-use arrangements, capital facilities, and other necessary arrangements.

(d) An estimate of total costs for proposed services.

(e) An inventory and evaluation of other existing transportation services in the corridor.

(f) The market potential encompassing modal diversion and operating revenues.

(g) For any commuter service, the compatibility of the service with the affected regional transportation plan.

During the preparation of this report, the department shall draw upon the resources of the Public Utilities Commission and any other available resource.

SEC. 4 Section 14031 8 is added to the Government Code, to

read:

14031.8. (a) Any proposed new intercity service funded under Section 14031.6 shall continue to be eligible for those funds, commencing with its fourth year of operation, only if it maintains a ratio of fare revenues to avoidable costs of at least 55 percent by its third year of operation.

(b) Any existing intercity service funded under Section 14031.6 shall be eligible for those funds, commencing with the 1984–85 fiscal year, if it maintains a ratio of fare revenues to avoidable costs of at least 55 percent during the previous year of operation.

(c) For any new or existing intercity service not achieving the ratio of fare revenues to avoidable costs required by subdivision (a) or (b), the commission may grant a waiver for continuation of service, for not to exceed a maximum of three years, only if the department makes a request for such a waiver at least six months prior to the termination date Any request for a waiver shall be accompanied with an analysis of the service in question defining a specific program designed to improve the service's fare revenues to avoidable costs ratio.

SEC. 5 Section 14031.9 is added to the Government Code, to read:

14031.9. (a) Any proposed new commuter service funded under Section 14031.6 shall continue to be eligible for those funds, commencing with its fourth year of operation, only if it maintains a ratio of fare revenues to avoidable costs of at least 40 percent by its third year of operation

(b) Any existing commuter service funded under Section 14031.6 shall be eligible for those funds, commencing with the 1984–85 fiscal year, only if it maintains a ratio of fare revenues to operating costs of at least 40 percent during the previous year of operation.

(c) For any new or existing commuter service not achieving the ratio of fare revenues to avoidable costs or operating costs required by subdivision (a) or (b), the commission may grant a waiver for continuation of service, for not to exceed three years, only if the department makes a request for such a waiver at least six months prior to the termination date. Any request for a waiver shall be accompanied with an analysis of the service in question defining a specific program designed to improve the service's fare revenues to avoidable costs or operating costs ratio

SEC. 6 Section 14031.10 is added to the Government Code, to read:

14031 10. For purposes of Sections 14031.8 and 14031.9:

(a) "Avoidable cost" means all costs associated with a particular service which would not be incurred if the service were not provided

(b) "Operating costs" means all costs, exclusive of capital costs, amortization and depreciation costs, and lease-with-an-option-to-purchase costs, associated with a particular service which would be incurred only if the service were provided.

(c) "Fare revenues" means the total revenues collected from the operation of a particular service.

SEC. 7. Section 14034 is added to the Government Code, to read:

14034. (a) During the planning and development of any proposed commuter rail service, the department shall consult with the county transportation commission and the regional transportation planning agency affected by any such proposal, except those services approved for operation by order of the Public Utilities Commission prior to January 1, 1982.

(b) County transportation commissions and transportation planning agencies may review and comment during a public hearing on the priority list specified in Section 14538.

(c) Prior to any allocation pursuant to Section 14031.6, county transportation commissions and transportation planning agencies shall be notified at least 20 days before any such allocation is considered by the commission at a public hearing.

SEC. 8. Section 14035 of the Government Code is repealed.

SEC. 9. Section 14035 is added to the Government Code, to read:

14035 (a) The department may enter into contracts with the National Rail Passenger Corporation under Section 403(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. Section 563(b)) to provide commuter and intercity passenger rail services. Such contracts may include, but are not limited to, the extension of intercity passenger rail services or the upgrading of commuter rail services.

(b) The department may contract with railroad corporations for the use of tracks and other facilities and the provision of passenger services on such terms and conditions as the parties may agree.

(c) The department shall be the only public agency eligible to receive funds pursuant to Section 1614 of Title 49 of the United States Code.

(d) The department may construct, acquire, or lease and improve and operate rail passenger terminals and related facilities which provide intermodal passenger services along the following corridors: the San Diego-Los Angeles corridor, the San Francisco Peninsula commute corridor, the Los Angeles-Oxnard corridor, the San Bernardino-Riverside-Los Angeles corridor, the San Jose-Oakland-Sacramento-Reno corridor, the Los Angeles-Bakersfield-Stockton-Oakland corridor, and the Los Angeles-Santa Barbara-Oakland-Davis-Redding corridor.

SEC. 10. Section 14035.3 is added to the Government Code, to read:

14035.3. The department may request a railroad corporation under contractual obligation to the department for services to institute operating efficiencies, other than with respect to the size of operating crews, in connection with the service under contract. The railroad corporation shall respond to the department's request within 30 days after the initial request. In the event of a failure to respond, or refusal by the railroad corporation to effect those operating efficiencies, the Public Utilities Commission, within 60

days after application by the department, shall order the institution of operating efficiencies, if it finds, after a public hearing, that the efficiencies are necessary for the preservation of safety, for the continuation of the service, or for the expansion of service.

SEC. 11. Section 14036 of the Government Code is amended and renumbered to read:

14050. State highway projects to be included in the program of proposed projects report submitted to the United States Secretary of Transportation pursuant to Section 105 of Title 23 of the United States Code shall be those included in the five-year program for the expenditure of state transportation funds as set forth in the state transportation improvement program after July 1, 1979.

SEC. 12. Section 14036 is added to the Government Code, to read:

14036. The department shall prepare a rail passenger development plan annually for submission to the Legislature, the Governor, the Public Utilities Commission, and the California Transportation Commission. The plan shall be submitted annually to the commission by December 1 for its advice and consent and to the Legislature, the Governor, and the Public Utilities Commission by January 31 of the following year. The plan shall consist of all of the following:

(a) For capital and operating subsidies, all actual encumbrances for the prior year; and for state operations, all actual expenditures for the prior year. All revenues shall be identified by source. Variances in expenditures from the prior year's plan for capital and operating subsidies shall be identified for each route.

(b) For capital and operating subsidies, estimated encumbrances and revenues for the current year; and for state operations, estimated expenditures for the current year. The department shall use the same format as is required for prior year expenditures pursuant to subdivision (a).

(c) For the budget year and the four following fiscal years, proposed encumbrances for capital and operating subsidies shall be reported in the same format as is required for prior year's expenditures. For state operations, proposed expenditures for the budget year shall be reported.

(d) A determination of costing requirements for the operation of proposed commuter and intercity passenger rail services, including the avoidable costs of each individual service.

(e) The identification and cost of capital facilities necessary to enhance competitiveness of rail passenger services.

(f) A performance evaluation of all services in operation, including performance trends, potential for efficiency and effectiveness, possible improvements, and strategies to achieve that potential.

(g) An analysis of existing railroad mainlines in the state, including their condition and stability for the operation of competitive intercity and commuter passenger services.

(h) A recommendation of a level of and program for services over

a five-year period.

(i) The market potential for proposed rail passenger services.

(j) All proposed plans and specifications for the conversion of abandoned and proposed to be abandoned rail lines into joint freight and passenger rail transit routes.

(k) An evaluation of reports by regional planning agencies and county transportation commissions on commuter service alternatives in their regions, including presentation of their recommendations.

This report shall be prepared in consultation with the Public Utilities Commission and the National Rail Passenger Corporation. The department may consult with other agencies, organizations, and persons with expertise. The department shall employ realistic assumptions, using Public Utilities Commission cost data whenever possible, with respect to the level of services it can provide and the cost of these services when developing the plan.

SEC. 13 Section 14038 of the Government Code is amended to read·

14038. (a) The department may purchase and lease rail passenger cars and locomotives and other self-propelled rail vehicles.

(b) The department may acquire, lease, design, construct, and improve track lines and related facilities, and the department may contract with the private sector for the design, improvement, or construction of track lines and related facilities In the event that a railroad corporation refuses to allow improvements to tracks and related facilities, the Public Utilities Commission shall, within 60 days after application by the department, order the institution of those improvements, if it finds that the improvements are necessary to the safety of the railroad corporation's employees, passengers, customers, and the public. and the operating efficiency of the service for which they are requested.

(c) All purchases authorized by this section shall be made in accordance with Article 2 (commencing with Section 14790) of Chapter 6 of Part 5 5 of Division 3 of Title 2, except that the department shall perform the tasks set forth therein for the Department of General Services.

(d) Any facility or equipment acquired or improved by any entity with funds made available to it pursuant to this section shall become the property of that entity at such time and under such conditions as are agreed upon by the department in the agreement that makes such funds available to the entity. Section 14780 shall not apply to any agreement entered into pursuant to this section.

SEC. 14 Section 14038.5 is added to the Government Code, to read:

14038.5. (a) The department may, at the request of a transportation planning agency, county transportation commission, or metropolitan transit development board, and subject to approval of the commission, acquire abandoned or proposed to be abandoned rail freight lines which have the potential of being rebuilt into joint

freight and passenger rail transit lines.

(b) The department may, if requested by a transportation planning agency, county transportation commission, or metropolitan transit development board, develop plans and specifications for the conversion of abandoned or proposed to be abandoned rail lines into freight and passenger rail transit routes. The department may contract with the private sector to develop these plans and specifications.

(c) The department may, if requested by a regional planning agency, county transportation commission, or metropolitan transit development board, investigate and prepare procedures, subject to Public Utilities Commission approval, to reinstate rail passenger services in the requesting entity's jurisdiction.

SEC. 15. Section 14538 is added to the Government Code, to read:

14538. In conjunction with the rail passenger development plan prepared under Section 14036, the department shall prepare an annual report which includes a map and listing of the following:

(a) Existing intercity and commuter passenger rail routes and services.

(b) Proposed intercity and commuter passenger rail routes and services.

(c) Intercity and commuter passenger rail routes and services that are the subject of feasibility studies.

The map and listing shall be submitted annually to the commission by December 1 for its advice and consent and to the Legislature, the Governor, and the Public Utilities Commission by January 31 of the following year. The department shall conduct a public hearing prior to the preparation of this report.

SEC. 16. Section 707 of the Public Utilities Code is amended to read:

707. (a) In any proceeding before the commission relating to the rates charged by a railroad corporation for interurban railway passenger services or to the extent of such services, the commission shall take into consideration the availability of any public subsidies or other forms of support for such services.

(b) The Department of Transportation shall furnish to the commission such information as the commission may request concerning the availability of public subsidies or other forms of support for interurban railway passenger services.

(c) In any proceeding before the commission concerning the interurban transportation of passengers, or any service related thereto, by a railroad corporation, the commission shall give consideration to those factors that would assure the commencement, development, and continuation of such interurban passenger service.

(d) In any proceeding before the commission concerning the interurban transportation of passengers or any service related thereto by a railroad corporation, the commission shall give consideration to the establishment of intermodal facilities and order

the construction of those facilities pursuant to Section 762. The Department of Transportation shall furnish to the commission such information as the commission may request.

SEC. 17. Section 708 is added to the Public Utilities Code, to read:

708. The Department of Transportation shall prepare for the commission recommended train crew requirements for proposed intercity and commuter services. This recommendation shall be completed and submitted to the commission, for its consideration, by July 1, 1982.

In preparing the proposed crew requirements, the department may consider for rail passenger services funded pursuant to Section 14031.6 of the Government Code, for purposes of Section 14035 of the Government Code, the following recommended crew guidelines:

(a) For an intercity or commuter train, an engineer, a fireman, and a conductor for a train of three or fewer passenger cars and an engineer, a fireman, a conductor, and at least one additional employee for a train of four or more passenger cars.

(b) For self-propelled rail vehicles, a motorman and a conductor for one such vehicle or two such vehicles when connected, and an engineer, a fireman, and a conductor when three such vehicles are connected.

SEC. 18. Section 730.7 is added to the Public Utilities Code, to read.

730.7. The commission shall prepare in consultation with the department and adopt, by December 1, 1982, passenger rail service criteria and costing standards and methodologies for commuter services which shall include those issued by the Rail Service Planning Office of the Interstate Commerce Commission. These criteria, standards, and methodologies shall specify the compensation of railroad corporations for the avoidable operating costs and the avoidable capital costs which may be required for any level of service under consideration by the commission.

SEC. 19. Section 763.1 is added to the Public Utilities Code, to read:

763 1. Any transportation planning agency, any county transportation commission, or any city or county may petition the commission for the institution of new and additional rail passenger services.

SEC. 20. Section 99313 of the Public Utilities Code is amended to read:

99313. Funds may be appropriated from the account for the following purposes:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund, its mass transportation responsibilities, and its assistance in regional transportation planning.

(b) To the secretary for allocation to the Institute of Transportation Studies of the University of California for training and research in public transportation systems engineering and

management and coordination with other transportation modes.

(c) To the commission for its activities not payable from the State Highway Account.

(d) To the Public Utilities Commission for its passenger rail responsibilities specified in statute.

SEC. 21. Section 99316.5 of the Public Utilities Code is amended to read:

99316.5. (a) The department, public entities in counties which have approved a proposition pursuant to Section 4 of Article XIX of the California Constitution, and public entities in nonurbanized areas within the jurisdiction of a statutorily created transportation planning agency having jurisdiction over portions of two counties, may submit applications to the department for funds appropriated pursuant to Section 99316 for such guideway projects.

(b) Except in the case of the department, the public entity shall indicate in the application that it will contribute funds to finance the project in an amount at least equal to 5 percent of the cost of the project.

(c) The department shall notify the commission of any application the department receives.

SEC. 22. Section 99318.5 of the Public Utilities Code is repealed.

SEC. 23. The Legislative Analyst shall submit an annual report to the Legislature on the provisions of this act, particularly on the extent of Public Utilities Commission regulations. The first report shall be submitted not later than April 1, 1984.

CHAPTER 1184

An act to amend Section 66412.6 of, and to add Section 66472.1 to, the Government Code, relating to land subdivisions.

[Became law without Governor's signature Filed with Secretary of State October 2, 1981.]

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

SECTION 1. Section 66412.6 of the Government Code is amended to read:

66412.6. (a) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation of the parcel there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.

(b) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any

subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcels or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of this division and of local ordinances enacted pursuant thereto, as required pursuant to subdivision (a) of Section 66499.35, the presumption declared in this subdivision shall not be operative.

SEC. 2. Section 66472.1 is added to the Government Code, to read:

66472.1. In addition to the amendments authorized by Section 66469, after a final map or parcel map is filed in the office of the county recorder, such a recorded final map may be modified by a certificate of correction or an amending map, if authorized by local ordinance, if the local agency finds that there are changes in circumstances which make any or all of the conditions of such a map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and the local agency finds that the map as modified conforms to the provisions of Section 66474. Any such modification shall be set for public hearing as provided for in Section 66451.3 of this division. The legislative body shall confine the hearing to consideration of and action on the proposed modification.

CHAPTER 1185

An act to amend Sections 43000, 43102, and 43210 of, and to add Section 43101.5 to, the Health and Safety Code, relating to air pollution.

[Became law without Governor's signature Filed with Secretary of State October 2, 1981]

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

SECTION 1. Section 43000 of the Health and Safety Code is amended to read:

43000. The Legislature finds and declares:

(a) That the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state.

(b) That the control and elimination of those air pollutants is of prime importance for the protection and preservation of the public

health and well-being, and for the prevention of irritation to the senses, interference with visibility, and damage to vegetation and property.

(c) That the state has a responsibility to establish uniform procedures for compliance with standards which control or eliminate such air pollutants.

(d) That vehicle emission standards applied to new motor vehicles, and to used motor vehicles equipped with motor vehicle pollution control devices, are standards with which all motor vehicles shall comply.

SEC. 2. Section 43101.5 is added to the Health and Safety Code, to read:

43101.5. The emission standards adopted by the state board pursuant to Section 43101 for the 1983 and later model-year motor vehicles shall be limited by the following:

(a) For all gasoline-powered passenger vehicles prior to the 1986 model year, the state board shall not adopt primary standards for the emission of oxides of nitrogen which are more stringent than 0.7 grams per vehicle mile, unless the state board by regulation also provides for optional standards which are not more stringent, with respect to each constituent, than 0.39 grams per vehicle mile for nonmethane hydrocarbon, 7.0 grams per vehicle mile for carbon monoxide, and 0.7 grams per vehicle mile for oxides of nitrogen. For gasoline-powered light-duty vehicles and medium-duty vehicles prior to the 1986 model year of less than 4,000 pounds unladen weight, the state board shall not adopt primary standards for the emission of oxides of nitrogen which are more stringent than 1.0 gram per vehicle mile, unless the state board by regulation also provides for optional standards which are not more stringent, with respect to each constituent, than 0.39 grams per vehicle mile for nonmethane hydrocarbon, 9.0 grams per vehicle mile for carbon monoxide, and 1.0 gram per vehicle mile for oxides of nitrogen. Any option may not impose certification, warranty, or enforcement requirements of greater duration or stringency than those set forth in the regulations applicable to 1983 and later model years, as adopted or amended by the state board on May 20, 1981.

(b) If the state board intends by regulation to eliminate for 1986 and later model-year vehicles the optional standards specified in subdivision (a), the state board shall submit to the Legislature, not later than January 15th of the year which is at least two calendar years prior to the year in which production would commence of vehicles subject to the new standard, a report with an estimate of the air quality benefits of the more stringent standard, the technological and economic feasibility of requiring the standard, and the potential effects on fuel economy associated with the standard. The state board shall consult with the Environmental Protection Agency and motor vehicle and engine manufacturers prior to submitting the air quality and fuel economy estimates.

SEC. 3. Section 43102 of the Health and Safety Code is amended

to read:

43102. (a) No new motor vehicle or new motor vehicle engine shall be certified by the state board, unless the vehicle or engine, as the case may be, meets the emission standards adopted by the state board pursuant to Section 43101 under test procedures adopted by the state board pursuant to Section 43104.

(b) Notwithstanding subdivision (a), to assure that California consumers have an adequate selection of light-duty motor vehicle models, the state board shall adopt certification and enforcement regulations for future model years as soon as practicable, but not later than for the 1983 and subsequent model years, which will allow a manufacturer to certify in California federally certified light-duty motor vehicles with any engine family or families when their emissions are offset by the manufacturer's California certified motor vehicles whose emissions are below the applicable California standards. This exemption shall not apply to emergency vehicles, as defined in Section 2002 of Title 15 of the United States Code.

(c) Subdivision (b) shall not be applicable to any vehicle or engine model which is certified to meet the emission standards established pursuant to Section 43101 or 43101.5.

SEC. 4. Section 43210 of the Health and Safety Code is amended to read:

43210. (a) The state board shall provide, by regulation, for the testing of motor vehicles on factory assembly lines or in a manner which the state board determines best suited to carry out the purpose of this part and this section.

(b) If a motor vehicle does not meet the prescribed assembly line standards, the motor vehicle may be retested according to the official test procedures upon which original certification for that make and model vehicle was based. Any motor vehicle meeting the applicable emission standards by either of the testing procedures shall be deemed to meet the emission standards of the State of California and shall be eligible for sale in this state.

(c) The regulations adopted by the state board pursuant to subdivision (a) shall provide for reduced, statistically valid testing of motor vehicles contained in large engine families and for which initial test results indicate compliance with the applicable standards.

CHAPTER 1186

An act to add Article 1.7 (commencing with Section 16366.1) to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, relating to fiscal affairs.

[Became law without Governor's signature Filed with Secretary of State October 2, 1981]

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

SECTION 1. Article 1.7 (commencing with Section 16366.1) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 1.7. Federal Block Grant Funds

16366.1. The Legislature hereby finds and declares all of the following:

(a) The federal government is proposing significant and fundamental changes in the structure and funding of social services by eliminating or greatly reducing many categorical grants and consolidating them into block grants to be administered by the state.

(b) There has been little public debate or discussion on the proposed funding cuts which will result in significant cuts in programs which currently provide jobs, income, food, and medical care to poor people.

(c) There currently exist no state statutes, consistent with federal statutes, for establishing need or directing the allocation of resources to categories of client populations to be affected by block grant efforts, and the state must act to so provide immediately.

(d) The uncertainty surrounding the substance of the block grant proposals and the proximity of the 1981–82 federal fiscal year does not allow the state the time necessary to develop fair and effective service alternatives without serious disruptions of vital services currently being offered to our needy residents.

(e) In order to serve the unique needs of California's poor people, the state should continue, for the current year, to offer the services presently provided under federal categorical program grants.

(f) The Legislature must thoroughly review the use of federal funds affecting special population "categorical" groups in the State of California because of its commitment to maintain the efficient delivery of vital services to the most needy persons in the state.

(g) It is the intent of the Legislature that any provision of this article which is inconsistent with federal law shall not be operative.

16366.2. As used in this article:

(a) "Service provider" means any public or private nonprofit agency which provides service directly to categorical populations.

(b) "Consolidated program" means any program which the state has the option to fund with the block grant.

(c) "Categorical populations" means those recipients of services provided pursuant to a program listed in Section 16366.4.

(d) "Block grant funds" shall have the same meaning as defined in federal law in existence on the effective date of the statute which enacted this article.

16366.3. Federal block grant legislation provides that, for the first fiscal year, states have the option to accept or reject designated block grants. Consistent with this federal policy, the state shall, prior to July

1, 1982, accept only those block grants which meet all of the following criteria:

(a) The block grant includes programs and services which the state has previous administered.

(b) The block grant program, and funding, has been previously integrated into state and local service systems.

(c) The block grant program does not require increased state or local matching funds.

(d) There is a distinct advantage as a result of state assumption.

16366.4. (a) Based on the criteria specified in Section 16366.3, the Legislature directs the state to assume administrative responsibility for the following federal block grants in the 1981–82 state fiscal year:

(1) Low-income home energy assistance.

(2) Social services (pursuant to Title XX of the Social Security Act).

(b) Block grant programs not meeting the criteria specified in Section 16366.3, which shall not be assumed by the state until July 1, 1982, include all of the following.

(1) Preventive health and health services.

(2) Maternal and child health services

(3) Primary care.

(4) Alcohol, drug abuse, and mental health services.

(5) Community services.

(6) Community development.

16366.5. For the 1981–82 state fiscal year, block grants which the state chooses to accept and administer shall be disbursed in grant form and shall be governed by the provisions of this section The provisions of this section, however, shall apply only to the amount retained in the block and not to the amount transferred into another block, as permitted by federal law. The Governor may transfer funds between block grants only in an amount authorized by the Legislature.

(a) The Legislature, in cooperation with the appropriate state departments and service providers, shall undertake a study to evaluate the current levels of administrative costs incurred under the Title XX block grant and designate methods for determining and establishing acceptable ceilings for those costs.

(b) For the Low-Income Energy Assistance Block Grant, the amount spent during the 1981–82 state fiscal year by the state and by service providers for program administration of all federal categorical and block grant programs shall not exceed the percentage levels of administrative costs incurred in the 1980–81 fiscal year which were approved by the Legislature and reflected in each service provider grant in effect on July 1, 1981. In no event shall these administrative costs exceed 5 percent.

(c) The state shall maintain its level of funding for categorical programs consolidated into federal block grants.

16366.6 (a) The funds shall be used to serve the populations defined in the federal statutes and regulations which governed the

federal categorical programs as of January 30, 1981, and which are consolidated into the block grants.

(b) Federal funds shall be received by the Controller and held in a separate account of the federal trust fund in accordance with state law governing the administration of federal funds.

(c) The funds shall be disbursed to 1980–81 fiscal year grantees of categorical grant programs consolidated into the federal block grants in an amount which reflects the overall change in federal categorical funds which were available in the 1980–81 federal fiscal year.

16366.7. (a) The 1981–82 federal fiscal year shall be a transition year during which the rapid disbursement of federal block grant funds to service providers shall have the highest priority. The Governor shall act immediately upon passage of federal block grant legislation to assure the acquisition of block grant funds for the State of California and shall designate appropriate state agencies and departments to administer those block grants. Counties shall provide a list of service providers affected to the Governor in order to fulfill the provisions of this section.

(b) Within 10 calendar days after the federal government notifies the state of the award of block grant funds, the Governor shall notify, by certified mail, service providers of their right to receive funds under this article, advise them of the amount of funding to be allocated to them, ask whether they will accept the grant and continue to provide services as they did under federal categorical programs, and advise them that any funds not accepted shall be reallocated to other service providers.

(c) Service providers shall reply to the Governor's office by certified mail within 20 working days of receipt of the Governor's notice. The Governor shall refer the response of each service provider to the appropriate state agency and to the Joint Legislative Budget Committee.

(d) If any service provider does not accept funds, these funds shall revert to the administering state agency or department and the director of the agency or department shall have discretion to allocate the funds to another service provider serving the same categorical population.

(e) The state agencies and departments shall contract with qualifying service providers within 30 calendar days of receipt of the response to the Governor of each service provider.

16366.8. For those programs for which the state does not assume full administrative responsibility under the block grant consolidations reflected in the federal Omnibus Budget Reconciliation Act of 1981, but for which state agencies have continued administrative and funding responsibility, as reflected in the Budget Act of 1981, the following criteria shall be used in allocating any reduced levels of federal funds:

(a) The funds shall be utilized for the same purposes as discontinued federal grants.

(b) The funds shall be disbursed to the same programs and service

providers serving special populations, except those service providers who withdraw from the contracts or whose contracts have been terminated for failure to meet the conditions of their contracts. In these cases, the amount of the contract shall be reallocated to another service provider serving the same categorical population.

(c) The funds shall serve the special populations which meet the criteria of need required by federal categorical grant legislation and regulation.

(d) Reductions shall be prorated on an equitable basis to counties, programs, or grantees receiving federal funds in the most recent fiscal year. If the state or the county administering these programs determines that a particular program or service provider cannot feasibly operate at the reduced level provided herein, the state or county may terminate the program or the service provider's contract, and any funds saved thereby shall be allocated for the purpose of providing similar services to the same target population.

(e) Funds shall be administered by those state agencies currently administering the funds.

(f) To the extent that federal funds are allocated to counties on the basis of county plan submissions to appropriate state agencies, the county plans shall be amended to reflect reduced federal funding. The county shall hold at least one public hearing regarding the proposed changes to the county plans affected. With respect to any plans which are required to be approved by the state, the amended plans shall be approved by the appropriate state agencies and shall comply with the criteria set forth in this section. The approval shall be conducted and completed within 30 days to prevent interruptions in services.

(g) The amount expended in the 1981–82 state fiscal year by the state and by service providers for program administration of all federal categorical and block grant programs shall not exceed the percentage levels of administrative costs approved by the Legislature for departments and providers as of July 1, 1981, and reflected in each service provider grant in effect on that date.

If a state department finds that compliance with the provisions of this section disproportionately burdens certain programs or categories of clients, the department may withhold up to 5 percent of the total amount awarded to the department for each such categorical grant in order to equalize service levels.

16366.9. The 1981–82 state fiscal year shall be a transition year during which the Legislature shall require certain critical reviews and reports as it deems necessary to assist in developing the policies to govern the state's assumption of both federal categorical and block grants as contained in the federal Omnibus Budget Reconciliation Act of 1981. The Governor shall instruct state agencies to cooperate fully with the Legislature in complying with the provisions of this article.

(b) All departments affected shall prepare a separate summary of programs, funding levels, contracting progress, and clients affected

by funding reductions during the 1981–82 state fiscal year and separately identify the transition programs for which they would have any policy or administrative responsibilities no later than October 15, 1981. The summary of the 1981–82 state fiscal year funding reductions shall be submitted to the Joint Legislative Budget Committee and to the fiscal committee of each house.

(c) The Governor shall submit all relevant information, including, but not limited to, program identification, estimates of the types, levels, and distribution of clients affected, and estimates of federal funding levels as part of the proposed budget for the 1982–83 state fiscal year, and shall separately highlight and summarize this information in the proposed budget, incorporating any policy recommendations for the review of the Legislature.

(d) The Governor shall submit for the review of the Legislature at the same time a proposal for the structural and administrative organization of all federal programs to be administered by the state as of July 1, 1982.

16367. (a) There is hereby established a block grant advisory task force, referred to in this article as the task force, which shall remain in existence until July 1, 1984.

(b) The membership of the task force shall be comprised of the following persons:

(1) The Chairperson of the Senate Committee on Finance.

(2) The Chairperson of the Assembly Committee on Ways and Means.

(3) The Director of Finance.

(4) Three persons appointed by the Senate Committee on Rules. Two of the persons appointed shall be registered with the majority political party of the membership of the Senate and one person appointed shall be registered with the largest minority political party of the membership of the Senate.

(5) Three persons appointed by the Speaker of the Assembly Two of the persons appointed shall be registered with the majority political party of the membership of the Assembly and one person appointed shall be registered with the largest minority political party of the membership of the Assembly.

(6) Three persons appointed by the Governor. Two of the persons appointed shall be registered with the same political party as the Governor and one person appointed shall be registered with the same political party of the candidate who received the second highest number of votes for Governor in the last gubernatorial election

Two of each of the three appointments to be made by the Speaker of the Assembly, the Senate Committee on Rules, and the Governor shall be members of the populations currently served by categorical programs or board members of private nonprofit community-based organizations currently serving categorical populations, or both. The appointing powers shall ensure that the interests of counties are represented on the task force and may appoint county

representatives to the three remaining positions. Each appointee shall be knowledgeable in the administration and operation of the programs consolidated into block grants. In addition, each appointee shall be selected on the basis of expertise in a substantive area covered by block grants, so that each area is represented The appointing powers shall ensure that there is geographic balance in determining the composition of the task force. Each appointed member of the task force shall serve at the pleasure of the respective appointing power of the member. Appointments made pursuant to paragraphs (4), (5), and (6) shall be made within 30 days of the effective date of the statute which enacted this section.

(c) Within 30 days of the effective date of this article, the task force shall meet and elect a chairperson.

(d) The task force shall do all of the following:

(1) Monitor state and local agency compliance with this article.

(2) Gather information and hold public hearings on program performance, service, population needs, delivery systems, and fiscal management.

(3) Prepare recommendations for legislative policy deliberations no later than February 1, 1982, which include all of the following:

(A) Integration of block grant programs with existing state and local programs.

(B) Decisionmaking responsibility at both the state and local level, including involvement of community nonprofit agencies.

(C) Method of funding allocations.

(D) Coordinate the transfer of responsibility for administration of categorical programs from the federal to state government which shall include the transfer to the state of all information related to program management and categorical population needs.

(E) Proposed use of block grant funds to be received by the state, pursuant to the requirement of Section 1742(a) of the federal Omnibus Budget Reconciliation Act of 1981 or subsequent federal block grant legislation, including all of the following:

(i) A statement of goals and objectives.

(ii) Information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served.

(iii) The criteria and method established for the distribution of the funds, including details of how the distribution of funds will be targeted on the basis of need to achieve the purposes of the block grant funds and yearend reports regarding the expansion in which block grant funds were expended.

16367.1. (a) In order for the Legislature and the Governor to coordinate the fiscal and social policy of the state, the task force shall report all of the following to the Legislature and to the Governor at least twice a year:

(1) The level of federal funding available to the state in block grants.

(2) An assessment of the needs for the special populations served

under this article.

(3) An evaluation of the effectiveness of programs offered by service providers funded pursuant to this article in the 1981–82 fiscal year and each fiscal year thereafter.

(b) In reports required by subdivision (a), the task force shall make recommendations based on findings relating to all of the following:

(1) Funding priorities which ensure that the most urgent needs will be served effectively.

(2) An identification of service providers who offer the most efficient and effective programs.

(3) Recommendations for the coordination of programs offered by service providers.

(4) Administrative guidelines for block grants, including the identification and definition of state agency and community-based organization responsibility.

(5) Funding alternatives for meeting categorical population needs.

16368. (a) Not later than January 1, 1982, the Governor shall appoint an advisory committee determined to be broadly representative of the educational interests and the general public in the state, including persons representative of all of the following:

(1) Public and private elementary and secondary schoolchildren.

(2) Classroom teachers.

(3) Parents of elementary and secondary schoolchildren.

(4) Local boards of education.

(5) Local and regional administrators (including principals and superintendents).

(6) Institutions of higher education.

(7) The Legislature.

(b) The advisory committee shall hold public hearings to advise the Superintendent of Public Instruction, the State Board of Education, the Legislature, and the Governor on all of the following matters:

(1) The allocation among authorized functions of the funds reserved for use at the discretion of the state under Chapter 2 of the Education Consolidation and Improvement Act of 1981.

(2) The formula for the allocation of funds reserved for the use of the local educational agencies under Chapter 2 of that act.

(3) The planning, development, support, implementation, and evaluation of the state-level programs assisted by Chapter 2 of that act.

(c) The advisory committee shall make its recommendations to the Superintendent of Public Instruction, the State Board of Education, the Legislature, and the Governor not later than May 1, 1982.

(d) Not later than July 1, 1982, the Superintendent of Public Instruction and State Board of Education shall report and make their recommendations to the Legislature and the Governor concerning

those matters specified in subdivision (b).

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

1981–82

REGULAR SESSION

1981 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 3—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State December 4, 1980]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That pursuant to Section 10201 of the Government Code, Bion M. Gregory is selected as Legislative Counsel of California.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 3—Relative to legislative compensation.

[Filed with Secretary of State December 4, 1980]

WHEREAS, Section 8901.5 of the Government Code authorizes each Member of the Legislature to elect to receive one or more employee benefits, as prescribed by concurrent resolution, in lieu of a portion of his or her annual compensation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the employee benefits referred to in Section 8901.5 of the Government Code shall mean (1) the payment of the premium for any health or dental plan selected by the member and for which the state is authorized to pay all or a portion of the premium on behalf of any state employee, (2) the payment of the premium for any policy of accident insurance selected by the member for personal injury or sickness to the member, (3) the payment of the premium for a group term life insurance policy not to exceed fifty thousand dollars ($50,000), as selected by the Rules Committee of each house, and (4) the payment of the cost of any other benefit which may be provided pursuant to federal and state law; and be it further

Resolved, That the Rules Committee of each house shall provide for the manner and form by which a member may elect from month to month to have the above-described payments made in lieu of a portion of his or her monthly compensation.

RESOLUTION CHAPTER 3

Assembly Concurrent Resolution No. 24—Relative to commending the freed American hostages.

[Filed with Secretary of State January 28, 1981]

WHEREAS, On January 21, 1981, 52 freed American hostages arrived in West Germany after experiencing a 444-day ordeal as prisoners of Iranian revolutionaries; and

WHEREAS, The hostages arrived at the Rhein-Main Air Base near Frankfurt after a 12-hour flight from Tehran, Iran, via Athens and Algiers, where Algerian officials, acting as intermediaries, formally turned the former captives over to United States authorities in a brief but very joyous ceremony; and

WHEREAS, Upon their arrival in West Germany, a resounding cheer arose from hundreds of United States military and civilian personnel at the Rhein-Main Base, and a delegation, led by former Secretary of State Cyrus Vance, who headed the State Department when the United States Embassy and the hostages were seized, formed a receiving line to greet the 52 Americans; and

WHEREAS, It was on November 4, 1979, that the United States Embassy in Tehran was seized, by some 450 students and other militants, and throughout the ensuing ordeal, which is without precedent in modern diplomatic history, all of America hoped, waited, and wondered, and the wearing and display of yellow ribbons came to symbolize America's wait for the captives; and

WHEREAS, The 52 Americans whose 14-month ordeal has finally ended are: Thomas Ahern, Clair Barnes, William Belk, Robert Blucker, Donald Cooke, William Daugherty, Robert Englemann, William Gallegos, Bruce German, Duane Gillette, John Graves, Allan Golacinski, Joseph Hall, Kevin Hermening, Donald Hohman, Leland Holland, Michael Howland, Charles Jones, Malcom Kalp, Moorehead Kennedy, William Keough, Steve Kirtley, Kathryn Koob, Frederick Kupke, Bruce Laingen, Steve Lauterbach, Gary Lee, Paul Lewis, John Limbert, James Lopez, Johnny McKeel, Michael Metrinko, Jerry Miele, Michael Moeller, Bert Moore, Richard Morefield, Paul Needham, Robert Ode, Gregory Persinger, Jerry Plotkin, Regs Ragan, David Roeder, Barry Rosen, William Royer, Thomas Schaefer, Charles Scott, Donald Sharer, Rodney Sickmann, Joseph Subic, Elizabeth Swift, Victor Tomseth, and Phillip Ward; and

WHEREAS, Each and every one of the hostages is deserving of the highest of commendations and praise for the brave and gallant manner in which they endured this most tragic experience; now, therefore, be it

Resolved by the Assembly, the Senate thereof concurring, That the Legislature of the State of California hereby commends the 52 freed American hostages for their outstanding display of individual courage and fortitude, which should serve as a model to all

Americans, expresses joy and relief upon the occasion of the ending of this most trying episode, and extends heartfelt best wishes to the freed hostages, and their families and friends, for a speedy return to the United States, and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to the 52 freed American hostages.

RESOLUTION CHAPTER 4

Assembly Concurrent Resolution No. 10—Relative to "Children's Dental Health Month".

[Filed with Secretary of State January 29, 1981.]

WHEREAS, The month of February 1981, has been designated as "Children's Dental Health Month"; and

WHEREAS, The future is, to a large measure, dependent on the good health of our children and youth, the citizens of tomorrow; and

WHEREAS, Good health, physical and mental, can be achieved through good health habits learned early; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of February 1981, be recognized as "Children's Dental Health Month" and that all citizens and all community organizations are hereby urged to join in the observance; and be it further

Resolved, That copies of this resolution be transmitted to the Governor, the California Dental Association, the Northern California State Dental Hygienist Association, and the Southern California State Dental Hygienist Association.

RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 26—Relative to commending the Oakland Raiders.

[Filed with Secretary of State February 2, 1981]

WHEREAS, The City of Oakland and the State of California have been honored this year by the spirit and performance of the Oakland Raiders, World Champions of Football; and

WHEREAS, The Oakland Raiders, under the leadership of Coach Tom Flores, compiled a record of 11 wins and five losses during the regular season, earning a wild-card berth in the playoffs; and

WHEREAS, After defeating the Cleveland Browns by a score of 14 to 12, the Raiders captured the American Football Conference Championship by defeating the San Diego Chargers by 34 to 27; and

WHEREAS, On January 25, 1981, in the City of New Orleans, the Raiders defeated the Philadelphia Eagles by a score of 27 to 10 to win the Super Bowl and capture the National Football League Championship; and

WHEREAS, Against all opponents and in spite of controversy, the members of the Raiders Team demonstrated throughout the years a nobleness of spirit and dedication to excellence that serves as a lesson in character to the people of the State of California; now, therefore, be it

Resolved by Assembly of the State of California, the Senate thereof concurring, That the California Legislature hereby commends all members of the Raider Team and its organization for their magnificent performances throughout the football season, and especially in Super Bowl XV, and thank the Raiders for the honor they have brought to the City of Oakland and the State of California; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to owner Al Davis, Coach Tom Flores, and all members of the Oakland Raider National Football League Championship Team.

RESOLUTION CHAPTER 6

Senate Concurrent Resolution No. 5—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State February 11, 1981]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy and the advisory committees created pursuant to Resolution Chapter 4 of the 1979–80 Regular Session, are continued in existence through January 31, 1982, notwithstanding the provisions of any prior concurrent resolution affecting such committee or advisory committee. The committee shall continue to have the powers and duties granted and imposed by the resolution creating or continuing it. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided, that in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 20—Relative to the San Diego-Coronado Bridge.

[Filed with Secretary of State February 17, 1981.]

WHEREAS, The San Diego Council American Youth Hostels, Inc., plans to sponsor a bicycle ride on Bicycle Awareness Day, February 22, 1981, for the purpose of raising funds to further the purposes of the council; and

WHEREAS, In order to stimulate interest in this event, the council desires to include the San Diego-Coronado Bridge as part of the course over which participants will ride; and

WHEREAS, It appears to be in the best interests of the people of the Cities of San Diego and Coronado, and of the State of California as a whole, to encourage activities such as those carried on by the council; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to permit the use of two lanes of the San Diego-Coronado Bridge on February 22, 1981, from 8 a.m. to 10:30 a.m., by coning the two lanes for their use as part of the course for a bicycle ride sponsored by the San Diego Council American Youth Hostels, Inc., if the department is requested to do so by the Cities of San Diego and Coronado in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business, Transportation and Housing Agency and to the Director of Transportation.

RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 28—Relative to Student Solidarity Day for Soviet Jewry.

[Filed with Secretary of State February 25, 1981]

WHEREAS, The Student Coalition for Soviet Jewry is a national student organization which aims to motivate political action for Soviet Jewry; and

WHEREAS, Soviet Jewish emigration has decreased over 50 percent within the last year and new restrictions in the Soviet Union's emigration laws make it impossible for many Soviet Jews to even apply to leave; and

WHEREAS, The Student Coalition for Soviet Jewry will organize and coordinate a national lobby on February 25, 1981, in which students from universities and colleges throughout the east coast will

meet their Senators and Congressmen in Washington, D.C. to discuss the plight of Soviet Jewry and to recommend courses of action; and

WHEREAS, On the same day as the "Lobby" in Washington, D.C., students on university and college campuses in California, too far from Washington, D.C. to participate in the lobby, will encourage and coordinate campus programs dealing with the issues of Soviet Jewry at our universities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby proclaims February 25, 1981, as Student Solidarity Day for Soviet Jewry in the State of California.

RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 18—Relative to marathon.

[Filed with Secretary of State March 6, 1981.]

WHEREAS, There is an obligation to call the public's attention to the need for forestation in urban areas; and

WHEREAS, Citizen participation is one of the best ways to heighten public awareness; and

WHEREAS, People from all over southern California will gather between 8 and 10:30 o'clock, the morning of March 8, 1981, in honor of Arbor Day, for a 6.2-mile run on the Marina Freeway (State Highway Route 90) from the Slauson on ramp to the Lincoln Boulevard on ramp; and

WHEREAS, Radio 13 (San Diego) plans to sponsor a bike-run-walkathon on September 13, 1981, for the purpose of raising funds to benefit the Leukemia Society of America, San Diego Chapter; and

WHEREAS, In order to stimulate interest in this event, the station desires to include the San Diego-Coronado Bridge as part of the course over which participants will walk, bike, or run; and

WHEREAS, It appears to be in the best interests of the people of the Cities of San Diego and Coronado, and of the State of California as a whole, to encourage activities such as those carried on by the Leukemia Society of America; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to close the Marina Freeway (State Highway Route 90) from the Slauson on ramp to the Lincoln Boulevard on ramp in one direction only on Sunday, March 8, 1981, between the hours of 8 a.m. and 10:30 a.m. for the purpose of the running of Southern California's Third Urban Forest Run; and be it further

Resolved, That the department is hereby requested to permit the use of the San Diego-Coronado Bridge on September 13, 1981, by the

closing of necessary lanes from 7:30 a.m. to 11:30 a.m., for its use as part of the course for a bike-run-walkathon sponsored by Radio 13 (San Diego) to raise funds for the Leukemia Society of America, San Diego Chapter, if the department is requested to do so by the Cities of San Diego and Coronado in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of the Business, Transportation and Housing Agency and the Director of Transportation.

RESOLUTION CHAPTER 10

Assembly Concurrent Resolution No. 35—Relative to memorializing Ella Hill Hutch.

[Filed with Secretary of State March 6, 1981]

WHEREAS, It was with the most profound sorrow and a deep sense of loss that the Members of the Legislature learned of the untimely passing of Ella Hill Hutch, a distinguished citizen and Supervisor of the City and County of San Francisco; and

WHEREAS, Ella Hill Hutch was the first black woman to serve on the board of supervisors, and her rise to leadership from the most humble of beginnings reflected her great personal ability and the esteem in which she was held by her fellow citizens; and

WHEREAS, A native of Hollywood, Florida, she had worked for 25 years as an aide for the International Longshoremen's and Warehousemen's Union, and had become actively involved in Democratic party organizations, being first elected to the Central Committee of San Francisco in 1966, and being re-elected every two years since; and

WHEREAS, In 1974, Ella Hill Hutch was elected as the first woman director of The Bay Area Rapid Transit District, and was then twice elected to the Board of Supervisors, in 1977 as the representative of District 4, the Western Addition and Civic Center, and in 1980, when the Supervisors were elected from the city at large; and

WHEREAS, On the board of supervisors she was vice-chairwoman of the Finance Committee, and chairwoman of the Fire, Safety, and Police Committee, and among her colleagues she had a reputation for listening carefully and checking out the facts for herself, methodically and patiently; and

WHEREAS, Ella Hill Hutch was moderate and pragmatic, but committed to issues in which she believed, such as housing for the elderly and the poor, and she was a co-sponsor of the moratorium on condominium conversions and the moratorium on converting residential hotels to tourist use; and

WHEREAS, In 1974 and again in 1976, she was named Woman of

the Year by the Golden Gate Business and Civic Women's Club, only one of many honors bestowed on her by her fellow citizens; and

WHEREAS, Her associates on the board of supervisors considered her to be an excellent representative of her constituents, but a person who voted her convictions; she was down-to-earth, had a sense of humor, and was understanding and percipient of the problems which she addressed on the Board; and

WHEREAS, The death of Ella Hill Hutch prematurely closes the career of a dedicated public servant and leader; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their profound grief and regret at the passing of Ella Hill Hutch, and by this resolution express their great respect for her dedicated service to her city and state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for distribution.

RESOLUTION CHAPTER 11

Assembly Joint Resolution No. 15—Relative to inviting President Reagan to the opening of the California State Railroad Museum.

[Filed with Secretary of State March 6, 1981]

WHEREAS, The California State Railroad Museum will be opened on May 2, 1981, beginning a nine-day celebration with daily pageants and days commemorating the contribution made to building the railroads by the Chinese, Black, and Mexican communities; and

WHEREAS, The celebration will include the display of such items as the famous John Bull locomotive from the Smithsonian Institute, trains from Canada and the United States, and such activities as reenacting the Pony Express; and

WHEREAS, President Reagan, when serving as Governor of California, signed the authorization to create the California State Railroad Museum, and it is therefore especially appropriate that President Reagan be invited to the opening of this important historical facility; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of California respectfully invites President Ronald Reagan to give the dedication address upon the momentous occasion of the opening day of the California State Railroad Museum, on May 2, 1981; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the Vice President, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 2—Relative to the Joint Rules.

[Filed with Secretary of State March 13, 1981]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following rules be adopted as the Temporary Joint Rules of the Senate and Assembly for the 1981–82 Regular Session.

Standing Committees

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members, and the manner of selection to be determined by the rules of each house.

Joint Meeting of Committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen or chairwomen of the respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

Effect of Adoption of Joint Rules

3.5. The adoption of the Joint Rules for any extraordinary session shall not be construed as modifying or rescinding the Joint Rules of the Senate and Assembly for any previous session, nor as affecting in any way the status or powers of the committees created by those rules.

Definition of Word Bill

4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, resolutions ratifying proposed amendments to the United States Constitution, and resolutions calling for constitutional conventions.

Concurrent and Joint Resolutions

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions are those which relate to matters connected with the federal government.

Resolutions Treated as Bills

6. Concurrent and joint resolutions, other than resolutions ratifying proposed amendments to the United States Constitution and resolutions calling for constitutional conventions, shall be treated in all respects as bills except as follows:

(a) They shall be given only one formal reading in each house.

(b) They shall not be deemed bills within the meaning of subdivision (a) of Section 8 of Article IV of the Constitution.

(c) They shall not be deemed bills for the purposes of Rules 10.8, 53, 55, 56, and 61, and subdivision (c) of Rule 54 and subdivisions (a) and (b) of Rule 62.

(d) They shall not, except for those relating to voting procedures on the floor or in committee, be deemed bills for the purposes of subdivision (c) of Rule 62.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Digest of Bills Introduced

8.5. No bill shall be introduced unless it is contained in a cover attached by the Legislative Counsel and unless it is accompanied by a digest, prepared and attached to the bill by the Legislative Counsel, showing the changes in the existing law which are proposed by the bill. No bill shall be printed where the body of the bill or the Legislative Counsel's Digest has been altered, unless the alteration has been approved by the Legislative Counsel. If any bill is presented to the Secretary of the Senate or Chief Clerk of the Assembly for introduction, which does not comply with the foregoing requirements of this rule, the Secretary or Chief Clerk shall return it to the member who presented it. The digest shall be printed on the

bill as introduced, commencing on the first page thereof.

Digest of Bills Amended

8.6. Whenever a bill is amended in either house, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, shall request the Legislative Counsel to prepare an amended digest and cause it be printed on the first page of the bill as amended. The digest shall be amended to show changes in the existing law which are proposed by the bill as amended with any material changes in the digest indicated by the use of appropriate type.

Errors in Digest

8.7. If a material error in a printed digest referred to in Rule 8.5 or 8.6 is brought to the attention of the Legislative Counsel, he shall prepare a corrected digest which shall show the changes made in the digest as provided in Rule 10 for amendments to bills. He shall deliver the corrected digest to the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be. If the correction warrants it in the opinion of the President pro Tempore of the Senate or the Speaker of the Assembly, a corrected print of the bill as introduced shall be ordered with the corrected digest printed thereon.

Bills Amending Title 9 of the Government Code

8.8. A member who is the first-named author of a bill which would amend, add, or repeal any provision of Title 9 (commencing with Section 81000) of the Government Code, upon introduction or amendment of such bill in either house shall notify the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, of the nature of such bill. Thereafter, the Chief Clerk of the Assembly or the Secretary of the Senate shall deliver a copy of such bill as introduced or amended to the Fair Political Practices Commission pursuant to Section 81012 of the Government Code.

Restrictions as to Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment, or resolution under consideration. No amendment shall be in order when all that would be done to the bill is the addition of a coauthor or coauthors, unless the Rules Committee of the house in which such an amendment is to be offered grants prior approval.

Changes in Existing Law to Be Marked by Author

10. In a bill amending or repealing a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended or repealed, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended or repealed were a part of the original bill and was being printed for the first time.

When an entire code is repealed as part of a codification or recodification or when an entire title, part, division, chapter, or article of a code is repealed, the sections comprising such code, title, part, division, chapter, or article shall not be set forth in the bill or amendment in strikeout type.

Rereference to Fiscal and Rules Committees

10.5. Bills shall be rereferred to the fiscal committee of each house when they would do any of the following:

(1) Appropriate money.

(2) Result in substantial expenditure of state money by: (a) imposing new responsibilities on the state or (b) imposing new or additional duties on a state agency or (c) liberalizing any state program, function, or responsibility.

(3) Result in a substantial loss of revenue to the state.

(4) Result in substantial reduction of expenditures of state money by reducing, transferring, or eliminating any existing responsibilities of any state agency, program, or function.

Concurrent and joint resolutions shall be rereferred to the fiscal committee of each house when they contemplate any action which would involve any of the following:

(1) Any substantial expenditure of state money.

(2) Any substantial loss of revenue to the state.

The above requirements do not apply to bills or concurrent resolutions which contemplate the expenditure or allocation of contingent funds.

A bill which assigns a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be rereferred to the respective rules committees. Before the committee shall act upon such bill, it shall obtain from the Joint Legislative Budget Committee an estimate of the amount required to be expended to make the study.

Heading of Bills

10.7. No bill shall indicate in its heading or elsewhere that it was introduced at the request of a state agency or officer or any other person. No bill shall contain the words "By request" or words of similar import.

Consideration of Bills

10.8. The limitation contained in subdivision (a) of Section 8 of Article IV of the Constitution may be dispensed with as follows:

(a) A written request for such dispensation entitled "Request to Consider and Act on Bill Within 30 Calendar Days" shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, printed in the Journal and transmitted to the Committee on Rules of the appropriate house.

(b) The Committee on Rules of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for dispensing with the 30-calendar-day waiting period following the bill's introduction.

(c) If the Committee on Rules recommends that the waiting period be dispensed with, the member may offer a resolution, without further reference thereof to committee, authorizing hearing and action upon the bill before the 30 calendar days have elapsed. The adoption of the resolution shall require an affirmative recorded vote of three-fourths of the elected members of the house in which the resolution is presented.

Printing of Amendments

11. All bills amended by either house shall be immediately reprinted; in case new matter is added by the amendment such new matter shall be printed in italics in the printed bill, and in the case of matter being omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

Manner of Printing Bills

12. The State Printer shall observe the directions of the Joint Rules Committee in printing all bills, constitutional amendments, and concurrent and joint resolutions.

Distribution of Legislative Publications

13. All requests by members for mailing or distribution of copies of the Weekly Histories and the Legislative Index shall be filed with the Secretary of the Senate or the Chief Clerk of the Assembly. Except as otherwise provided by either the Assembly or Senate, each

Member of the Senate and Assembly shall be permitted to submit a list of 10 organizations or individuals. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of copies of the Weekly Histories and the Legislative Index to supply this list together with such number of bills and legislative publications as may be necessary for legislative requirements.

No complete list of bills shall be delivered except upon payment therefor of such sum as may be fixed by the Joint Rules Committee for any regular or extraordinary session. No more than one copy of any bill or other legislative publication, nor more than a total of 100 bills or other legislative publications during a session, shall be distributed free to any person, office, or organization. The limitations imposed by this paragraph do not apply to Members of the Legislature, the President of the Senate, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the court of appeal for each district; the Judicial Council; the California Law Revision Commission; the State Library; the Library of Congress; the libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Legislative publications heretofore distributed through the Bureau of Documents shall be distributed through the Bill Room. Unless otherwise provided for, the total number of each bill to be printed shall not be more than 2,500.

Summary Digest and Legislative Index

13.1. The Legislative Counsel shall provide for the periodic publication of a cumulative Legislative Index which shall include tables of sections affected by pending legislation. The State Printer shall print the Legislative Index in such quantities, and at such times, as are determined by the Secretary of the Senate and the Chief Clerk of the Assembly. The costs of such printing shall be paid from the legislative printing appropriation.

13.3. The Legislative Counsel shall compile and prepare for publication a summary digest of legislation passed at each regular and extraordinary session, which digest shall be prepared in a form suitable for inclusion in the publication of statutes. The digest shall be printed as a separate legislative publication on the order of the Joint Rules Committee and may be made available to the public in such quantities and at such prices as the Joint Rules Committee may determine.

13.5. The Legislative Counsel shall prepare for publication from time to time a cumulative statutory record. The statutory record shall be printed as a legislative publication on the order of the Secretary of the Senate or the Chief Clerk of the Assembly.

OTHER LEGISLATIVE PRINTING

Printing of the Daily Journal

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

15. The following shall always be printed in the journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions, and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial, or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

16. A daily file of bills ready for consideration shall be printed each day for each house when the Legislature is not in joint recess except days when a house does not meet.

Printing of History

17. Each house shall cause to be printed, once each week, a complete history of all bills; constitutional amendments; and concurrent, joint, and house resolutions originating in, considered, or acted upon by the respective houses and committees thereof. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such history shall show the action taken upon each measure up to and including the legislative day preceding its issuance. Except for periods when the houses are in joint recess, for each day intervening there shall be printed a daily

history showing the consideration given to or action taken upon any measure since the issuance of the complete history.

Authority for Printing Orders

18. The State Printer shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the rules, except upon a written order signed by the Secretary of the Senate, on behalf of the Senate, or the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly. Persons authorized to order printing under this rule may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly, are hereby authorized and directed to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All bills for printing must be presented by the State Printer within 30 days after the completion of the printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

Secretary and Chief Clerk Shall Endorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall endorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill.

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

Uncontested Bills

22.1. Each standing committee may report an uncontested bill out of committee with the recommendation that it be placed on the consent calendar. The Secretary of the Senate and the Chief Clerk of the Assembly shall provide to each committee chairman or chairwoman appropriate forms for such report. As used in this rule, "uncontested bill" means a bill, except a revenue measure or a measure as to which the 30-day limitation prescribed by subdivision (a) of Section 8 of Article IV of the Constitution has been dispensed with, which: (a) receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present; and (b) has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill as approved by the committee; and (c) prior to final action by the committee has been requested, by the author, to be placed on the consent calendar.

Consent Calendar

22.2. Following their second reading and the adoption of any committee amendments thereto, all bills certified by the committee chairman or chairwoman as uncontested bills shall be placed by the Secretary of the Senate or the Chief Clerk of the Assembly on the consent calendar, and shall be known as "consent calendar bills." Any consent calendar bill which is amended from the floor shall cease to be a consent calendar bill and shall be replaced on the third reading file. Upon objection of any member to the placement or retention of any bill on the consent calendar, such bill shall cease to be a consent calendar bill and shall be replaced on the third reading file. No consent calendar bill shall be considered for adoption until the second legislative day following the day of its placement on the consent calendar.

Consideration of Bills on Consent Calendar

22.3. Bills on the consent calendar are not debatable, except that the President of the Senate or the Speaker of the Assembly shall allow a reasonable time for questions from the floor and shall permit the proponents of such bills to answer such questions. Immediately

prior to voting on the first bill on the consent calendar, the President of the Senate or the Speaker of the Assembly shall call to the attention of the members the fact that the next rollcall will be the rollcall on the first bill on the consent calendar.

The consent calendar shall be considered as the last order of business on the daily file.

PASSAGE AND ENROLLING OF BILLS

Procedure on Defeat of More Than Majority Bill

23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, no further action may be taken on the bill; provided that an amendment to remove all sections requiring the higher vote for passage from the bill shall be in order prior to consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect such amendment. When the bill is reprinted, it shall be returned to the same place on the file as when it failed to receive the necessary votes.

Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature, constitutional amendments, and concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making such amendment or

amendments. Two copies of such amendment or amendments shall be attached to the bill or resolution so amended, and endorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be endorsed "concurred in," and such endorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly, as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

Amendments to Concurrent and Joint Resolutions

25.5. When a concurrent or joint resolution is amended, and the only effect of the amendments is to add coauthors, the joint or concurrent resolution shall not be reprinted unless specifically requested by one of the added coauthors, but a list of the coauthors shall appear in the journal and history.

To Concur or Refuse to Concur in Amendments

26. In case the Senate amends and passes an Assembly bill, or the Assembly amends and passes a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concurs (if it be a Senate bill), or the Assembly concurs (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Reference to Committee

26.5. Pursuant to Rule 26, whenever a bill is returned to its house of origin for a vote on concurrence in an amendment made in the other house, the Legislative Counsel shall promptly prepare and transmit to the Chief Clerk of the Assembly and the Speaker of the Assembly in the case of an Assembly bill, or to the Secretary of the Senate and Chairman of the Senate Committee on Rules in the case of a Senate bill, a brief digest summarizing the effect of the amendment made in the other house. The Secretary or Chief Clerk shall cause the digest to be printed in the Daily File immediately following any reference to the bill covered by the digest. A motion to concur or refuse to concur in the amendment shall not be in order until such time as the Legislative Counsel's Digest has appeared in the file.

If the digest discloses that the amendment of the other house has made a substantial substantive change in the bill as first passed by the house of origin, the bill shall on motion of the Chairman of the Senate Committee on Rules, if it be a Senate bill, be referred to the Senate

Committee on Rules for reference to an appropriate standing committee. If the bill is an Assembly Bill it shall be referred by the Chief Clerk of the Assembly, with the approval of the Speaker, to the committee of first reference. If the Speaker, upon evaluation of the bill, determines that the committee of first reference is not an appropriate committee to hear the amended bill, the Speaker shall not approve referral to that committee, but shall instead refer the bill to the Assembly Committee on Rules for rereferral.

Upon receipt of such a bill, the committee may vote to recommend concurrence or nonconcurrence in the amendment or the committee may hold the bill. The committee shall be subject to all the requirements for procedure provided under Rule 62 for committees other than for committees of first referral, and such other requirements for normal committee procedure as the Assembly or Senate may separately provide in the standing rules of their respective houses.

Any of the provisions of this rule may be dispensed with regard to a particular bill in its house of origin upon an affirmative vote of a majority of the members of that house.

Concurring in Amendments Adding Urgency Section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency statute and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Rule 28.

When Senate or Assembly Refuse to Concur

28. If the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) refuses to concur in amendments to the bill made by the other house, and when the other house has been notified of such refusal to concur, a conference committee shall be appointed for each house in the manner prescribed by these rules. The Committee on Rules in the case of the Senate and the Speaker of the Assembly in the case of the Assembly shall each appoint a committee

of three on conference, and the Secretary of the Senate or the Chief Clerk of the Assembly shall immediately notify the other house of the action taken.

Committee on Conference

28.1. The Senate Committee on Rules and the Speaker of the Assembly, in appointing a committee on conference, shall each select two members from those voting with the majority on the point about which the difference has arisen, and the other member from the minority, in the event there is a minority vote.

Whether a member has voted with the majority or minority on the point about which the difference has arisen is determined by his vote on the appropriate rollcall, as follows:

(1) In the Assembly—

(a) The rollcall on the question of final passage of a Senate bill amended in the Assembly when the Senate has refused to concur with the Assembly amendments.

(b) The rollcall on the question of concurrence with Senate amendments to an Assembly bill.

(2) In the Senate—

(a) The rollcall on the question of final passage of an Assembly bill amended in the Senate when the Assembly has refused to concur with the Senate amendments.

(b) The rollcall on the question of concurrence with Assembly amendments to a Senate bill.

Meetings and Reports of Committees on Conference

29. The first Senator named on the conference committee shall act as chairman or chairwoman of the committee from the Senate, and the first Member of the Assembly named on such committee shall act as chairman or chairwoman of the committee from the Assembly. The chairman or chairwoman of the committee on conference for the house of origin of the bill shall arrange the time and place of meeting of the conference committee and shall prepare or direct the preparation of reports. It shall require an affirmative vote of not less than two of the Assembly Members and two of the Senate Members constituting the committee on conference to agree upon a report, and the report shall be submitted to both the Senate and the Assembly. The committee on conference shall report to both the Senate and the Assembly. Such report is not subject to amendment, and if either house refuses to adopt such report, the conferees shall be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill. It shall require the same affirmative recorded vote to adopt any conference report

as required by the Constitution upon the final passage of the bill affected by such report. It shall require an affirmative recorded vote of two-thirds of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision (d) of Section 12 of Article IV of the Constitution. The report of a conference committee shall be in writing, and shall have affixed thereto the signatures of each Senator and each Member of the Assembly consenting to the report. Space shall also be provided where a member of a conference committee may indicate his dissent in the committee's findings. Any dissenting member may have attached to a conference committee report a dissenting report which shall not exceed, in length, the majority committee report. A copy of any amendments proposed in the majority report shall be placed on the desk of each member of the house before it is acted upon by the house.

The vote on concurrence or upon the adoption of such conference report shall be deemed the vote upon final passage of such bill.

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open and readily accessible to the public.

No conference committee on any bill may meet, consider, or act on the subject matter of the bill except in a meeting that is open and readily accessible to the public; unless the action is on a report determined by the Legislative Counsel to be nonsubstantive. The Legislative Counsel shall examine each proposed report and shall note upon the face of the report that the amendments proposed are "substantive" or "nonsubstantive" as the case may be.

The chairman or chairwoman of the conference committee of each house shall give notice to the file clerk of both houses of the time and place of such meeting. Notice of each public meeting shall be published in the file of each house one calendar day prior to the meeting, except that such notice shall not be required for a meeting of a conference committee on the Budget Bill. When the provisions of this subdivision are waived with respect to a meeting of any public conference committee, and when there is a meeting of a conference committee on the Budget Bill, every effort shall be made to inform the public that such a meeting has been called.

(b) The first committee on conference of the Budget Bill, if such a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If such report is not submitted by such date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill shall only consider differences between the Assembly version of the Budget Bill as passed by the Assembly and the Senate version of the Budget

Bill as passed by the Senate and shall not approve any item of expenditure nor control which exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, shall approve any substantial financial provision in any bill if such financial provision has not been heard by the fiscal committee of each house, nor shall any such conference committee approve substantial policy changes which have not been heard by the policy committee of each house.

When Conference Committee Report Is in Order

30. The presentation of the report of a committee on conference shall always be in order, except when a question of order or a motion to adjourn is pending, or during rollcall, and, when received, the question of proceeding to the consideration of the report, if raised, shall be immediately passed upon, and shall be determined without debate.

Conference Committee Reports on Urgency Statutes

30.5. When the report of a committee on conference recommends the amendment of a bill by the addition of a section providing that the act shall take effect immediately as an urgency statute, the procedure and the vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall adopt the report of the committee on conference shall be put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the adoption of the report and the amendments proposed thereby shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of the members elected to such house, the effect is a refusal to adopt the report of the committee on conference.

Failure to Agree on Report

30.7. A conference committee may find and determine that it is unable to submit a report to the respective houses, upon the affirmative vote to that effect of not less than two of the Assembly Members and not less than two of the Senate Members constituting the committee. Such finding may be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate in the form of a letter from the chairman of the committee on conference for the house of origin of the bill, containing the signatures of the members of the committee consenting to the finding and determination that the committee is unable to submit a report. The Chief Clerk of the

Assembly and the Secretary of the Senate, upon being notified that a conference committee is unable to submit a report, shall so inform each house, whereupon the conferees shall be discharged and other conferees appointed, in accordance with the provisions of Rule 29.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual.

Press Rules

32. (a) Persons desiring privileges of accredited press representatives shall make application to the Joint Rules Committee. Such application shall constitute compliance with any provisions of the Rules of the Assembly or the Senate with respect to registration of news correspondents. Applications shall state in writing the names of the daily newspapers, periodic publications, news associations, or radio or television stations by which they are employed, and what other occupations or employment they may have, if any; and they shall further declare that they are not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation, or association, and will not become so employed while retaining the privilege of accredited press representatives.

(b) The applications required by subdivision (a) of this rule shall be authenticated in a manner that shall be satisfactory to the Standing Committee of the Capitol Correspondents Association which shall see that occupation of seats and desks in the Senate and the Assembly Chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, qualified periodic publications, or news associations requiring daily telegraphic or radio or television service on legislative news. It shall be the duty of the standing committee at its discretion, to report violation of accredited press privileges to the Speaker of the Assembly, or to the Senate Committee on Rules, and pending action thereon the offending correspondent may be suspended by the standing committee.

(c) Except as otherwise provided in this subdivision, persons engaged in other occupations whose chief attention is not given to newspaper correspondence or to news associations requiring telegraphic or radio or television service shall not be entitled to the privileges accorded accredited press representatives; and the press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list only of persons authenticated by the standing committee of correspondents. Accreditation may be granted to bona fide correspondents of reputable standing employed

by periodic publications of general circulation, providing that the applicants are employed on a full-time basis in the capitol area preparing articles dealing with state government and politics and that their publications are not organs or organizations involved in legislative advocacy.

(d) The press seats and desks in the Senate and Assembly Chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the Press Room. The Press Room shall be under the control of the Chief of the Bureau of Buildings and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

(f) No accredited member of the Capitol Correspondents Association shall, for compensation, perform any service for state constitutional officers or members of their staffs, for state agencies, for the Legislature, for candidates for state office, or for a state officeholder, or for any person registered or performing as a legislative advocate.

(g) An accredited member of the association who violates subdivision (a) or (f) of this rule shall be subject to the following penalties:

(1) For the first offense, the Standing Committee of the Capitol Correspondents Association shall send a letter of admonition to the offending member, his employer, and the Joint Rules Committee. The letter shall state the nature of the member's rule violation and shall warn of an additional penalty for a second offense.

(2) For a second offense, the Standing Committee of the Capitol Correspondents Association shall recommend to the Joint Rules Committee that the member's accreditation be suspended or revoked and that he lose all rights and privileges attached thereto. The Standing Committee of the Capitol Correspondents Association shall also dismiss the member from the association.

Any member of the Standing Committee of the Capitol Correspondents Association may propose that the committee make an inquiry to determine if an association member has violated subdivision (a) or (f) of this rule. Upon a majority vote of the Standing Committee of the Capitol Correspondents Association, an inquiry shall be made.

Upon receipt of a signed, written notice from any association member of his belief that another association member may have violated subdivision (a) or (f) of this rule, the Standing Committee of the Capitol Correspondents Association shall commence an inquiry into the possible violation.

If the Standing Committee of the Capitol Correspondents Association determines by majority vote that an association member has broken an association rule, it shall inform the member of its finding. Within two weeks of notification, the member may request a meeting of the membership. If the member makes such a request, the Standing Committee of the Capitol Correspondents Association shall promptly schedule a meeting at the earliest possible time. After hearing the member and the committee review the circumstances of the alleged violation, the membership may, by majority vote, nullify the finding of the Standing Committee of the Capitol Correspondents Association. If nullification does not occur, the Standing Committee of the Capitol Correspondents Association shall impose immediately the appropriate penalty.

Dispensing With Joint Rules

33. No joint rule shall be dispensed with except by a vote of two-thirds of each house, except as otherwise provided in these rules. If either house shall violate a joint rule, a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

Opinions of Legislative Counsel

34. Whenever the Legislative Counsel issues an opinion to any person other than the first-named author analyzing the constitutionality, operation, or effect of a bill or other legislative measure which is then pending before the Legislature or of any amendment made or proposed to be made to such bill or measure, he is authorized and instructed to deliver two copies of the opinion to the first-named author as promptly as feasible after the delivery of the original opinion and also to deliver a copy to any other author of the bill or measure who so requests. A copy of any letter prepared by the Legislative Counsel for the sole purpose of advising a member of a conflict between two or more bills as to the sections of law being amended, repealed, or added shall be submitted to the chairman of the committee to which each such bill has been referred.

Resolutions Prepared by Legislative Counsel

34.1. Whenever the Legislative Counsel has been requested to draft a resolution commemorating or taking note of any event, or a resolution congratulating or expressing sympathy toward any person, and subsequently receives a similar request from another Member of the Legislature, he shall inform that requester and each

subsequent requester that such a resolution is being, or has been, prepared, and he shall inform them of the name of the member for whom the resolution was, or is being, prepared.

Resolutions

34.2. A concurrent resolution, Senate resolution, or House resolution may be introduced to memorialize the death of a present or former state or federal elected official or a member of their immediate families. In all other instances, a resolution other than a concurrent resolution, as specified by the Committee on Rules of each house, or as provided by the Joint Rules Committee in those cases which require that such resolution should emanate from both houses, shall be used for the purpose of commendation, congratulation, sympathy, or regret with respect to any person, group, or organization.

No concurrent resolution requesting the Governor to issue a proclamation shall be introduced without the prior approval of the Committee on Rules of the house in which the resolution is to be introduced.

Identical Drafting Requests

34.5. Whenever it shall come to the attention of the Legislative Counsel that a member has requested the drafting of a bill which will be substantially identical to one already introduced, he shall inform such member of that fact.

Expense of Members

35. As provided in Section 8902 of the Government Code, each Member of the Legislature is entitled to reimbursement for living expenses while required to be in Sacramento to attend a session of the Legislature, or while traveling to and from or in attendance at a committee meeting, or while attending to any legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member at the same rate as may be established by the State Board of Control for other elected state officers. Each member shall be reimbursed for travel expenses incurred in traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member at the rate prescribed by Section 8903 of the Government Code.

Expense allowances for Members of the Senate and Assembly shall be approved and certified to the Controller by the Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly

or other person authorized by the Assembly Committee on Rules, on behalf of the Assembly, weekly or as otherwise directed by either house, and upon such certification the Controller shall draw his or her warrants in payment of the allowances to the respective members.

Investigating Committees

36. In order to expedite the work of the Legislature either house, or both houses jointly, may by resolution or statute provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject concerning which it is to act and may authorize it to act either during sessions of the Legislature or, when such authorization may lawfully be made, after final adjournment.

In the exercise of the power granted by this rule, each committee may employ such clerical, legal, and technical assistants as may be authorized by: (a) the Joint Committee on Rules in the case of a joint committee, (b) the Senate Committee on Rules in the case of a Senate committee, or (c) the Assembly Committee on Rules in the case of an Assembly committee.

Except as otherwise provided herein for joint committees or by the Rules of the Senate or the Assembly for single house committees, each committee may adopt and amend such rules governing its procedure as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. Such rules may include provisions fixing the quorum of the committee and the number of votes necessary to take action on any matter. With respect to all joint committees, a majority of the membership from each house constitutes a quorum and an affirmative vote of a majority of the membership from each house is necessary for the committee to take action.

Each such committee is authorized and empowered to summon and subpoena witnesses, require the production of papers, books, accounts, reports, documents, records, and papers of every kind and description, to issue subpoenas, and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Each member of such committees is authorized and empowered to administer oaths, and all of the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant at Arms of the Senate or Assembly, or such other person as may be designated by the chairman or chairwoman of the

committee, shall serve any and all subpoenas, orders, and other process that may be issued by the committee, when directed to do so by the chairman, chairwoman, or by a majority of the membership of the committee.

Every department, commission, board, agency, officer, and employee of the state government, including the Legislative Counsel and the Attorney General and their subordinates, and of every political subdivision, county, city, or public district of or in this state, shall give and furnish to these committees and to their subcommittees upon request such information, records, and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created.

Each committee or subcommittee of either house in accordance with the rules of that respective house and each joint committee or subcommittee thereof, may meet at any time during the period in which it is authorized to act, either at the State Capitol, or at any other place in the State of California, in public or executive session, and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it or accomplish the objects and purposes of the resolution creating it with the following exceptions:

(a) When the Legislature is not in joint recess:

(1) No committee or subcommittee of either house shall meet outside the State Capitol without the prior approval of the Senate Committee on Rules with respect to Senate committees and subcommittees and the Speaker of the Assembly with respect to Assembly committees and subcommittees.

(2) No committee or subcommittee of either house, other than a standing committee or subcommittee thereof, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto. This requirement may be waived by a majority vote of either house with respect to a particular bill.

(3) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet outside the State Capitol without the prior approval of the Joint Rules Committee.

(4) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto.

(b) When the Legislature is in joint recess each joint committee or subcommittee, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall notify the Joint Rules Committee at least two weeks prior to any such meeting.

(c) The requirements placed upon joint committees by subdivisions (a) and (b) of this rule may be waived where it is deemed necessary by the Joint Rules Committee.

Each such committee may expend such money as may be made available to it for such purpose but no committee shall incur any indebtedness unless money shall have been first made available therefor.

No living expenses shall be allowed in connection with legislative business for a day on which the member receives reimbursement for expenses while required to be in Sacramento to attend a session of the Legislature. The chairman or chairwoman of each committee shall audit and approve the expense claims of the members of the committee including claims for mileage in connection with attendance on committee business, or in connection with specific assignments by the committee chairman or chairwoman, but excluding other types of mileage, and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman.

Subject to the rules of each house for the respective committees of each house, and subject to the joint rules for any joint committee, the chairman or chairwoman of any such committee may appoint subcommittees and chairmen or chairwomen thereof for the purpose of more expeditiously handling and considering matters referred to it, and such subcommittees and the chairmen or chairwomen thereof shall have all the powers and authority herein conferred upon the committee and its chairman or chairwoman. The chairman or chairwoman of such subcommittee shall audit the expense claims of the members of such subcommittees and other claims and the expenses incurred by it and shall certify the amount thereof to the chairman or chairwoman of the committee who shall, if he approves the same, certify the amount thereof to the Controller, and the Controller shall draw his warrant therefor upon such certification, and the Treasurer shall pay the same. Whenever such committee or any subcommittee thereof is authorized to leave the State of California in the performance of its duties, then such committee or subcommittee shall, while out of the state, have the same authority as if it were acting and functioning within the state, and the members thereof shall be reimbursed for expenses.

Notwithstanding any provision of this rule, if the standing rules of either house require that expense claims of committees for goods or services or pursuant to contracts or for expenses of employees or members of committees be audited or approved, after approval of the committee chairman or chairwoman, by another agency of either house, the Controller shall draw his warrants only upon the certification of such other agency. All expense claims approved by the chairman or chairwoman of any joint committee, other than the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be approved by the Joint Rules Committee and the Controller shall draw his warrants only upon the certification of the Joint Rules Committee.

Except salary claims of employees clearly subject to federal withholding taxes and the requirement as to loyalty oaths, claims

presented for services or pursuant to contract shall refer to the agreement, the terms of which shall be made available to the Controller.

Expenses of Committee Employees

36.1. Unless otherwise provided by respective house or committee rule or resolution, employees of legislative committees shall, when entitled to traveling expenses, be entitled to allowances in lieu of actual expenses for hotel accommodations, breakfast, lunch, and dinner, at the rates fixed by the Board of Control from time to time in limitation of reimbursement of expenses of state employees generally; provided, that if an allowance for hotel accommodations, breakfast, lunch, and dinner is made by a committee at a rate in excess of those fixed by the Board of Control the chairman or chairwoman of the committee shall notify the Controller of that fact in writing.

Appointment of Committees

36.5. The provisions of this rule shall apply whenever a joint committee is created by a statute or resolution which either provides that appointments be made and vacancies be filled in the manner provided for in the Joint Rules, or which makes no provision for the appointment of members or the filling of vacancies.

The Senate members of the committee shall be appointed by the Senate Committee on Rules; the Assembly members of the committee shall be appointed by the Speaker of the Assembly; and vacancies occurring in the membership of the committee shall be filled by the respective appointing powers. The members appointed shall hold over until their successors are regularly selected.

Appointment of Joint Committee Chairmen or Chairwomen

36.7. The chairman or chairwoman of each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be appointed by the Joint Rules Committee from a member or members recommended by the Senate Committee on Rules and the Speaker of the Assembly.

Joint Committee Funds

36.8. Each joint committee, heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall expend the funds heretofore or hereafter made available to it in compliance with the policies set forth by the Joint Rules Committee with respect to personnel, salaries, purchasing, office space assignment, contractual services,

rental or lease agreements, travel, and any and all other matters relating to the management and administration of committee affairs.

Joint Legislative Budget Committee

37. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Joint Legislative Budget Committee, which is hereby declared to be a continuing body.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and the organization and functions of the state, its departments, subdivisions and agencies, with a view of reducing the cost of the state government and securing greater efficiency and economy.

The committee shall consist of seven Members of the Senate and seven Members of the Assembly. The Senate members of the committee shall consist of seven Members of the Senate appointed by the Senate Committee on Rules. The Assembly members of the committee shall consist of seven Members of the Assembly appointed by the Speaker of the Assembly. The committee shall select its own chairman or chairwoman.

Any vacancies occurring between regular sessions in the Senate membership of the Joint Legislative Budget Committee shall be filled by the Senate Committee on Rules, and the Senators appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Senator whose term is expiring whenever he is not reelected at the general election.

Any vacancies occurring between regular sessions in the Assembly membership of the Joint Legislative Budget Committee shall be filled by the Speaker of the Assembly, and the Members of the Assembly appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Member of the Assembly whose term is expiring whenever he is not reelected at the general election.

Any vacancy occurring at any time in the Assembly membership of the committee shall be filled by appointment by the Speaker. The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the express terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee.

The Joint Legislative Budget Committee may render services to any investigating committee of the Legislature pursuant to contract between the Joint Legislative Budget Committee and the committee for which the services are to be performed. The contract may provide for payment to the Joint Legislative Budget Committee of the cost of such services from the funds appropriated to the contracting investigating committee. All legislative investigating committees are authorized to enter into such contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any such agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of Rule 36 shall apply to the Joint Legislative Budget Committee, and it shall have all the authority provided in such rule or pursuant to Section 11 of Article IV of the Constitution.

The committee shall have authority to appoint a Legislative Analyst, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary. The duties of the Legislative Analyst shall be as follows:

(1) To ascertain the facts and make recommendations to the Joint Legislative Budget Committee and under its direction to the committees of the Legislature concerning:

(a) The state budget.

(b) The revenues and expenditures of the state.

(c) The organization and functions of the state, its departments, subdivisions, and agencies.

(2) To assist the Senate Finance Committee and the Assembly Ways and Means Committee in consideration of the budget and all bills carrying express or implied appropriations and all legislation affecting state departments and their efficiency; to appear before any other legislative committee; and to assist any other legislative committees upon instruction by the Joint Legislative Budget Committee.

(3) To provide all legislative committees and Members of the Legislature with information obtained under the direction of the Joint Legislative Budget Committee.

(4) To maintain a record of all work performed by the Legislative Analyst under the direction of the Joint Legislative Budget Committee and to keep and make available all documents, data, and reports submitted to him by any Senate, Assembly, or joint committee. The committee may meet either during sessions of the Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

The chairman or chairwoman of the committee or, in the event of such person's inability to act, the vice chairman or vice chairwoman, shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman or chairwoman shall certify the amount approved to

the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman, and the Treasurer shall pay the same to the chairman or chairwoman of the committee to be disbursed by the chairman or chairwoman.

On and after the commencement of a succeeding regular session those members of the committee who continue to be Members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel, and staff, and all funds theretofore made available for its use.

Upon the conclusion of its work, any Assembly, Senate, or joint committee (other than a standing committee) shall deliver to the Legislative Analyst for use and custody all documents, data, reports, and other materials that have come into the possession of such committee and which are not included within the final report of such committee to the Assembly, Senate, or the Legislature, as the case may be. Such documents, data, reports, and other materials shall be available to Members of the Legislature, the Senate Office of Research, and the Assembly Office of Research, upon request.

The Legislative Analyst with the consent of the committee shall make available to any Member or committee of the Legislature any other reports, records, documents, or other data under his control, except that reports prepared by the Legislative Analyst in response to a request from a Member or committee of the Legislature shall only be made available with the written permission of the Member or committee who made the request.

The Legislative Analyst, upon the receipt of a request from any committee or Member of the Legislature to conduct a study or provide information which falls within the scope of his responsibilities and which concerns the administration of the government of the State of California, shall at once advise the Joint Legislative Budget Committee of the nature of the request without disclosing the name of the member or committee making the request.

The Legislative Analyst shall immediately undertake to provide the requesting committee or legislator with the service or information requested, and shall inform the committee or legislator of the approximate date when this information will be available. Should there be any material delay, he shall subsequently communicate this fact to the requester.

Neither the Committee on Rules of either house nor the Joint Rules Committee shall assign any matter for study to the Joint Legislative Budget Committee or the Legislative Analyst without first obtaining from the Joint Legislative Budget Committee an estimate of the amount required to be expended by it to make the study.

Any concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Budget Committee or to the Legislative

Analyst shall be referred to the respective rules committees. Before the committees shall act upon or assign such resolution, they shall obtain an estimate from the Joint Legislative Budget Committee of the amount required to be expended to make the study.

Citizen Cost Impact Report

37.1. Any Member or committee of the Legislature may recommend that the Legislative Analyst prepare a citizen cost impact analysis on proposed legislation. However, such a recommendation shall first be reviewed by the Committee on Rules of the house where the recommendation originated, and this committee shall make the final determination as to which bills shall be assigned for preparation of an impact analysis.

In selecting specific bills for assignment to the Legislative Analyst for preparation of citizen cost impact analyses, the Committee on Rules shall request the Legislative Analyst to present an estimate of his time and prospective costs for preparing the analyses. Only those bills which have a potential significant cost impact shall be assigned. Where necessary, the Committee on Rules shall provide funds to offset added costs incurred by the Legislative Analyst.

The citizen cost impact analyses shall include those economic effects which the Legislative Analyst deems significant and which he believes will result directly from the proposed legislation. Insofar as feasible, the Legislative Analyst shall consider, but not be limited to consideration of, the following:

(a) The economic effect on the public generally.

(b) Any specific economic effect on persons or businesses in the case of legislation which is regulatory.

The Legislative Analyst shall submit the citizen cost impact analyses when completed to the committee or committees and at the time or times designated by the Committee on Rules.

The Legislative Analyst shall submit from time to time, but at least once a year, a report to the Legislature on the trends and directions of the state's economy, and shall list the alternatives and make recommendations as to legislative actions which, in his judgment, will insure a sound and stable state economy.

Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority and specific constitutional authority by Chapter 4 (commencing with Section 10500), Part 2, Division 2, Title 2 of the Government Code. The committee shall consist of seven Members of the Senate and seven Members of the Assembly who shall be selected in the manner provided for in these rules, of which one shall be the chairman of the fiscal committee for the Senate and one the chairman of the fiscal committee for the Assembly. Notwithstanding anything to the contrary in these rules,

four members from each house constitute a quorum and the number of votes necessary to take action on any matter. The Chairman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Auditor General, shall provide the member or committee with a copy of such report when it is, or has been, submitted by the Auditor General to the Joint Legislative Audit Committee.

Study or Audits

37.4. (a) Notwithstanding any other provision of law to the contrary, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Auditor General.

(b) Any bill requiring action by the Auditor General shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Audit Committee or to the Auditor General shall be referred to the respective rules committees. Before the committees shall act upon or assign the bill or resolution, they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

Waiver

37.5. The provisions of subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when the provisions of subdivision (b) of Rule 37.4 have been waived. If the cost of a study or audit is less than one hundred thousand dollars ($100,000), the chairman of the committee may exercise the committee's authority to waive the provisions of subdivision (b) of Rule 37.4.

Registration of Legislative Representatives

37.6. The Joint Rules Committee shall have the rights, powers, and duties prescribed in Section 9909 of the Government Code, specifically including, but not limited to, the authority to grant certificates of registration as legislative advocates.

The committee shall study and analyze all facts relating to legislative representation and the regulation thereof, and shall report thereon to the Legislature at each regular session and from time to time as the committee deems necessary, including in the reports its recommendations for appropriate legislation.

The committee may direct the Legislative Analyst to perform such duties as may be assigned to him by the committee.

Administrative Regulations

37.7. (a) Any Member of the Senate may request the Senate Committee on Rules, and any Member of the Assembly may request the Speaker of the Assembly, to direct a standing committee or the Office of Research of their respective house to study any proposed or existing regulation or group of related regulations. Upon receipt of such a request, the Senate Committee on Rules or the Speaker of the Assembly shall, after review, determine whether such a study shall be made. In reviewing the request, the Senate Committee on Rules or the Speaker of the Assembly shall determine:

(1) The cost of making such a study.

(2) The potential public benefit to be derived from such a study.

(3) The scope of the study.

(b) The study may consider, among other relevant issues, whether the proposed or existing regulation:

(1) Exceeds the agency's statutory authority.

(2) Fails to conform to the legislative intent of the enabling statute.

(3) Contradicts or duplicates other regulations adopted by federal, state, or local agencies.

(4) Involves an overdelegation of regulatory authority to a particular state agency.

(5) Unfairly burdens particular elements of the public.

(6) Imposes social or economic costs which outweigh its intended benefits to the public.

(7) Imposes unreasonable penalties for violation.

The respective reviewing unit shall in a timely manner transmit its concerns, if any, to the Senate Committee on Rules or the Speaker of the Assembly, and the promulgating agency.

In the event that a state agency takes a regulatory action which the reviewing unit finds unacceptable, the unit shall file a report for publication in the daily journal of its respective house indicating the specific reasons why the regulatory action should not have been taken. The report may include a recommendation that the Legislature adopt a concurrent resolution requesting the state agency to reconsider its action or that the Legislature enact a statute to restrict the regulatory powers of the state agency taking the action.

Designating Legislative Sessions

39. All extraordinary sessions shall be designated in numerical order by the session in which convened.

Joint Rules Committee

40. The Joint Rules Committee is hereby created. The committee has a continuing existence and may meet, act, and conduct its

business during sessions of the Legislature or any recess thereof.

The committee shall consist of nine members of the Assembly Committee on Rules, the Speaker of the Assembly, and four members of the Senate Committee on Rules, and six Members of the Senate, to be appointed by the Senate Committee on Rules. Vacancies occurring in the membership shall be filled by the appointing power.

The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

The committee shall ascertain facts and make recommendations to the Legislature and to the houses thereof concerning:

(a) The relationship between the two houses and procedures calculated to expedite the affairs of the Legislature by improving that relationship.

(b) The legislative branch of the state government and any defects or deficiencies in the law governing that branch.

(c) Methods whereby legislation is proposed, considered, and acted upon.

(d) The operation of the Legislature, and the committees thereof, and the means of coordinating the work thereof and avoiding duplication of effort.

(e) Aids to the Legislature.

(f) Information and statistics for the use of the Legislature, and respective houses thereof, and the members.

Any matter of business of either house, the transaction of which would affect the interests of the other house, may be referred to the committee for action if the Legislature is not in recess, and shall be referred to the committee for action if the Legislature is in recess.

The committee has the following additional powers and duties:

(a) To select a chairman or chairwoman from its membership. The vice chairman or vice chairwoman of the committee shall be one of the Senate members of the committee, to be selected by the Senate Committee on Rules.

(b) To allocate space in the State Capitol Building and all annexes and additions thereto as provided by law.

(c) To approve, as provided by law, the appearance of the Legislative Counsel in litigation.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule and to direct the sheriff of any county to serve subpoenas, orders, and other

process issued by the committee.

(f) To report its findings and recommendations, including recommendations for the needed revision of any and all laws and constitutional provisions relating to the Legislature, to the Legislature and to the people from time to time and at any time.

(g) The committee, and any subcommittee when so authorized by the committee, may meet and act without as well as within the State of California, and is authorized to leave the state in the performance of its duties.

(h) To expend such funds as may be made available to it to carry out the functions and activities related to the legislative affairs of the Senate and Assembly.

(i) To appoint a chief administrative officer of the committee, who shall have such duties relating to the administrative, fiscal, and business affairs of the committee as the committee shall prescribe. The committee may terminate the services of the chief administrative officer at any time.

(j) To employ such persons as may be necessary to assist all other joint committees, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, in the exercise of their powers and performance of their duties. In accordance with Rule 36.8, the committee shall govern and administer the expenditure of funds by such other joint committees, requiring that the claims of such joint committees be approved by the Joint Rules Committee or its designee. All expenses of the committee as well as expenses of all other joint committees may be paid from the Contingent Funds of the Assembly and Senate.

(k) To appoint the chairmen or chairwomen of joint committees, as authorized by Rule 36.7.

(*l*) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

(m) The members of the Joint Rules Committee from the Senate may meet separately as a unit, and the members of the Joint Rules Committee from the Assembly may meet separately as a unit, and consider any action which is required to be taken by the Joint Rules Committee. If the majority of members of the Joint Rules Committee of each house at the separate meetings vote in favor of such action, the action shall be deemed to be action taken by the Joint Rules Committee.

The committee shall succeed to, and is vested with, all of the powers and duties of the Joint Committee on Legislative Organization, State Capitol Committee, the Joint Committee on Interhouse Cooperation, the Joint Legislative Committee for School Visitations, and the Joint Standing Committee on the Joint Rules of the Senate and the Assembly.

Subcommittee on Legislative Space and Facilities

40.3. (a) A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Space and Facilities. The subcommittee shall consist of three Members of the Senate and three Members of the Assembly, appointed by the Chairman of the Joint Rules Committee, and the chairman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen of the fiscal committees shall be ex officio members of the Joint Rules Committee, but shall not have voting rights on that committee, nor shall they be counted in determining a quorum. The subcommittee shall consider the housing of the Legislature and legislative facilities.

(b) The subcommittee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this subcommittee and its members.

(c) The subcommittee has the following additional powers and duties:

(1) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the subcommittee as will best assist it to carry out the purposes for which it is created.

(2) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the subcommittee.

(3) To report its findings and recommendations to the Legislature and to the people from time to time and at any time.

(4) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

(d) The subcommittee is authorized to leave the State of California in the performance of their duties.

Subcommittee on Legislative Assistance

40.5. A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Assistance. The Chairman or Chairwoman of the Joint Rules Committee shall appoint one member of the Joint Rules Committee from each house to be members of the subcommittee.

The subcommittee shall have the duty and responsibility of offering such assistance as may be desired by Members of the

Legislature, former members, and their families and rendering such aid and assistance as is possible through the offices of the Sergeants at Arms and other officers and employees of the Legislature in the event of the death of a member, former member, or a member of their families.

The Sergeants at Arms and other officers and employees of each house of the Legislature shall render such aid or assistance as may be requested or directed by the subcommittee.

The Joint Rules Committee shall allocate to the subcommittee, from any funds available therefor, such funds as may be required to carry out its functions.

Claims for Workers' Compensation

41. The Chairman or Chairwoman of the Committee on Rules of each house, or a designated representative, shall sign any required worker's compensation report regarding injuries or death arising out of and within the course of employment suffered by any member, officer, or employee of the house, or any employee of a standing or investigating committee thereof. In the case of a joint committee, the Chairman or Chairwoman of the Committee on Rules of either house, or a designated representative, may sign any such report in respect to a member or employee of such joint committee.

Information Concerning Committees

42. The Committee on Rules of each house shall provide for a continuous cumulation of information concerning the membership, organization, meetings, and studies of legislative investigating committees. Each Committee on Rules shall be responsible for information concerning the investigating committees of its own house and concerning joint investigating committees under the chairmanship of a member of that house. To the extent possible, each Committee on Rules shall seek to insure that the investigating committees for which it has responsibility under this rule have organized, including the organization of any subcommittees, and have had all topics for study assigned to them within a reasonable period of time.

The information thus cumulated shall be made available to the public by the Committee on Rules of each house and shall be published periodically under their joint direction.

Joint Committees

43. Concurrent resolutions creating joint committees of the Legislature and concurrent resolutions allocating moneys from the Contingent Funds of the Assembly and Senate to such committees shall be referred to the Committee on Rules of the respective houses.

Conflict of Interest

44. (a) No Member of the Legislature shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state.

(b) No Member of the Legislature shall, during the term for which he or she was elected:

(1) Accept other employment which he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his or her appearance, agreeing to appear, or taking any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency which is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed, pursuant to state law; provided, that this rule shall not be construed to prohibit a member who is an attorney at law from practicing in such capacity before the Workers' Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before any state board or agency in connection with, or in any matter related to, any case, action, or proceeding filed and pending in any state or federal court; and provided that this rule shall not act to prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof, and provided that the prohibition contained in this rule shall not apply to a partnership in which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction; and provided that the prohibition contained in this rule shall not apply in connection with any matter pending before any state board or agency on the operative date of this rule if the affected Member of the Legislature is attorney of record or representative in the matter prior to such operative date.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance, or other matter related to the legislative process, except fees for speeches or published works

on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, or in committee or elsewhere, in the enactment or defeat of legislation in which he or she has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement (which shall be entered verbatim on the journal) stating in substance that he or she has a personal interest in the legislation to be voted on and notwithstanding such interest, he or she is able to cast a fair and objective vote on such legislation, he or she may cast his or her vote without violating any provision of this rule;

(ii) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. In the event a rule of the house, requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(c) A person subject to this rule has an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group.

(d) A person subject to the provisions of this rule shall not be deemed to be engaged in any activity which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, arising from any situation, or to have a personal interest, arising from any situation, within the scope of this rule, solely by reason of any of the following:

(1) His or her relationship to any potential beneficiary of any

situation is one which is defined as a remote interest by Section 1091 of the Government Code or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5 of the Government Code.

(2) Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

(e) The enumeration in this rule of specific situations or conditions which are deemed not to result in substantial conflicts with the proper discharge of the duties and responsibilities of a legislator or legislative employee or in a personal interest shall not be construed as exclusive.

The Legislature in adopting this rule recognizes that Members of the Legislature and legislative employees may need to engage in employment, professional, or business activities other than legislative activities, in order to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this rule. However, in construing and administering the provisions of the rule, weight should be given to any coincidence of income, employment, investment, or other profit from sources which may be identified with the interests represented by those sources which are seeking action of any character on matters then pending before the Legislature.

(f) No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any part of this rule.

(g) No person shall induce or seek to induce any Member of the Legislature to violate any part of this rule.

(h) Violations of any part of this rule are punishable as provided in Section 8926 of the Government Code.

Joint Legislative Ethics Committee

45. (a) The Joint Legislative Ethics Committee is hereby created. The committee shall consist of three Members of the Senate appointed by the Senate Committee on Rules and three Members of the Assembly appointed by the Speaker of the Assembly. Of the three members appointed from each house, at least one from each house shall be a member of the political party having the largest number of members in that house and at least one from each house shall be a member of the political party having the second largest number of members in that house. The committee shall elect its own chairman or chairwoman. Vacancies occurring in the membership of the committee shall be filled in the manner provided for in these rules for other committees. A vacancy shall be deemed to exist as to

any member of the committee whose term is expiring whenever such member is not reelected at the general election.

(b) The committee is authorized to make rules governing its own proceedings. The provisions of Rule 36 relating to investigating committees shall apply to the committee.

Prior to the issuance of any subpoena by the committee with respect to any matter before the committee, it shall by a resolution adopted by a vote of two members of the committee from each house of the Legislature define the nature and scope of its investigation in the matter before it.

(c) Funds for the support of the committee shall be provided from the Contingent Funds of the Assembly and the Senate in the same manner that such funds are made available to other joint committees of the Legislature.

(d) The committee shall have power, pursuant to the provisions of this rule, to investigate and make findings and recommendations concerning alleged violations by Members of the Legislature of the provisions of Rule 44.

(e) Any person may: (1) file with the committee a verified complaint in writing which shall state the name of the Member of the Legislature alleged to have committed the violation complained of, and which shall set forth the particulars thereof, or (2) file a complaint concerning the alleged violation by a Member of the Legislature with the district attorney of the appropriate county.

If a person files a complaint with respect to any alleged violation by a Member of the Legislature with the committee, he or she may not thereafter file a complaint to institute a criminal prosecution for such violation until the committee has rendered its report or until a period of 120 days has elapsed since the filing of the complaint. If a complaint is filed with the appropriate district attorney by any person concerning an alleged violation by a Member of the Legislature of any provision of Rule 44, such person may not thereafter file a complaint with respect to such alleged violation with the committee.

If a complaint is filed with the committee, the committee shall promptly send a copy of the complaint to the Member of the Legislature alleged to have committed the violation complained of, who shall thereafter be designated as the respondent.

No complaint may be filed with the committee after the expiration of six months from the date upon which the alleged violation occurred.

(f) If the committee determines that the verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, it shall dismiss the complaint and notify the complainant and respondent thereof. If the committee determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, the committee shall promptly investigate the alleged violation and if,

after such preliminary investigation, the committee finds that probable cause exists for believing the allegations of the complaint, it shall fix a time for a hearing in the matter, which shall be not more than 30 days after such finding. If, after the preliminary investigation, the committee finds that probable cause does not exist for believing the allegations of the complaint, the committee shall dismiss the complaint. In either event, the committee shall notify the complainant and respondent of its determination.

(g) After the complaint has been filed, the respondent shall be entitled to examine and make copies of all evidence in the possession of the committee relating to the complaint.

(h) If a hearing is to be held pursuant to subdivision (f) of this rule, the committee, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code. All of the provisions of Chapter 4, except Section 9410, shall be applicable to the committee and the witnesses before it.

(i) At any hearing held by the committee:

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have these rights: to be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(3) The hearing shall be open to the public.

(j) Any official or other person whose name is mentioned at any investigation or hearing of the committee and who believes that testimony has been given which adversely affects him, shall have the right to testify or, at the discretion of the committee, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains.

(k) After the hearing the committee shall state its findings of fact. If the committee finds that the respondent has not violated any of the provisions of Rule 44, it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the Attorney General and to the district attorney of the appropriate county. If the committee finds that the respondent has violated any of the provisions of Rule 44, it shall state its findings of fact and submit a report thereon to the house in which the respondent serves, send a copy of such findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General and to the district attorney of the appropriate county.

(*l*) Nothing in this rule shall preclude any person from instituting a prosecution for violation of any provision of Rule 44 unless such person has filed a complaint with the committee concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the committee has made its

determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the committee.

(m) The filing of a complaint with the committee pursuant to this rule suspends the running of the statute of limitations applicable to any violation of the provisions of Rule 44 while such complaint is pending.

(n) The committee shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the committee, and all records and transcripts of any investigations, inquiries, or hearings of the committee under this rule shall be deemed confidential and shall not be open to inspection by any person other than a member of the committee, an employee of the committee, or a state employee designated to assist the committee, except as otherwise specifically provided in this rule. The committee may, by adoption of a resolution, authorize the release to the Attorney General or to the district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the Attorney General or the district attorney. All matters presented at a public hearing of the committee and all reports of the committee stating a final finding of fact pursuant to subdivision (k) of this rule shall be public records and open to public inspection. Any employee of the committee who divulges any matter which is deemed to be confidential by this subdivision is punishable as provided in Section 8953 of the Government Code.

(o) All actions of the committee shall require the concurrence of two members of the committee from each house.

(p) The committee may render advisory opinions to Members of the Legislature with respect to the provisions of Rule 44 and their application and construction. The committee may secure an opinion from the Legislative Counsel for this purpose or issue its own opinion.

Legislative Hearing Rooms

46. The Rules Committee of each house shall provide designated space for nonsmokers in each legislative hearing room under its jurisdiction; provided, however, that nothing in this rule shall prevent any committee chairman from prohibiting smoking completely, or from further restricting smoking to a greater extent than provided by the Rules Committee of that house.

Designating Legislative Sessions

50. Regular sessions shall be identified with the odd-numbered year subsequent to each general election, followed by a hyphen, and then the last two digits of the following even-numbered year. For example: 1973–74 Regular Session.

Days and Dates

50.5. (a) As used in these rules, "day" means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess requirement, or circumstance falls on a Saturday, Sunday, or Monday that is a holiday, the date shall be deemed to refer to the preceding Friday. When the date falls on a holiday on a weekday other than a Monday, the date shall be deemed to refer to the preceding day.

Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Tuesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from July 10 until August 10. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 15 until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Tuesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from July 2 until August 2. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Recall From Recess

52. Notwithstanding the power of the Governor to call a special session, the Legislature may be recalled from joint recess and reconvene in regular session by any of the following means:

(a) It may be recalled by joint proclamation, which shall be entered in the journal, of the Senate Committee on Rules and the Speaker of the Assembly or, in his or her absence from the state, the Assembly Committee on Rules.

(b) Ten or more Members of the Legislature may present a request for recall from joint recess to the Chief Clerk of the Assembly and the Secretary of the Senate. The request shall immediately be printed in the journal. Within 10 days thereafter, the Speaker of the Assembly, or if the Speaker is absent from the state, the Assembly Committee on Rules, and the Senate Committee on Rules shall act upon the request. If they concur in desiring to recall the Legislature from joint recess, they shall issue their joint proclamation entered in the journal no later than 20 days after publication of the request in the journal.

(c) If either or both of the parties specified in subdivision (b) does not concur, 10 or more Members of the Legislature may request the Chief Clerk of the Assembly or the Secretary of the Senate to petition the membership of the respective house. The petition shall be entered in the journal and shall contain a specified reconvening date commencing not later than 20 days after the date of the petition. If two-thirds of the members of the house or each of the two houses concur, the Legislature shall reconvene on the date specified. The necessary concurrences must be received at least 10 days prior to date specified for reconvening.

Procedure on Suspending Rules by Single House

53. Whenever these rules authorize suspension of the Joint Rules as to a particular bill by action of a single house after approval by the Committee on Rules of that house, the following procedure shall be followed:

(a) A written notice of intention to suspend the joint rule shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and shall be transmitted to the Committee on Rules of the appropriate house. The notice shall be printed in the journal of that house.

(b) The Assembly Committee on Rules or the Senate Committee on Rules, as the case may be, shall determine whether there exists an urgent need for the suspension of the joint rule with regard to the bill.

(c) If the appropriate rules committee recommends that the suspension be permitted, the member may offer a resolution, without further reference thereof to committee, granting permission to suspend the joint rule. The adoption of the resolution granting such permission shall require an affirmative recorded vote of the elected members of the house in which the request is made.

Introduction of Bills

54. (a) Bills may be introduced at any time except when the houses are in joint summer, interim, or final recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) The desks of the Senate and Assembly shall remain open, during a joint recess, other than a joint summer, interim, or final recess, for introduction of bills, during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate desk during such periods shall be numbered and printed. After printing, such bills shall be delivered to the Secretary of the Senate and shall be referred by the Senate Committee on Rules to a standing committee. Bills received at the Assembly desk during such periods shall be numbered, printed, and referred to a committee by the Assembly Committee on Rules. After printing, such bills shall be delivered to the Chief Clerk of the Assembly. On the reconvening of each house, the bills shall be read the first time, and shall be delivered to the committee to which they were referred.

(c) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Committee on Rules of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Committee on Rules determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Committee on Rules determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Committee on Rules may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill or amendments to a prior bill. This joint rule may be suspended by approval of the Committee on Rules and three-fourths vote of the house.

(d) During a joint recess, the Chief Clerk of the Assembly or Secretary of the Senate shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker of the Assembly.

(2) The Committee on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that when introduced as a bill, the page and the line numbers will not change. The Chief Clerk of the Assembly and Secretary of the Senate shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's digest. The Speaker of the Assembly and Senate Committee on Rules may refer all preprint bills to committee for study.

30-Day Waiting Period

55. No bill other than the Budget Bill may be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the history. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or if such period has expired, this rule may be suspended by approval of the Committee on Rules and two-thirds vote of the house in which the bill is being considered.

Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 30th constitutional deadline are "carryover bills." Immediately after January 30, bills introduced in the first year of the regular session that do not become "carryover bills" shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, "bills" does not include constitutional amendments.

Appropriation Bills

57. Appropriation bills that may not be sent to the Governor shall be held, after enrollment, by the Chief Clerk of the Assembly or Secretary of the Senate, respectively. The bills shall be sent to the Governor immediately after the Budget Bill has been enacted.

Urgency Clauses

58. An amendment to add a section to a bill to provide that the act shall take effect immediately as an urgency statute shall not be adopted unless the author of the amendment has first secured the approval of the Committee on Rules of the house in which the amendments are offered.

Vetoes

58.5. The Legislature may consider a Governor's veto for only 60 days, not counting days when the Legislature is in joint recess.

Publications

59. During periods of joint recess, weekly, if necessary, the following documents shall be published: files, histories, and journals.

Hearings in Sacramento

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) A committee may hear the subject matter of a bill during a period of recess. Four days' notice in the daily file is required prior to the hearing.

(c) No bill may be acted upon by a committee during a joint recess.

Deadlines

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between May 1 and September 16, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee requiring further action on a bill that was introduced in their respective houses, unless passed by a policy committee on or before May 1. A report may be received from a fiscal committee on or before July 3, however, if after May 1 the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) Between May 22 and September 16, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a policy committee requiring further action on a bill that was introduced in their respective houses.

(3) Between July 3 and September 16, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee concerning a bill that was introduced in their respective houses.

(4) Between June 19 and September 16, no bill, other than a fiscal bill, shall be passed by the house in which it was introduced, and, between July 10 and September 16, no fiscal bill shall be passed by the house in which it was introduced, other than on concurrence in amendments adopted in the other house.

(5) No bill, other than a fiscal bill, introduced in the other house shall be set for hearing in a policy committee unless, no later than July 3, the author files a request for hearing with the chairman of the

policy committee.

(6) Between August 19 and September 16, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee requiring further action on a bill that was introduced in the other house, unless it was passed by a policy committee on or before August 19. A report may be received from a fiscal committee on or before September 2, however, if after August 19 the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(7) Between June 26 and July 4, and between August 26 and September 3, no committee other than a fiscal committee shall meet for the purpose of hearing any bill.

(8) Between June 12 and June 22, between July 3 and July 13, and after September 2, no committee shall meet for the purpose of hearing any bill.

(9) Between September 2 and September 16, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from any committee requiring further action by their respective houses.

(b) Even-numbered year:

(1) After January 15, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a policy committee concerning bills introduced in their respective houses during the odd-numbered year which require further consideration by the fiscal committee. Such a report may be received from a policy committee on or before January 22, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) After January 22, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from any committee concerning bills introduced in their respective houses during the odd-numbered year requiring further action in that house.

(3) After April 16, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee requiring further action on a bill that was introduced in their respective houses, unless it was passed by a policy committee on or before April 16. A report may be received from a fiscal committee on or before June 4, however, if after April 16 the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(4) After May 7, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a policy committee requiring further action on a bill that was introduced in their respective houses.

(5) After June 4, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee concerning a bill that was introduced in their respective houses.

(6) After June 11, no bill shall be passed by the house in which it was introduced, other than on concurrence in amendments adopted

in the other house.

(7) No bill introduced in the other house shall be set for hearing in a policy committee unless, no later than June 18, the author files a request for hearing with the chairman of the policy committee.

(8) After July 2, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee requiring further action on a bill that was introduced in the other house, unless it was passed by a policy committee on or before July 2. A report may be received from a fiscal committee on or before August 13, however, if after July 2 the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(9) After August 6, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a policy committee requiring further action on a bill that was introduced in the other house.

(10) Between May 28 and June 7, and after August 6, no committee other than a fiscal committee shall meet for the purpose of hearing any bill.

(11) After August 13, the Secretary of the Senate and the Chief Clerk of the Assembly shall not receive a report from a fiscal committee requiring further action on a bill that was introduced in the other house.

(12) Between June 4 and June 14, and after August 13, no committee shall meet for the purpose of hearing any bill.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may subsequently receive a report recommending the bill for passage or for rereferral together with the amendments at any time within two legislative days after the deadline.

(d) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines imposed in subdivision (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.

(e) The deadlines imposed by this rule shall not apply to the rules committees of the respective houses.

(f) The deadlines imposed by this rule shall not apply in instances where a bill is referred to committee under Rule 26.5.

(g) Except as provided in paragraphs (a)(8) and (b)(12), the deadlines imposed by this rule shall not apply to constitutional amendments or those bills which go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California.

(h) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the members of the house.

Committee Procedure

62. (a) Notice of a hearing on a bill by the committee of first reference in each house shall be published in the file at least four days prior to the hearing. Otherwise, notice shall be published in the file two days prior to the hearing. Such notice may be waived by a majority vote of the house in which the bill is being considered. A bill may be set for hearing in a committee only three times. A bill is "set" for purposes of this subdivision whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing, and the committee, on its own initiation and not the author's, postpones the hearing on the bill or adjourns the hearing while testimony is being taken, such hearing shall not be counted as one of the three times a bill may be set. After hearing the bill, the committee may vote on the bill. If the hearing notice in the file specifically indicates that "testimony only" will be taken, such hearing shall not be counted as one of the three times a bill may be set. A committee may not vote on a bill so noticed until it has been heard in accordance with this rule. After a committee has voted on a bill, reconsideration may be granted only one time. Reconsideration may be granted within 15 legislative days or prior to the interim study joint recess, whichever first occurs. A vote on reconsideration cannot be taken without the same notice required to set a bill unless such vote is taken at the same meeting at which the vote to be reconsidered was taken and the author is present. When a bill fails to get the necessary votes to pass it out of committee or upon failure to receive reconsideration, it shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate of the house of the committee and may not be considered further during the session.

This subdivision may be suspended with respect to a particular bill by approval of the Committee on Rules and two-thirds vote of the members of the house.

(b) If the committee adopts amendments other than those offered by the author and orders the bill reprinted prior to its further consideration, the hearing shall not be the final time a bill may be set under subdivision (a) of this rule.

(c) When a standing committee takes action on a bill, the vote shall be by rollcall vote only. All rollcall votes taken by a standing committee shall be recorded by the committee secretary on forms provided by the Chief Clerk of the Assembly and the Secretary of the Senate. The chairman or chairwoman of each standing committee shall promptly transmit a copy of the record of the rollcall votes to the Chief Clerk of the Assembly or the Secretary of the Senate, respectively, who shall cause the votes to be published as prescribed by each house.

The provisions of this subdivision shall also apply to action of a committee on a subcommittee report. The rules of each house shall prescribe the procedure as to rollcall votes on amendments.

Any committee may, with the unanimous consent of the members present, substitute a rollcall from a prior bill, provided that the members whose votes are substituted are present at the time of the substitution.

At no time shall a bill be passed out by a committee without a quorum being present.

The provisions of this subdivision shall not apply to:

(1) Procedural motions which do not have the effect of disposing of a bill.

(2) Withdrawal of a bill from a committee calendar at the request of an author.

(3) Return of bills to the house where the bills have not been voted on by the committee.

(4) The assignment of bills to committee.

(d) The chairman or chairwoman of the committee hearing a bill, may, at any time, order a call of the committee. Upon a request by any member of a committee or the author in person, the chairman or chairwoman shall order the call.

In the absence of a quorum, a majority of the members present may order a quorum call of the committee and compel the attendance of absentees. The chairman or chairwoman shall send the Sergeant at Arms for those members who are absent and not excused by their respective house.

When a call of a committee is ordered by the chairman or chairwoman with respect to a particular bill, he or she shall send the Sergeant at Arms or any other person to be appointed for that purpose for those members who have not voted on that particular bill and are not excused.

A quorum call or a call of the committee with respect to a particular bill may be dispensed with by the chairman or chairwoman without objection by any member of the committee, or by a majority of the members present.

If a motion is adopted to adjourn the committee while the committee is operating under a call, the call shall be dispensed with and any pending vote announced.

The committee secretary shall record the votes of members answering a call. The rules of each house may prescribe additional procedures for a call of a committee.

Hearing of Fiscal Bills

62.6. (a) No bill rereferred to a fiscal committee pursuant to Rule 10.5 may be set for hearing prior to passage of the Budget Bill, or defeat of the first conference committee report on the Budget Bill by either the Senate or the Assembly, whichever occurs first, if the bill does either of the following:

(1) Contains an appropriation and that appropriation would not be offset by additional revenue, generated by the bill, in an amount equal to or greater than the amount of the appropriation.

(2) Would result in costs or a revenue loss to the state or local governments and contains no appropriation or provision for a new source of revenue to pay for such costs or to replace such revenue loss.

(b) The provisions of subdivision (a) shall not apply to a bill which does any of the following:

(1) Contains an urgency clause and is supported by the Speaker's recommendation to the Ways and Means Committee, or the President pro tempore's recommendation to the Finance Committee, or by a two-thirds vote of the membership of the house, that the bill be heard prior to passage of the Budget Bill following rereferral by the policy committee.

(2) Redirects expenditure of existing appropriations in an amount sufficient to offset costs.

(3) Contains an appropriation or imposes a cost or revenue loss which is estimated to be twenty-five thousand dollars ($25,000) or less.

(4) Affects property tax revenues from the 1978–79 unsecured roll, the collection or expenditure of which was deferred until July 1, 1981, pursuant to Sections 69.5 and 69.6 of Chapter 1354 of the Statutes of 1980.

(5) Contains an appropriation for the usual current expenses of the state.

(6) Contains an appropriation to pay claims against the state.

(c) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the members of the house.

(d) This rule shall be effective only until August 1, 1981, and on such date is repealed.

Uniform Rules

63. No standing committee of either house shall adopt or apply any rule or procedure governing the voting upon bills which is not equally applicable to the bills of both houses.

Votes on Bills

64. Every meeting of each house and standing committee or subcommittee thereof where a vote is to be taken on a bill, or amendments to a bill, shall be public.

Conflicting Rules

65. The provisions of Rule 50 and following of these rules prevail over any conflicting joint rule with a lesser number.

RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 38—Relative to honoring *Nina Warren.*

[Filed with Secretary of State March 16, 1981]

WHEREAS, March 9 marks the birthday of Nina Warren, a talented and most gracious California resident and widow of the late Governor of California and Chief Justice of the United States Supreme Court, Earl Warren; and

WHEREAS, Mrs. Warren is a native of Sweden who came to the United States as an infant, and she met and married the Honorable Governor and Chief Justice in Alameda County on October 14, 1925; and

WHEREAS, Her charm and strength played a major role in the success of her late husband, and she also provided great inspiration and leadership as the first lady when he served as Governor of California from 1942 to 1953; and

WHEREAS, In addition to her contributions as a marvelous wife, she has been a wonderful mother to her six children, James Cleveland, Virginia, Earl Jr., Dorothy, Nina Elizabeth, and Robert, and she has always distinguished herself as a warm and sensitive individual; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Nina Warren be congratulated and commended upon the occasion of her birthday, and extended sincere gratitude for her outstanding and vibrant contributions to the people of California; and

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Nina Warren.

RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 5—Relative to the California Law Revision Commission.

[Filed with Secretary of State March 20, 1981]

WHEREAS, Section 10335 of the Government Code provides that the California Law Revision Commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress; and

WHEREAS, The commission, in its annual report covering its activities for 1980, lists the following topics, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress:

Topics Under Active Consideration

(1) Whether the law relating to creditors' remedies including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters should be revised;

(2) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(3) Whether the California Probate Code should be revised, including but not limited to whether California should adopt, in whole or in part, the Uniform Probate Code;

(4) Whether a Marketable Title Act should be enacted in California and whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use, should be revised;

(5) Whether the law relating to possibilities of reverter and powers of termination should be revised;

(6) Whether Section 1464 of the Civil Code should be revised or repealed;

(7) Whether the law relating to community property should be revised;

(8) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

Other Topics Authorized for Study

(1) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(2) Whether the law relating to class actions should be revised;

(3) Whether the law relating to offers of compromise should be revised;

(4) Whether the law relating to discovery in civil cases should be revised;

(5) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(6) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney fees to the prevailing party;

(7) Whether the acts governing special assessments for public improvements should be simplified and unified;

Topics Continued on Calendar for Further Study

(1) Whether the law relating to eminent domain should be revised;

(2) Whether the law relating to quiet title actions should be revised;

(3) Whether the law relating to the abandonment or vacation of public streets and highways by cities, counties, and the state should be revised;

(4) Whether the Evidence Code should be revised;

(5) Whether the law relating to arbitration should be revised;

(6) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised;

(7) Whether the law relating to partition should be revised;

(8) Whether the law relating to modification of contracts should be revised;

(9) Whether the law relating to sovereign or governmental immunity in California should be revised;

(10) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(11) Whether the law relating to the rights and duties attendant upon termination or abandonment of a lease should be revised;

(12) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;

(13) Whether the parol evidence rule should be revised;

(14) Whether the law relating to powers of appointment should be revised;

(15) Whether the law relating to pleadings in civil actions and proceedings should be revised;

Topic to Be Removed From Calendar of Topics

(1) Whether the law relating to suit by and against partnerships and other unincorporated associations should be revised and whether the law relating to the liability of such associations and their members should be revised; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves the topics listed above as studies in progress for continued study by the California Law Revision Commission and approves the removal from the commission's calendar of the topic listed above; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 39—Relative to proclaiming March 19, 1981, as "Agriculture Day."

[Filed with Secretary of State March 20, 1981.]

WHEREAS, Agriculture is California's leading and most basic industry, providing a vital link in a chain, either directly or indirectly, involving hundreds of thousands of jobs via farm-level production, processing, and marketing segments; and

WHEREAS, California's agricultural productivity forms a substantial cornerstone of the state's economy, having contributed $14 billion in gross farm receipts from the production of 250 different crops and livestock products; and

WHEREAS, California is the leading agricultural producing state in the nation and its food and fiber is a vital ingredient in our strength as a nation, both domestically and on the world scene; and

WHEREAS, To maintain a healthy industry, it is necessary that all of the people in these United States should be aware of, and have an interest in, how agriculture affects their everyday lives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims March 19, 1981, as "Agriculture Day"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and to the President of the United States.

RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 48—Relative to solid waste.

[Filed with Secretary of State April 10, 1981.]

WHEREAS, More than 46 million tons of nonhazardous solid wastes are generated each year in California and many of the state's 600 sanitary landfills are closing for want of space or failure to meet health and safety standards; and

WHEREAS, Californians spend more than $600 million each year to collect, transfer, haul, and bury solid wastes that contain hundreds of millions of dollars of valuable energy and materials that could easily be reused, recycled, or otherwise recovered; and

WHEREAS, The problem of handling and disposing of litter continues to plague California's cities and counties, costing the taxpayers an additional $100 million; and

WHEREAS, The State Solid Waste Management Board is the state agency responsible for initiating and encouraging statewide and

community programs in solid waste management planning and enforcement, recycling, resource reuse, energy recovery, litter control, and public education and participation; and

WHEREAS, The State Solid Waste Management Board, with the support of dozens of California public interest groups, businesses, and local governments, is sponsoring the Great California Resource Rally to be held April 20–26, 1981, to raise Californians' awareness of the state's impending garbage crisis and to encourage citizen participation in litter control, recycling, and waste reduction activities; and

WHEREAS, The Legislature of the State of California has a critical leadership role to play in helping to find solutions to California's solid waste management challenges; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members hereby endorse and support the objectives and goals of the Great California Resource Rally, and urge all Californians to participate in and support recycling, litter control, and waste reduction activities throughout the year but especially during the rally week of April 20–26, 1981; and be it further

Resolved, That this resolution be publicized throughout the state and serve as a formal petition to Californians to endorse and support the Great California Resource Rally; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Solid Waste Management Board and to the clerk of the board of supervisors of each county.

RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 50—Relative to the children of Atlanta.

[Filed with Secretary of State April 10, 1981]

WHEREAS, Twenty-one children have been killed in Atlanta since July 1979 in a series of unsolved murders; and

WHEREAS, The deaths have caused great trauma to the families of the victims, the City of Atlanta, and to the nation as a whole; and

WHEREAS, An intensive hunt, which involves FBI agents, as well as local Atlanta police, and Georgia state police, is being conducted to apprehend the murderer or murderers of the children; and

WHEREAS, The City of Atlanta has adopted green ribbons as the symbol of its efforts to capture the murderer or murderers and end the deaths; and

WHEREAS, A nationwide movement has begun to wear green ribbons in memory of the murdered and missing children; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Members encourage the wearing of the symbolic green ribbons in protest of the violence prevalent in our society, and in memory of the slain children of Atlanta, as moral support to the families of the children, and in support of the combined national, state, and local law enforcement efforts to apprehend the perpetrator or perpetrators of these heinous crimes in the Atlanta area; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the families of the victims and to the Mayor of Atlanta.

RESOLUTION CHAPTER 18

Assembly Joint Resolution No. 30—Relative to federal aid to Atlanta.

[Filed with Secretary of State April 10, 1981]

WHEREAS, As the 22nd name was added to the list of slain and missing black children in Atlanta, Georgia, President Reagan announced he was providing an additional $1.5 million to help pay for the investigation aimed at ending the city's "nightmare"; and

WHEREAS, Deploring the baffling crimes as "one of the most tragic situations that has ever confronted an American community," President Reagan approved the funds which will augment the $979,000 in federal aid sent to Atlanta on March 5 for social programs connected with the child slayings; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California commends President Reagan for approving an additional $1.5 million in federal aid to assist the City of Atlanta in its investigation of the tragedy that has continued for more than 19 months; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 19

Assembly Joint Resolution No. 32—Relative to closure of McClellan Air Force Base.

[Filed with Secretary of State April 10, 1981]

WHEREAS, McClellan Air Force Base, located in the Capitol City of Sacramento, California, is one of five major air force logistic command centers in the United States; and

WHEREAS, The base has been a major aircraft repair facility for over 45 years; and

WHEREAS, McClellan is the sixth largest U.S. Air Force Base with 12,800 civilian employees and 3,600 military personnel; and

WHEREAS, McClellan is the home facility for other critical and essential military organizations, including the headquarters for an Air Rescue and Weather Reconnaissance Wing as well as the only air force communications group responsible for all message traffic to Hawaii, Guam, the Phillipines, Okinawa, Japan, and Korea; and

WHEREAS, The base plays a key function in supporting the responsibility of the Strategic Air Command (SAC) in the maintenance of, and communications for, the mission of SAC; and

WHEREAS, McClellan has been a part of the State of California prior to the building of our armed forces during World War II, and could not be duplicated today without expending an estimated one to two billion dollars; and

WHEREAS, McClellan Air Force Base is geographically and strategically located on the West Coast and serves as a gateway to our forces in the Pacific Basin; and

WHEREAS, Information has been received by the Legislature regarding the future closure of McClellan in the Defense Department programming of military installations; and

WHEREAS, The potential loss both to the personnel of McClellan as well as the State of California which would result from this proposed closure is inestimable in terms of technology, health and welfare, jobs, and community spirit; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to reconsider the strategic importance of McClellan Air Force Base and to oppose proposals to close this important military installation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 20

Senate Concurrent Resolution No. 8—Relative to the San Mateo-Hayward Bridge Run.

[Filed with Secretary of State April 10, 1981]

WHEREAS, The San Mateo County Historical Association is planning to sponsor the first annual run across the San Mateo-Hayward Bridge on April 12, 1981; and

WHEREAS, Between four and eight thousand participants are expected for the run which will start in Hayward and end in Foster City; and

WHEREAS, The proceeds from the race will provide needed financial support for the continued operation of the San Mateo County Historical Association and its museum which is located on the campus of the College of San Mateo; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Transportation is hereby requested to authorize the closure of the westbound lanes of the San Mateo-Hayward Bridge on April 12, 1981, for the period of time necessary to permit its use as part of the course of the San Mateo-Hayward Bridge Run, if the department is requested to do so by the Cities of Hayward and Foster City in accordance with Section 21104 of the Vehicle Code; and be it further

Resolved, That the Department of Transportation is hereby requested to report to the Legislature not later than March 1, 1981, on the impact of this and other similar bridge closures; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Business, Transportation and Housing Agency and to the Director of Transportation.

RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 13—Relative to long distance runs.

[Filed with Secretary of State April 10, 1981]

WHEREAS, The first Sunday in May and the second Sunday in October mark the occasions of the running of the Avenue of the Giants Marathon and the Humboldt Redwoods Marathon in Humboldt County; and

WHEREAS, The sponsor is Six Rivers Running Club, Inc., which since 1970 has sponsored races in the north coast area for general health, recreation, and sport purposes; and

WHEREAS, The Avenue of the Giants Marathon is one of the top 15 races in the nation and the Humboldt Redwoods Marathon has proven to be of the same quality and greatness for the benefit of spectators and participants alike; and

WHEREAS, Friday, April 17, and Saturday, April 18, are the dates of the 1981 Kinetic Sculpture Race from Arcata to Ferndale; and

WHEREAS, These three long distance races are held during the nontourist season and, thus, have a great and positive impact upon the area since many who come for the races discover the beauty of the majestic redwoods and return at a later time, so that the financial benefits to area residents and to Humboldt County are substantial; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Parks and Recreation is hereby requested to authorize the closure of Bull Creek Flats Road for seven miles west of Dyerville Bridge and that the Department of Transportation is hereby requested to authorize the closure of State Route 254, the Avenue of the Giants, south of Dyerville Bridge for six miles, on the first Sunday in May, from 9:00 a.m. until 2:00 p.m., to permit the use of these roads and highways as the course for the Avenue of the Giants Marathon; and be it further

Resolved, That the Department of Transportation is requested to authorize the closure on the second Sunday in October, from 9:00 a.m. until 2:00 p.m., of the Avenue of the Giants south of Dyerville Bridge for 13.1 miles to permit its use as the course for the Humboldt Redwoods Marathon; and be it further

Resolved, That one traffic lane shall remain open between the community of Myers Flat and the intersection of Elk Creek Road; and be it further

Resolved, That the Department of Transportation is requested to authorize the closure on Friday, April 17, from 12:00 noon until 7:00 p.m., of the Samoa Bridge on State Route 255, and is requested to authorize the closure on Saturday, April 18, from 7:00 a.m. until 3:00 p.m., of the right lane of State Highway 101 from the intersection of 6th Street and Broadway in the City of Eureka south to the Fields Landing cutoff as the course for the Kinetic Sculpture Race; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Business and Transportation Agency, the Director of Transportation, the Secretary of the Resources Agency, and the Director of Parks and Recreation.

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 51—Relative to proclaiming April 24th as State Day of Remembrance.

[Filed with Secretary of State April 28, 1981]

WHEREAS, The State of California has repeatedly gone on record in support of human rights around the world; and

WHEREAS, The genocide of Armenians in Turkey is a well documented fact, with 1,500,000 Armenians massacred during the

years 1915 to 1918 alone; and

WHEREAS, This genocide has been consistently denied by the Turkish government; and

WHEREAS, The Armenians in some countries must continue to endure daily acts of oppression, including denial of their basic human rights, confiscation of their churches and schools, and punishment for speaking their native language openly; and

WHEREAS, April 24, 1915, is the date historians have marked as the beginning of the massacre, and each April 24 thereafter should be a day of reflection by all Armenians and other Americans; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby requests the Governor of California to issue a proclamation designating April 24, 1981, and each April 24th thereafter as State Day of Remembrance and to call upon the people of the State of California to observe this day as a day of remembrance for all victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world.

RESOLUTION CHAPTER 23

Assembly Joint Resolution No. 1—Relative to investment tax credits.

[Filed with Secretary of State April 28, 1981]

WHEREAS, Every landfill in California is presently generating gas; and

WHEREAS, Most of this gas is presently being emitted into the atmosphere; and

WHEREAS, This gas poses a potential danger to public health and safety in that migration of explosive amounts of these gases have been found in homes and businesses located in close proximity to landfills; and

WHEREAS, The United States is presently dependent on foreign sources of energy; and

WHEREAS, Landfill gas can contribute to the United States energy security by providing recovered gas for heating and cooking, and, through the use of gas turbines, electricity for lighting; and

WHEREAS, Significant economic risks are associated with the recovery of landfill gas; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to

amend the United States Tax Code to provide adequate investment tax credits and 60-month depreciation on landfill gas development and recovery investments and to specifically direct the Internal Revenue Service to promulgate regulations reflecting that landfill gas recovery systems are eligible for the investment credits and financial incentives provided by the Crude Oil Windfall Profits Tax Act of 1980 (PL 96-223, Title II, Part III) and the Energy Security Act of 1980 (S 932, Title II - Subtitle B); and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the House and Senate Committees on Taxation, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 30—Relative to honoring the heroes of the Southeast Asian conflict.

[Filed with Secretary of State May 1, 1981]

WHEREAS, The American spirit of patriotism, courage, and loyalty have long been a part of our tradition, and public rejoicing and acclaim have been rightfully focused on the release of our 52 American hostages from Iran as a tribute to this American spirit; and

WHEREAS, Individual courage runs deep in the hearts and minds of all Americans, and so it is appropriate, during a time that we honor the former American hostages from Iran, that we also recognize other courageous Americans, as yet unsung, who have contributed to the cause of freedom at great personal risk and sacrifice; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That upon the occasion of the release of the 52 former American hostages from Iran, the Members wish to spread still wider our spirit of acclaim and gratefulness, and do extend honor and recognition to those who so proudly and valiantly served the commitment of their country in Southeast Asia during the conflict known as the Vietnam War.

RESOLUTION CHAPTER 25

Assembly Joint Resolution No. 14—Relative to Hansen Dam.

[Filed with Secretary of State May 11, 1981.]

WHEREAS, Hansen Dam in the Northeast San Fernando Valley was constructed and is operated by the United States Army Corps of Engineers; and

WHEREAS, This dam has provided important benefits to residents of the City of Los Angeles by controlling floods, by conserving storm runoff which becomes part of the city's water supply, and by serving as a source of water-oriented recreation in the San Fernando Valley; and

WHEREAS, During the past few years a substantial amount of silt, sand, and gravel has accumulated behind Hansen Dam; and

WHEREAS, This buildup of material behind the dam has almost eliminated its recreational value, has substantially interfered with water conservation efforts, and is now threatening flood control capability; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation which would add recreation and water conservation to the authorized purposes of Hansen Dam, and which would authorize a prompt cost estimate and feasibility study for the cleanout of silt, sand, and gravel of Hansen Dam by the Corps of Engineers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 26

Assembly Concurrent Resolution No. 33—Relative to commending Senator Albert S. Rodda.

[Filed with Secretary of State May 11, 1981.]

WHEREAS, In recognition of his many contributions to the people of Sacramento and to the State of California, Senator Albert S. Rodda is deserving of special honor and commendations; and

WHEREAS, Senator Rodda is a native of Sacramento who, from 1958 to 1980, effectively served the Third Senatorial District, which includes all of the City of Sacramento and a part of the northern portion of Sacramento County; and

WHEREAS, He served his nation honorably during World War II as a line officer in the Naval Reserve, and was stationed in the Pacific Theatre from 1943 to 1945; and

WHEREAS, He received an A.B., M.A., and Ph.D from Stanford

University, taking his doctorate in the fields of history and economics; and

WHEREAS, Senator Rodda taught at Grant Union High School, Sacramento High School, and Sacramento City College until his retirement in 1967 from teaching; and

WHEREAS, While a Member of the California Senate, he consistently provided exemplary leadership, notably as Chairman of the Senate Education Committee and the Finance Committee, and as a member of the Natural Resources and Wildlife Committee; and

WHEREAS, Senator Rodda authored legislation in the areas of conservation and environmental protection, tax relief-reform, school finance, school construction, curriculum reform, Proposition #13 bailout, collective-bargaining in education, the conscience clause amendment to the collective-bargaining law, and four Senate versions of the State Budget; and

WHEREAS, He also authored legislation to enact a Master Plan for the special education of developmentally disabled youth, to prohibit experimentation on live animals in public schools, to provide state financing of light rail facilities, and to reorganize the governance of the University of California; and

WHEREAS, Senator Rodda was also a moving force in legislation to preserve the old Governor's Mansion, create the California Fair and Exposition and the Sacramento Regional Transit District, and to authorize the Sacramento Port District to sell bonds to finance construction of its port facilities; and

WHEREAS, The Sacramento community and the State of California have benefited immeasurably under the inspired leadership of Senator Rodda, and he has earned the respect and admiration of friends, associates, colleagues in the Legislature, and the public, as a dedicated and outstanding statesman; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Senator Albert S. Rodda be commended for his many years of outstanding public service, and extended the gratitude and sincere appreciation of California's citizenry; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to Senator Albert S. Rodda.

RESOLUTION CHAPTER 27

Senate Concurrent Resolution No. 15—Relative to the Joint Committee on Fire, Police, Emergency, and Disaster Services.

[Filed with Secretary of State May 11, 1981.]

WHEREAS, Fire, police, emergency medical services, and disaster services are generally regarded as the most crucial life-safety services a governmental entity can provide its residents, and while these services are locally controlled and determined, the state government also provides, regulates, and coordinates these services, and has an impact on the level and quality of fire, police, emergency medical services, and disaster services; and

WHEREAS, In California, the state has a number of departments, agencies, and offices that assist, influence, and regulate these locally administered services, such as the Department of Forestry, the Department of Justice, the State Fire Marshal's Office, the California Highway Patrol, the Health and Welfare Agency, the Office of Emergency Services, the California Conservation Corps, the California National Guard, the Department of Transportation, and the Community College System, which are but a few of the state's resources which directly affect the level and quality of fire, police, emergency medical services, and disaster services provided by local entities; and

WHEREAS, The demand for fire and police services is rapidly escalating, and professionals in these fields must interact with each other to provide disaster services, and they must be well-trained, well-equipped, and capable of cooperating in adverse situations in order to protect and assist the public; and

WHEREAS, Fire, police, and emergency services must respond to the needs of individuals and property threatened by natural or manmade occurrences, such as fire, flooding, drought, wind, war, or accident; and

WHEREAS, There is a need for greater analysis and depth of understanding of the need for disaster services involving fire, police, and other agencies in response to a natural or manmade calamity, including an objective analysis of the inherent problems of providing disaster services, and the degree to which life-safety services are interrelated and supported; and

WHEREAS, There is a need for a coordinated effort in addressing these issues and there has never been an identified agency to which the life-safety professionals could go to explain their problems, concerns, and needs in providing disaster services; and

WHEREAS, A broad approach to the problem of providing these services is needed, which would involve a more realistic, uniform, all-encompassing approach to the disaster problem, considering the groups and the points they share in common; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Fire, Police, Emergency, and Disaster Services is hereby created, and authorized and directed to ascertain, study, and analyze facts relating to fire, police, emergency medical services, and disaster services, including the following:

1. Identify the extent of available disaster services, considering such factors as cost, personnel, and training.

2. Identify the need for disaster services.

3. Identify the local capabilities to provide disaster services, such as the level and quality variations among various entities.

4. Identify the state's impact on these services.

5. Identify problems encountered in providing these services, such as personnel, states-of-the-art, funding, regulations, and coordination.

6. Provide a forum for discussion of these services, and encourage the professionals, labor, management, and scholars to express their views and opinions.

7. Increase public awareness of life-safety and disaster services, and approach these services on their common, complementary aspects.

8. Recommend how state resources, such as fiscal, legislative, and technical, can be most effectively applied to enhance the life-safety and well-being of California's residents.

9. Recommend how these services should be funded; and be it further

Resolved, That the committee shall consist of five Members of the Senate appointed by the Committee on Rules thereof, and five Members of the Assembly, appointed by the Speaker thereof; and be it further

Resolved, That the committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the committee has the following additional powers and duties:

1. To cooperate with and secure the cooperation of the federal government, the state, and any county, city, city and county, and other local fire, law enforcement, emergency medical service agency, and disaster service agency in investigating any matter within the scope of this resolution.

2. To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee shall terminate on November 30, 1982.

RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 52—Relative to the space shuttle program.

[Filed with Secretary of State May 15, 1981]

WHEREAS, When the space shuttle Columbia plummeted through a blazing reentry and skimmed to a perfect landing at approximately 10:21 a.m. on April 14, 1981, at Edwards Air Force Base, California, a new era in space travel for the United States was opened; and

WHEREAS, The Columbia was lifted from Earth aboard a thundering rocket, orbited in the vacuum of space like a satellite, then descended into the planet's atmosphere under the control of Astronauts John Young and Robert Crippen like a conventional winged airplane; and

WHEREAS, After completing 36 Earth orbits in 2 days, 6 hours, 20 minutes and 48 seconds, the winged orbiter—half spaceship and half airplane proved that it and its sister shuttles now under construction should be able to fly repeatedly back and forth from space; and

WHEREAS, The STS-1 mission was a national enterprise, geographically as well as technically, with Rockwell International, located in Downey, California, serving as the prime contractor and being assisted by over 20 major shuttle contractors and hundreds of smaller contractors located in California; and

WHEREAS, The space shuttle program has a favorable impact on the California economy in a number of ways, including creation during the 1973–1986 period of over 492,000 man-years of nonagricultural employment, with the prime contract for the orbiter alone generating more than 359,000 man-years of employment; and

WHEREAS, The increased employment will be widely dispersed throughout the California economy, in that approximately 242,000 man-years will be in the aerospace industry and the remaining 250,000 man-years will be distributed among all of the nonaerospace sectors of the economy with the exception of mining; and

WHEREAS, Development of the space shuttle program in California will cause the gross state product to increase by $12.1 billion, personal income to increase by about $9.9 billion, and create 66,000 total "jobs" during the 1973–1986 period; and

WHEREAS, California state and local tax revenues will be increased by some $1.4 billion and the expansion of economic activity in the state will generate an additional $2.3 billion in federal tax revenues; and

WHEREAS, The STS-1 mission is a source of great national self-respect and America now most certainly holds world leadership in its proven ability to fly a major payload into orbit and recover it intact; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Members express the pride of all the people of California in the success of the STS-1 mission and extend heartiest congratulations to Astronauts John Young and Robert Crippen, Rockwell International, and the National Aeronautics and Space Administration on the successful launch, flight, and landing of the space shuttle Columbia; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Astronauts John Young and Robert Crippen, Rockwell International, and National Aeronautics and Space Administration Acting Administrator, Alan Lovelace.

RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 54—Relative to the centennial anniversary of the county agricultural commissioner system.

[Filed with Secretary of State May 15, 1981]

WHEREAS, The Legislature enacted a law on March 14, 1881, which provides for the office of horticultural commissioner, now known as county agricultural commissioner; and

WHEREAS, While the original charge of the horticultural commissioner was to protect agriculture from certain pests, today the county agricultural commissioners are responsible for promoting and protecting agriculture, the consumer, and the environment; and

WHEREAS, The county agricultural commissioner system is unique to California and has demonstrated a method of delivering services that is both effective and efficient; and

WHEREAS, The county agricultural commissioner system provides local control over areas of great concern to the citizens of this state; and

WHEREAS, The county agricultural commissioners' offices provide many special services that are responsive to the needs of the local community; and

WHEREAS, The county agricultural commissioners have maintained a program to insure that pesticides are used in a safe manner thereby protecting agricultural workers, the environment, and providing consumers with food that is both safe and wholesome; and

WHEREAS, The county agricultural commissioners have served to prevent the introduction of pests into California that would be detrimental to agriculture and the environment, and to further carry out a comprehensive program to detect and eradicate those detrimental pests that are introduced into the state; and

WHEREAS, The county agricultural commissioners have contributed to stable markets and consumer confidence in fruits,

vegetables, nuts, and honey through a program of quality control inspections; and

WHEREAS, The county agricultural commissioners have provided leadership, research, and field activities for the control of crop depredating vertebrate pests and noxious weeds; and

WHEREAS, The nursery, seed, and apiary industries have been served and protected by the programs carried out by the county agricultural commissioners; and

WHEREAS, March 14, 1981, marked the one hundredth anniversary of the institution of county agricultural commissioners; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California, on behalf of its citizens, does hereby recognize this centennial anniversary of the county agricultural commissioner system in California and does further congratulate each agricultural commissioner and staff member for the dedicated service that has been performed for the citizens of each county and the state.

RESOLUTION CHAPTER 30

Assembly Joint Resolution No. 17—Relative to toxic and hazardous substance management facilities.

[Filed with Secretary of State May 26, 1981]

WHEREAS, Unavoidable byproducts of many manufacturing processes are toxic and hazardous substances; and

WHEREAS, Pollution control and toxic and hazardous substance management facilities are necessary to the health and general welfare of the residents of the State of California and to fulfill the mandates of various state and federal laws designed to protect the environment; and

WHEREAS, It is essential to ensure that expenditures for pollution abatement and toxic and hazardous substance management facilities do not jeopardize the ability of American industry to make the productive capital investments necessary to maintain and enhance the nation's economic strength; and

WHEREAS, Congress has already provided, in Section 103(b) (4) of the Internal Revenue Code of 1954, as amended, that interest earnings on bonds issued by state and local governments to assist private industry with the costs of the installation of pollution control and solid waste disposal facilities are excludable from the gross income of the holders of such bonds; and

WHEREAS, The Legislature has already declared that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to control and

eliminate pollution hazards in the environment; and

WHEREAS, In furtherance of this goal the Legislature created the California Pollution Control Financing Authority which, among other things, may issue revenue bonds to provide financing for projects which reduce, abate, or control pollution resulting from the disposal of solid or liquid waste including, without limitation, the management of toxic and hazardous substances; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress to enact legislation amending the Internal Revenue Code of 1954 to include interest earnings on bonds issued for toxic and hazardous substance management facilities within Section 103(b) (4) of the code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 31

Assembly Concurrent Resolution No. 61—Relative to His Holiness Pope John Paul II.

[Filed with Secretary of State May 26, 1981.]

WHEREAS, The people of California are shocked and dismayed at the violent act directed at His Holiness Pope John Paul II; and

WHEREAS, As the Shepherd of the Roman Catholic Church, the Pope symbolizes love and peace, and he is a man of the people, a world leader dedicated to the proposition that peace and justice will prevail for people of all faiths; and

WHEREAS, The people of California extend to Pope John Paul II their best wishes for a full and speedy recovery and pray for his continued good health; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members convey their prayers for the recovery of Pope John Paul II and commend him for his courage during this most difficult time; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to His Holiness Pope John Paul II.

RESOLUTION CHAPTER 32

Assembly Joint Resolution No. 19—Relative to Outer Continental Shelf leasing.

[Filed with Secretary of State May 29, 1981]

WHEREAS, California is a major energy producer with current oil production of over one million barrels per day and a projected production of over one and a half million barrels per day by 1985; and

WHEREAS, California's utilities and government are taking steps to reduce by over 50 percent the burning of oil for electrical power generation by 1990, and California's citizens have reduced transportational fuel use by over 10 percent since 1979; and

WHEREAS, California has taken steps to encourage energy conservation and the use of alternative energy sources, including solar, geothermal, wind, and biomass; and

WHEREAS, The United States Congress in adopting the Outer Continental Shelf Lands Act Amendments of 1978 directed the Department of the Interior to "manage the Outer Continental Shelf in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the Outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the Outer Continental Shelf and the marine, coastal, and human environments"; and

WHEREAS, California's citizens and local governments have repeatedly stated that proposed Outer Continental Shelf Sale 53 presents unacceptable risks to economic, social, human, and natural environments far in excess of the value of projected oil resources in the Santa Cruz, Bodega, Pt. Arena, and Eel River Basins; and

WHEREAS, The Department of the Interior has recognized the validity of California's position and deleted these four basins from future lease sales; and

WHEREAS, The State of California has further recommended that specific tracts within the Santa Maria Basin also be deleted to avoid unacceptable risks to the threatened sea otter and other valuable coastal resources; and

WHEREAS, California's state and local governments support Outer Continental Shelf leasing and development in the many areas where large quantities of oil and gas are likely to be found; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes the President of the United States and the Secretary of the Interior to fulfill the existing commitments of the Department of the Interior to delete from further consideration for Outer Continental Shelf leasing the Santa Cruz, Bodega, Pt. Arena, and Eel River Basins; and be it further

Resolved, That the Legislature hereby memorializes the President

of the United States and the Secretary of the Interior to accept and expedite Outer Continental Shelf leasing in areas with large oil and gas reserves and to delete the northern portion of the Santa Maria Basin to avoid excessive risk to threatened species, fisheries, marine mammals, sea birds, recreation, marine navigation, air quality, and other important values and uses of coastal waters; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 31—Relative to the Joint Legislative Audit Committee.

[Filed with Secretary of State June 1, 1981]

WHEREAS, The California Legislature desires the same level of accountability within California state government as is required in the private sector; and

WHEREAS, The federal General Accounting Office estimates that federal agencies could save $4 billion through improved controls which result from financial audits, and the California Auditor General has reported that savings are possible through improved financial controls in California; and

WHEREAS, Both the federal government and the investment community, through a primary bond rating service, have established a requirement for an annual financial audit which can only be fulfilled by the Auditor General or by contract with independent certified public accountants; and

WHEREAS, Failure to fulfill these new externally imposed audit requirements could jeopardize the annual receipt of the approximately $10 billion in federal funds and the ability of the state to issue bonds at the lowest cost to present and future taxpayers; and

WHEREAS, To comply with these requirements will take up to 50 additional CPAs or CPA trainees; and

WHEREAS, It is the intent of the Legislature that these additional auditors will be used solely to fulfill the new federal and bond rating requirements; and

WHEREAS, Benefits realized from Auditor General audits have substantially exceeded costs; and

WHEREAS, Jeopardizing the issue of approximately $1.8 billion in authorized bonds and others to be authorized in the future would restrict the ability of the state to provide services to citizens such as veterans and park users; and

WHEREAS, The Auditor General is the only independent audit

agency of the state recognized by the federal government, the investment community, and nationally accepted auditing standards; and

WHEREAS, The hourly cost of contracting with a certified public accounting firm would be substantially higher than the hourly cost of the Office of the Auditor General; and

WHEREAS, The Auditor General is attempting to maximize federal reimbursements associated with meeting federal audit requirements; and

WHEREAS, A sound auditing program is one of the prerequisites for sound financial control in the administration of state programs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, in addition to any money heretofore made available to it, the sum of seven million five hundred twenty thousand dollars ($7,520,000), or so much thereof as may be necessary, is hereby made available from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses of the Joint Legislative Audit Committee (created by Section 10501 of the Government Code) and its members and for any charges, expenses, or claims it may incur, to be paid from such fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the Controller upon the State Treasury; and be it further

Resolved, That the amount requested in this resolution includes the funds necessary for the additional staff needed to perform audits which are required for the state to continue receiving approximately $10 billion annually in federal grants, and to obtain a favorable rating of the state's bond issues. The Joint Legislative Audit Committee is actively seeking reimbursement from the federal government for the costs of auditing federal grant programs. Such reimbursements would not be available until after the completion of the audits. A favorable bond rating based on the audited financial statements of the state will result in a lower net interest cost to the state over the life of future bond issues.

RESOLUTION CHAPTER 34

Assembly Joint Resolution No. 2—Relative to hazardous waste.

[Filed with Secretary of State June 9, 1981]

WHEREAS, Toxic and hazardous waste, which is often carcinogenic, is a threat to the natural environment and a danger to public health; and

WHEREAS, While the incidence of cancer in the United States and the quantity of toxic and hazardous waste produced in the

country is increasing, the number of dump sites that are safe and capable of receiving such waste is declining in number, with only one such dump site in the Los Angeles basin; and

WHEREAS, Although it is in the public interest to reduce or remove toxic chemicals from the environment, there is a significant economic risk associated with new technology to treat toxic and hazardous waste; and

WHEREAS, There is a need for investments in technology to reduce, eliminate, detoxify, neutralize, and recycle toxic and hazardous waste; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact appropriate legislation to provide a 40 percent investment tax credit for equipment and facilities which reduce, eliminate, detoxify, neutralize, or recycle toxic and hazardous waste at the site of generation of that waste or at a regional collection facility, and to provide a 60-month amortization and depreciation for such equipment and facilities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 35

Assembly Joint Resolution No. 46—Relative to Continental Airlines.

[Filed with Secretary of State June 19, 1981]

WHEREAS, Continental Airlines has served California communities for more than 25 years and has been an integral part of this state since that time; and

WHEREAS, Continental Airlines currently employs nearly 5,500 people in California with an annual payroll exceeding one hundred fifty million dollars ($150,000,000) and provides an additional contribution to the California economy with average annual expenditures of over two hundred million dollars ($200,000,000); and

WHEREAS, Continental Airlines provides direct and convenient service for business people and tourists between six California communities and other cities in the continental United States, Mexico, Hawaii, and the Central and South Pacific; and

WHEREAS, California and its citizens clearly have a strong interest in the future of Continental Airlines because its employees live here and their jobs and other jobs depend upon the financial

health of the airline; and

WHEREAS, The employees of Continental Airlines have proposed that an Employee Stock Ownership Trust (ESOT) be created in order that the employees of Continental Airlines may acquire controlling interest in their own airline and prevent a takeover by outside interests; and

WHEREAS, Studies have shown that companies that are employee owned are more productive and more profitable than their conventionally owned competitors, and with adoption of the ESOT plan Continental's employees will be more than employees, they will be the owners of the company with an interest in its future; and

WHEREAS, There is renewed awakening nationally to the importance of employee interest in their jobs in order to gain productivity, and also of the importance of creation of capital for industry, both of which would be accomplished through the Continental employees' ESOT plan; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California expresses its support for the employees of Continental Airlines in their efforts to acquire control of Continental Airlines by creation of an Employee Stock Ownership Trust (ESOT); and be it further

Resolved, That the Legislature hereby commends Continental's employees for their efforts to make Continental an even more valuable asset to this state through greater productivity and service to the citizens of California; and be it further

Resolved, That the Legislature of the State of California respectfully urges the Civil Aeronautics Board and other federal agencies to refrain from any extraordinary action with regard to the proposed merger between Texas International Airlines and Continental Airlines in order to permit the federal courts to make such determinations as are appropriate for the protection of shareholders, and urges the Civil Aeronautics Board to proceed with consideration of such proposed merger under its regular procedures which are scheduled to be concluded in August 1981; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Civil Aeronautics Board, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 36

Assembly Joint Resolution No. 3—Relative to Vietnam era veterans.

[Filed with Secretary of State June 19, 1981]

WHEREAS, Veterans of the Vietnam era in California and elsewhere are experiencing continuing difficulties of unemployment far in excess of nonveterans of comparable age; and

WHEREAS, To a great degree these unemployment problems of Vietnam era veterans are due to insufficient education, training, and job skills; and

WHEREAS, The country owes an inestimable debt of gratitude to these veterans; and

WHEREAS, Veterans Administration educational benefits (the so-called "G.I. Bill") for Vietnam era veterans have been much more restrictive than comparable benefits available to World War II veterans even though the problems of assimilation and readjustment have been much more severe for the Vietnam era veteran; now, therefore be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to extend the period during which educational benefits are available to Vietnam era veterans so that those veterans may successfully attain the levels of education or training necessary to become more fully employable and productive members of society; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 15—Relative to air pollution control.

[Filed with Secretary of State June 24, 1981]

WHEREAS, The State Air Resources Board is investigating the establishment of air emission standards for mobile farm equipment; and

WHEREAS, The production of agricultural commodities is a major component of California's economy; and

WHEREAS, Historically, farmers and ranchers have been price

takers, unlike many other businesses; and

WHEREAS, The Census of Agriculture found only 124,377 farm tractors in California; and

WHEREAS, The conversion of agriculture from gasoline to diesel engines will significantly reduce hydrocarbon and carbon monoxide emissions; and

WHEREAS, Today farmers and ranchers often pay a heavy economic price for current air pollution requirements, since catalytic converters on vehicles needed in the fields cause grass or grain fires and create a fuel penalty; and

WHEREAS, Farmers and ranchers are rigorously regulated in agricultural burning; and

WHEREAS, Farmers and ranchers believe that the regulation of mobile farm equipment will be more costly than beneficial; and

WHEREAS, The regulation of mobile farm equipment for air emission must be thoroughly reviewed, researched, and discussed before any action is taken; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That before pursuing any regulatory action on mobile farm equipment, the State Air Resources Board is hereby requested to do all of the following:

1. Summarize, document, and evaluate the technological effects of emission-control standards on the cost, energy consumption, and performance characteristics of new mobile farm equipment, as well as estimate their current emission rates.

2. Analyze the direct economic effects of emission-control standards on the sales, distribution patterns, and inventories of new farm equipment and the indirect economic effects of the standards on the cost of related products and services.

3. Analyze and quantify the potential air quality benefits in California air basins if new mobile farm equipment is subjected to emission-control standards.

4. Explore reasonable alternative strategies for achieving the air quality benefits resulting from emission-control of mobile farm equipment at a lower cost; and be it further

Resolved, That 60 consecutive legislative days prior to pursuing any regulatory action on mobile farm equipment, the State Air Resources Board shall file a report with the Legislature documenting its findings on the above-mentioned concerns; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the State Air Resources Board, and the Director of Food and Agriculture.

RESOLUTION CHAPTER 38

Senate Joint Resolution No. 22—Relative to the repeal of the Industrial Homeworkers' Law.

[Filed with Secretary of State June 30, 1981]

WHEREAS, The Wage and Hour Division of the United States Department of Labor has proposed the repeal of Part 530 (commencing with Section 530.1) of Chapter V of Title 29 of the Code of Federal Regulations, which regulates the employment of homeworkers in the women's apparel industry, the jewelry manufacturing industry, the knitted outerwear industry, the glove and mittens industry, the handkerchief manufacturing industry, the button and buckle manufacturing industry, and the embroideries industry; and

WHEREAS, The proposal to repeal these regulations would result in the proliferation of sweatshops, exploitation of children, and an increase in the use of illegal aliens; and

WHEREAS, This state has tightly regulated or banned the use of homework in the aforementioned industries because of their susceptibility to the use of substandard wages and working conditions; and

WHEREAS, The increase in the use of homeworkers would undermine legitimate entrepreneurs and create an unfair tax burden for the general public; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to oppose the department's plan to repeal the industrial homeworkers' regulations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Labor.

RESOLUTION CHAPTER 39

Assembly Concurrent Resolution No. 36—Relative to public fire safety education.

[Filed with Secretary of State June 30, 1981]

WHEREAS, The California Fire Incident Reporting System indicates that during the five-year period 1975–79, 3,019 people died and 23,582 were injured from fires in California, and yearly, over $600,000,000 in property is damaged or destroyed by the more than

200,000 fires that occur in California; and

WHEREAS, During the past three years the California Burn Registry has documented 4,908 serious burn cases requiring specialized treatment in hospital burn units; and

WHEREAS, The majority of fires and casualties are preventable; and 22 percent of the "preventable" fires are caused by unsafe conditions, but 88 percent by human error and ignorance; and

WHEREAS, Fire prevention inspections, and building code requirements, have resulted in the elimination of most of the preventable deaths and injuries that are caused by unsafe conditions; and

WHEREAS, Public education is the most effective means to reduce those preventable deaths and injuries caused by human error and ignorance; and

WHEREAS, Budget reductions may cause fire departments to reduce or eliminate public education; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Legislature commends the fire protection agencies, especially local fire departments, for their support of, and for providing information, resources and technical assistance to, schools, local agencies and the general public in their fire safety education efforts; and be it further

Resolved, That the State Legislature encourages every fire protection agency and local fire department in California to continue to place maximum emphasis on its efforts to provide effective fire safety education to the public on a continuing basis; and be it further

Resolved, That the State Legislature declares October 5–9, 1981, "Fire Prevention Week"; and be it further

Resolved, That the State Legislature declares its intent to encourage state and local fire protection agencies to annually observe "Fire Prevention Week" in order to coincide with "National Fire Prevention Week"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Fire Marshal.

RESOLUTION CHAPTER 40

Senate Concurrent Resolution No. 28—Relative to National Guard Day 1981.

[Filed with Secretary of State July 2, 1981]

WHEREAS, The National Guard is the oldest military force in the nation, originating in the early colonial days on October 7, 1636, with the formation of the Old North Regiment of the Massachusetts Colonial Militia; and

WHEREAS, For 345 years, the men and women of the National

Guard have repeatedly demonstrated their dedication and patriotism by participation in every conflict involving the United States during which more than 4,000,000 National Guard members joined forces with active military units to defend the principles of this nation; and

WHEREAS, The National Guard is unique among all services because of its federal mission as the principal backup to the active Army and Air Force in times of war or national emergency and its state mission to provide for protection of life and property and preserve peace, order, and public safety in times of natural disasters; and

WHEREAS, Since 1975, the California National Guard has expended more than 204,000 man-days in support of the citizens of California during forest fires, floods, and search and rescue missions; and

WHEREAS, During the floods in February and March of 1980, 700 men and women of the California National Guard were called from their homes, families, and businesses to assist the communities of California; and

WHEREAS, The California National Guard is a vital part of the National Guard of the United States and has provided the citizens of California with a trained and organized militia ready to serve the state as well as the nation in time of need; and

WHEREAS, It is fitting and proper that a day be designated in commemoration of the California National Guard and out of recognition of the debt of gratitude owed by the people of the State of California to those who serve as members of the California National Guard; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests all Californians to celebrate Tuesday, October 7, 1981, as National Guard Day, and to honor the California Army and Air National Guard for service to their communities, the State of California, and the United States of America; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the Commanding General of the California National Guard and that copies be forwarded to the board of supervisors of each county and mayor of each city in California.

RESOLUTION CHAPTER 41

Senate Concurrent Resolution No. 26—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State July 8, 1981]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in addition to any money heretofore made available to it, the sum of four million two hundred thousand dollars ($4,200,000), or so much thereof as may be necessary, is hereby allocated from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses incurred by the Joint Legislative Budget Committee or its members pursuant to and under the authority of law or the provisions of Joint Rule 37.

RESOLUTION CHAPTER 42

Senate Joint Resolution No. 19—Relative to natural gas.

[Filed with Secretary of State July 8, 1981]

WHEREAS, The United States government has expressed the policy of reducing the nation's dependence upon imported petroleum, increasing the nation's capability to use indigenous energy resources, fostering the greater use of coal and alternate fuels including synthetic gas derived from coal, and encouraging the modification of existing and new electric powerplants which utilize natural gas or petroleum to utilize coal or alternate fuels; and

WHEREAS, Federal laws contain restrictions and prohibitions on the use of natural gas as a boiler fuel for the generation of electricity, thus obligating powerplant operators to burn greater amounts of oil; and

WHEREAS, Essentially all of California's fossil-fueled boilers are capable of burning both oil and natural gas and are not capable of burning coal without substantial modification that would entail prohibitive financial commitments by public utilities and ultimately the ratepayers; and

WHEREAS, Natural gas used as a transitional fuel is necessary to allow the time necessary to develop commercially acceptable alternative energy sources; and

WHEREAS, Recent studies indicate that discoveries of domestic natural gas have been increasing and that with continued conservation and support of federal and state governments, California is expected to have adequate natural gas supplies to serve all classes of retail gas customers and some of its existing electric generating powerplant requirements to the end of the century; and

WHEREAS, The burning of natural gas rather than oil in electric powerplants would significantly lessen the amount of uncontrolled emissions to the California environment; and

WHEREAS, The California State Air Resources Board, California Public Utilities Commission, and the California State Energy Resources Conservation and Development Commission have publicly urged the Congress of the United States to remove the legal

restrictions and prohibitions against the use of natural gas as boiler fuel for existing electric powerplants as a transitional measure; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact appropriate legislation to repeal laws which restrict or prohibit the use of natural gas as a boiler fuel in existing electric powerplants; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 43

Assembly Concurrent Resolution No. 17—Relative to Whittier College.

[Filed with Secretary of State July 9, 1981]

WHEREAS, Whittier College, a private four-year institution with an enrollment of 1,200 is located approximately two miles from State Highway Route 605 in the uptown Whittier area; and

WHEREAS, Throughout the year, Whittier College sponsors many cultural, educational, and athletic programs which have a wide appeal to large numbers of southern California residents; and

WHEREAS, Some of the recent programs sponsored by Whittier College include lectures by Dr. Edward Teller, noted nuclear physicist; Mr. James Roosevelt, former Congressman and Presidential aide; and Mr. Paul Conrad, Pulitzer Prize winning editorial cartoonist; and

WHEREAS, Whittier College was selected to host the National Collegiate Athletic Association (NCAA) Division III, Western Regional Playoffs, in their new Activities Center; and

WHEREAS, Whittier College recently presented five drama productions, an outdoor summer concert by the United States Air Force Band, and a Christmas program sponsored by the Whittier College Chorale; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to erect and maintain directional signs at the northbound and southbound Whittier Boulevard exits from State Highway Route 605, and at the intersection of Whittier Boulevard and Philadelphia Street, to indicate the direction to Whittier College if Whittier College pays the cost of erection of the signs; and be it

further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Transportation Commission and the Director of Transportation.

RESOLUTION CHAPTER 44

Assembly Concurrent Resolution No. 27—Relative to the Great Seal of the State of California.

[Filed with Secretary of State July 9, 1981]

WHEREAS, The State of California has embarked on an ambitious program to restore the State Capitol at Sacramento to its historic early 1900 perspective; and

WHEREAS, The State Capitol symbolizes the historic progress of the State of California as well as functioning as a central meeting place for the work of the present; and

WHEREAS, California has witnessed the dramatic and colorful history of its Great Seal, which is its chief legal artifact; and

WHEREAS, The historic Great Seal has been displayed in the State Capitol in some manner or other throughout its history; and

WHEREAS, It has come to the attention of the Legislature that a carved walnut replica of the first Great Seal still exists; and

WHEREAS, This replica was displayed in the first capitol building in Sacramento; and

WHEREAS, This replica of the Great Seal was mysteriously lost after the fire of 1854 which destroyed this building; and

WHEREAS, This historic replica of the Great Seal is now housed in the State of Nevada in a private collection; and

WHEREAS, It is the desire of the Legislature to redisplay this historic replica of the Great Seal in the newly restored State Capitol; and

WHEREAS, The Harrah's Automobile Collection Museum has announced its intention to return the historic replica of the Great Seal to the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature commends the Harrah's Automobile Collection Museum for the return of the California Great Seal to its rightful place of honor; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Harrah's Automobile Collection Museum.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 65—Relative to breast cancer.

[Filed with Secretary of State July 9, 1981.]

WHEREAS, One out of eleven American women will be stricken with breast cancer during their lives, and breast cancer kills almost 34,000 women annually; and

WHEREAS, In 1976, Minnie Riperton, who gave so much love and joy to the world through her music, discovered she had breast cancer and underwent a mastectomy; and

WHEREAS, After her surgery Ms. Riperton served as the National Spokesperson for the American Cancer Society and until her death in 1979 devoted much of her time to making public appearances to alert the public to the growing incidence of breast cancer, and to the need to fight breast cancer by learning and practicing breast self-examination; and

WHEREAS, Breast cancer is the leading cause of all deaths in women from age 40 to 44; and

WHEREAS, Breast cancer also claims men as its victims and an estimated 37,000 persons will die from the disease in 1981; and

WHEREAS, Ninety-five percent of breast cancers are discovered by the patients themselves and cancer specialists all over the world are improving diagnostic techniques, and developing a more effective combination of treatments; and

WHEREAS, The death of Ms. Riperton from breast cancer in July 1979, was a great loss and should not be forgotten; and

WHEREAS, Because of the significant risk of the disease and the great benefits of its early detection and treatment, it is important that the public and medical profession be reminded of the vital necessity for early detection and treatment; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of July 1981 be proclaimed as "Early Detection of Breast Cancer Month", and that the week of July 5 through July 12, 1981, be declared as "Minnie Riperton Week", and that all people join together in recognizing the need for early detection and treatment of breast cancer; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the family of Ms. Minnie Riperton and to the author for appropriate distribution.

RESOLUTION CHAPTER 46

Assembly Concurrent Resolution No. 66—Relative to the sport of Over-The-Line.

[Filed with Secretary of State July 9, 1981.]

WHEREAS, The State of California and San Diego's Mission Beach is the birthplace and home of the Annual World Championship Over-The-Line Tournament; and

WHEREAS, The Over-The-Line Tournament is the oldest tournament of its kind and has gained international prominence and recognition, as evidenced by the fact that it is played from Hawaii to Virginia and from Canada to Mexico; and

WHEREAS, The Over-The-Line Tournament is the world's second largest team sporting event, next only to the Olympic Games; and

WHEREAS, Over-The-Line is a contest of abbreviated softball played between three-member teams; and

WHEREAS, Over-The-Line tournament play is virtually unlimited to anyone regardless of age, sex or physical ability; and

WHEREAS, The 28th Annual World Championship Over-The-Line Tournament will be played in San Diego on July 11–12 and July 18–19; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members hereby proclaim July as "Over-The-Line Month" in honor of that sport; and be it further

Resolved, That the United States Olympic Committee is hereby requested to establish Over-The-Line as America's designated sport in the 1984 Olympic Games scheduled to be held in Los Angeles, California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the United States Olympic Committee.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 70—Relative to Del Mar Fairgrounds and Race Track facilities.

[Filed with Secretary of State July 9, 1981]

WHEREAS, U.N.I.C.E.F., the only agency of the United Nations which is supported entirely by volunteer contributions, is presently engaged in projects in areas throughout the world where millions of children would have no hope for survival were it not for these projects; and

WHEREAS, The Music for U.N.I.C.E.F. Committee was formed to initiate projects to support the work of U.N.I.C.E.F.; and

WHEREAS, The Music for U.N.I.C.E.F. Committee, KGB-FM, 13K, and Pax Productions have joined together in a project to raise approximately one million dollars to support U.N.I.C.E.F. projects; and

WHEREAS, The State of California will realize thirty thousand dollars for the use of Del Mar Fairgrounds and Race Track facilities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby requests the 22nd District Agricultural Association to permit The Music for U.N.I.C.E.F. Committee, KGB-FM, 13K, and Pax Productions to use the Del Mar Fairgrounds and Race Track facilities from November 24th through 30th, 1981, for the purposes of staging contemporary music concerts to raise money for U.N.I.C.E.F.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the 22nd District Agricultural Association, Music for U.N.I.C.E.F. Committee, KGBFM, 13K, and Pax Productions.

RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 12—Relative to Jacob Dekema Freeway.

[Filed with Secretary of State August 18, 1981]

WHEREAS, Jacob Dekema has been a Civil Engineer with the Division of Highways and the Department of Transportation since 1938, and he has been the District Engineer and District Director of Transportation in District Eleven since 1955; and

WHEREAS, The freeway system we all so badly need and enjoy in San Diego, Imperial, and east Riverside Counties was planned, designed, and constructed under his leadership; and

WHEREAS, Jacob Dekema is a known authority on highway transportation and has written many papers on the subject; and

WHEREAS, Jacob Dekema has received many awards for his accomplishments, including being selected for the "Top Ten Public Works Man of the Year" in 1972 and for "Bettering the Quality of Life" in San Diego, and having received the Distinguished Service Award from the Association of General Contractors and the Distinguished Civil Engineering Alumni award from the University of Southern California in 1973; and

WHEREAS, Jacob Dekema will retire December 31, 1980, after 42 years of outstanding service to the people of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Interstate 805 is hereby officially designated the Jacob Dekema Freeway; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of and erect appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this official designation, and all costs for these plaques and markers will be donated by local citizens who appreciate Jacob Dekema's services to the community; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Jacob Dekema.

RESOLUTION CHAPTER 49

Senate Concurrent Resolution No. 16—Relative to the Dwight O'Dell Bridge.

[Filed with Secretary of State August 25, 1981]

WHEREAS, J. Dwight O'Dell has led efforts to improve the means of transportation to and from Humboldt County; and

WHEREAS, He was instrumental in forming the Highway 36 Association in 1951, which has been instrumental and singularly effective in securing improvements to State Highway Route 36; and

WHEREAS, J. Dwight O'Dell is a prominent civic leader whose intense interest has done much to further the development of Humboldt County; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That bridge no. 4-93 on State Highway Route 36 in Humboldt County be designated the Dwight O'Dell Bridge; and be it further

Resolved, That the Department of Transportation be directed to erect appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and that this designation be accomplished without expense to the state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 50

Assembly Joint Resolution No. 40—Relative to Greece.

[Filed with Secretary of State August 26, 1981]

WHEREAS, The nation of Greece and its people have been long time and loyal allies of the United States; and

WHEREAS, The bonds between the Greek and American peoples have remained strong through their mutual struggle together in two World Wars and through their on-going alliance; and

WHEREAS, The Greek nation was the cradle of Western democracy and its people have continued to hold high the ideals of democracy; and

WHEREAS, Like the Greek people, Americans value their freedom and independence and support the hopes of those who yearn to be free; and

WHEREAS, Many of the Greek people on the island of Cyprus have now lived for seven years under the illegal occupation of Turkish forces, an occupation which has been condemned by international bodies, including the United Nations, and many more have been made homeless by the Turkish invasion and occupation; and

WHEREAS, The United States government through the lifting of its arms embargo against Turkey has relieved the pressures on that nation to end its occupation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly urges the President and the Congress of the United States to adopt a foreign policy which recognizes not only the strategic importance of Greece but also the need to support a nation which has so loyally stood by our country and which values its democratic institutions; and be it further

Resolved, That the Legislature of the State of California urges the President and the Congress of the United States to bring pressure to bear on Turkey to end the occupation of Cyprus so that Greek and Turkish Cypriots may live in peace and freedom; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 51

Assembly Concurrent Resolution No. 6—Relative to the South Fork American River Project (SOFAR).

[Filed with Secretary of State September 1, 1981.]

WHEREAS, The upper mountain portion of the South Fork American River Project, hereinafter referred to as the SOFAR Project, is a multipurpose water and hydroelectric project proposed by and for the people of El Dorado County; and

WHEREAS, This project, which will divert water from the South

Fork of the American River watershed near Placerville, will produce an average of 470,000,000 kilowatt hours of electricity per year and an annual firm yield of approximately 30,000 acre feet of water for consumptive use on the west slope of El Dorado County; and

WHEREAS, The SOFAR Project, by diverting only 30,000 acre feet of the 2.5 million acre feet of water that originates in El Dorado County, will complement the California Water Plan utilizing multistream waterflows; and

WHEREAS, The SOFAR Project will augment streamflow, fish and wildlife habitat, provide nonpolluting renewable energy, and store water for domestic, agricultural, and industrial purposes; and

WHEREAS, The people of El Dorado County have historically and recently experienced devastating effects from drought, flood, and fire; and

WHEREAS, Engineering and environmental studies show that some of these destructive forces can be substantially reduced while enhancing the American River, the source of El Dorado County's water supply; and

WHEREAS, On June 3, 1980, the voters of El Dorado County passed Measure "C" by nearly a 2 to 1 ratio (65.9%), authorizing the issuance of five hundred sixty million dollars ($560,000,000) in revenue bonds to finance construction of the SOFAR Project, independent of state or federal funding; and

WHEREAS, The development of power as required and specified in the 3rd Biennial Report of the State Energy Resources Conservation and Development Commission will be generated by the SOFAR Project, thereby reducing our nation's dependence on foreign oil by 1 million barrels of oil annually; and

WHEREAS, Major utility companies have offered to purchase the entire power output of the SOFAR Project, thereby covering all bond indebtedness; and

WHEREAS, The State of California must recognize El Dorado County's claim on its "county of origin" water rights, as set forth in the Water Code, as the most economical and effective use of the water resources of the South Fork of the American River to provide local, regional, and national benefits in the areas of water supply for domestic, agricultural, and industrial use, generation of hydroelectric power, fish and wildlife preservation, and recreation; and

WHEREAS, Any delay of the voter-approved SOFAR Project will cause an increase in cost of sixty seven thousand dollars ($67,000) per day due to inflation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California recognizes and supports the SOFAR Project and directs the State Water Resources Control Board to give great evidenciary weight to the foregoing public benefits in determining the public interest for the full appropriation of water necessary for complete development of the SOFAR Project; and be it further

Resolved, That the Legislature of the State of California directs the State Water Resources Control Board to expedite consideration of approval for the full appropriation of water sought for this project pursuant to its authority set forth in Division 2 (commencing with Section 1000) of the Water Code, and further directs the Department of Water Resources, the Department of Fish and Game, the Department of Boating and Waterways, the State Energy Resources Conservation and Development Commission, the Office of Planning and Research, and other appropriate state agencies to cooperate with the board and all concerned federal agencies to encourage and facilitate full approval of this vitally needed project.

RESOLUTION CHAPTER 52

Assembly Concurrent Resolution No. 40—Relative to awards made to state employees.

[Filed with Secretary of State September 1, 1981]

WHEREAS, Section 13926 of the Government Code provides that awards may be made to state employees in excess of one thousand dollars ($1,000) when the awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Wanda L. Clayton, Employment Development Department, for a suggestion which results in annual savings of eighteen thousand nine hundred ten dollars ($18,910) by recommending the elimination of unnecessary processing steps and documents required to change a claimant's name; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Elvera A. Bass, Employment Development Department, for a suggestion which results in increased revenue of thirteen thousand nine hundred eighty-two dollars ($13,982) by recommending a check block and message be imprinted on quarterly return envelopes to readily identify those returns which include remittances to ensure timely deposits; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Susan Au, Employment Development Department, for a suggestion which results in annual savings of eighteen thousand dollars ($18,000) by recommending the Employer's Guide Unemployment Insurance Code be printed on newsprint instead of bond; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Geraldine E. Ames, Franchise Tax Board, for a suggestion which results in annual savings of sixty-nine thousand seven hundred eighty-two dollars ($69,782) by recommending a change in the processing procedures for an application of Extension

of Time to File Return which resulted in an automatic extension of filing time for approved applications; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Grace E. Bankey, Franchise Tax Board, who with the material assistance of her immediate supervisor, Elaine Avilla, suggested a procedure which results in annual savings of eleven thousand three hundred thirty-six dollars ($11,336) by recommending the procedure of manually retyping corporation statements with debit or credit writeoffs be eliminated by programming the computer to bypass these items prior to printing the statements; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Leonard Krauss, Department of Health Services, for a suggestion which results in annual savings of eighty-one thousand nine hundred thirty-six dollars ($81,936) by recommending Form MC 163, a Medi-Cal billing form, be revised to include a checkoff block to identify family planning services thereby reducing General Fund expenditures through increased federal financial participation; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Karin Fetherston, Department of Insurance, for a suggestion which results in increased revenue interest of three hundred six thousand nine hundred eighty-four dollars ($306,984) by recommended surplus line brokers be required to pay estimated premium taxes quarterly instead of annually; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Asa W. Wilson, Department of Justice, for a suggestion which results in one-time savings of thirty-three thousand seven hundred fifty dollars ($33,750) by designing electronic circuit boards for breath testing equipment to increase its utility at a lesser cost than manufactured circuit boards; and

WHEREAS, An award of one thousand dollars ($1,000) divided equally, has already been made to Ina Koester and Lynne Koester, Department of Motor Vehicles, for a suggestion which results in annual savings of six hundred eighty-seven thousand three hundred ninety-eight dollars ($687,398) by recommending legislation be enacted to amend the Vehicle Code to provide for the renewal of drivers licenses at any time and that all renewals shall expire on the applicant's birthday four years from the application year; that identification cards shall be accepted in the same manner and increase the term to six years; and eliminate the issuance of duplicate identification cards; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Constance H. Beachy, Judith J. Ayala and Quinten Peters, Department of Motor Vehicles, for their suggestions which result in annual savings of fifty-seven thousand five hundred seventy-six dollars ($57,576) by recommending computer program be modified to generate county vehicle count used to apportion state gasoline tax revenue; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Carl K. Williams, Department of Motor Vehicles, for a suggestion which results in annual savings of forty-one thousand seven hundred ninety-eight dollars ($41,798) by recommending standard requirement that drivers license cashiers be required to make at least two cash turn-ins per work period be eliminated; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to William T. Bragg and Margaret E. Barlow, Department of Motor Vehicles, for a suggestion which results in annual savings of eleven thousand five hundred twenty-nine dollars ($11,529) by developing two forms to replace dictated letters advising customers of renewal date and possible penalty fees when it is likely the potential will fail to reach the vehicle owner because the registration transaction process has not been completed; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Anthony Walker and Jennie Asplund, Department of Motor Vehicles, for a suggestion which results in annual savings and increased revenue of thirty-one thousand six hundred seventy dollars ($31,670) by recommending changes in the processing of vehicle registration potential renewals which would reduce processing time and allow for deposit of funds within 24 hours from receipt; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William T. Bragg, Department of Motor Vehicles, for a suggestion which results in annual savings of thirty-four thousand seven hundred thirty-four dollars ($34,734) by recommending the revision, combination and elimination of numerous departmental form letters used in the Division of Registration; and

WHEREAS, An award of one thousand nine hundred sixteen dollars ($1,916), divided equally, has already been made to Ronald W. Bull and Louella Beveridge, Department of Motor Vehicles, for their suggestions which result in annual savings of thirty-one thousand five hundred forty dollars ($31,540) by recommending that a form, Cross Reference Card for Substitute Plates, be attached to the prior record and left in the file rather than routed for further handling; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Betty Lore and Darlene Wheeler, Department of Motor Vehicles, for their suggestions which result in annual savings of thirty-two thousand twenty dollars ($32,020) by recommending a change in the data processing procedures to validate name on a drivers license renewal if no name change is indicated; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Luella M. Richter, Department of Motor Vehicles, for a suggestion which results in annual savings of eighty-one thousand fifty-one dollars ($81,051) by recommending applicants' address be omitted on suspense receipts, unless receipt is mailed in a window

envelope; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Rodney D. Balderson, Department of Motor Vehicles, for a suggestion which results in annual savings of fifty-six thousand two hundred nineteen dollars ($56,219) by recommending typing of correspondence index cards on single vehicle files be eliminated; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to John Frank Allen, Department of Motor Vehicles, for a suggestion which results in annual savings of fifteen thousand four hundred seventy-nine dollars ($15,479) by recommending a notation be made on hearing report form if reviewer agrees with referees decision instead of preparing formal memorandum of agreement; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Lucille B. Kenealy, Department of Motor Vehicles, for a suggestion which results in annual savings of thirty-two thousand nine hundred twenty dollars ($32,920) by recommending a change in the data processing procedures to clear pending drivers license applications which would eliminate white printouts and generate a control list only; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William T. Bragg, Department of Motor Vehicles, for a suggestion which results in annual savings of twenty-one thousand nine hundred eighty-nine dollars ($21,989) by recommending rate clerks use on EDP printout in place of verification sheets when requesting verification of files; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to William T. Bragg and Kenneth Y. Miyao, Department of Motor Vehicles, for a suggestion which results in annual savings of twelve thousand six hundred sixty-two dollars ($12,662) by recommending typing and filing of RDF cards, prepared when registration applications are returned to owner for correction, be discontinued; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Num K. Fong, Department of Motor Vehicles, for a suggestion which results in annual savings of thirty-two thousand six hundred thirty dollars ($32,630) by recommending the number of pages printed with multicolored ink in the Department of Motor Vehicles' handbooks be reduced; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William T. Bragg, Department of Motor Vehicles, for a suggestion which results in annual savings of seventeen thousand four hundred dollars ($17,400) by recommending eliminating the procedure of interfiling batches of normal and miscellaneous work prior to filing in cabinets, and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Judy Dias, Department of Motor Vehicles, for a suggestion which results in annual savings of twenty-four thousand seven dollars ($24,007) by recommending applicant notify legal

owner instead of the Department of Motor Vehicles for any corrections to ownership certificates. Legal owner can then mail certificate to department for correction; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Thomas K. Russell and Lorraine Richmond, Department of Motor Vehicles, for their suggestions which result in increased revenue of eighteen thousand two hundred sixteen dollars ($18,216) by recommending the subscription rate for the Manual of Registration Procedures be increased to cover printing and handling costs; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William T. Bragg, Department of Motor Vehicles, for a suggestion which results in one-time and annual savings of forty-seven thousand two hundred two dollars ($47,202) by recommending several work improvement methods, in a large filing unit, to utilize employee time more effectively and reduce backlog; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Patricia D. Kirk, Department of Motor Vehicles, for a suggestion which results in annual savings of fourteen thousand five hundred twenty-five dollars ($14,525) by recommending all accounting copies of drivers license receipts be discarded at the time of audit, thereby eliminating the 10-day retention period; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Priscilla Lopez, Department of Social Services, for a suggestion which results in annual savings of one hundred thirty-seven thousand seventy-two dollars ($137,072) by recommending a standardized format for mailgrams with interchangeable paragraphs when notifying claimants additional information is needed before their Social Security Disability/SSI Claim can be processed; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Harry G. Myrick, Department of Transportation, for a suggestion which results in one-time savings of two hundred ten thousand three hundred dollars ($210,300) by recommending a large parcel of excess land, declared surplus, be developed into a marketable paper subdivision; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Jeff C. Morgan, Department of Transportation, for a suggestion which results in annual savings of forty-eight thousand three hundred seven dollars ($48,307) by developing a mechanical application to replace the hand labor process of sealing freeway shoulder joints with emulsified asphalt mixture and sand coverup; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Hal L. Burgener, California State University and Colleges, California Polytechnic University, San Luis Obispo, for a suggestion which results in annual savings of forty thousand one hundred sixteen dollars ($40,116) for developing a program which

would produce monthly reports of expenditures from the Controller's monthly payroll tape to identify industrial and nonindustrial disability payments to ensure proper accounting and budgeting for these benefit programs; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Raleigh G. Chamness, Department of Water Resources, for a suggestion which results in annual savings of twenty-three thousand four hundred ninety-one dollars ($23,491) by recommending coveralls worn by operations and maintenance employees be purchased instead of rented; and

WHEREAS, The suggestions of these employees have resulted in annually recurring and one-time savings and increased revenue amounting to two million three hundred sixteen thousand five hundred thirty-one dollars ($2,316,531); and

WHEREAS, As a result of these savings, it is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following additional awards, which have been approved by the State Board of Control, are hereby authorized to the employees named:

Wanda L. Clayton, eight hundred ninety dollars ($890).

Elvera A. Bass, four hundred dollars ($400).

Susan Au, eight hundred dollars ($800).

Geraldine E. Ames, five thousand nine hundred seventy-eight dollars ($5,978).

Grace E. Bankey, one hundred thirty-four dollars ($134).

Elaine Avilla, three hundred forty dollars ($340).

Leonard Krauss, seven thousand one hundred ninety-five dollars ($7,195).

Karin Fetherston, twenty-nine thousand six hundred ninety-eight dollars ($29,698).

Asa W. Wilson, six hundred ninety dollars ($690).

Ina Koester, twenty-two thousand seven hundred seventy-two dollars ($22,772).

Lynne Koester, twenty-two thousand seven hundred seventy-two dollars ($22,772).

Constance H. Beachy, two thousand three hundred eighty dollars ($2,380).

Judith J. Ayala, one thousand one hundred ninety dollars ($1,190).

Quinten Peters, one thousand one hundred ninety dollars ($1,190).

Carl K. Williams, three thousand one hundred eighty dollars ($3,180).

William T. Bragg, seventy-eight dollars ($78).

Margaret E. Barlow, seventy-eight dollars ($78).

Anthony Walker, one thousand eighty-three dollars ($1,083).

Jennie Asplund, one thousand eighty-three dollars ($1,083).

William T. Bragg, two thousand four hundred seventy-five dollars ($2,475).

Ronald W. Bull, six hundred nineteen dollars ($619).
Louella Beveridge, six hundred nineteen dollars ($619).
Betty Lore, one thousand one hundred dollars ($1,100).
Darlene Wheeler, one thousand one hundred dollars ($1,100).
Luella M. Richter, seven thousand one hundred five dollars ($7,105).
Rodney D. Balderson, three thousand four hundred fifty dollars ($3,450).
John Frank Allen, five hundred fifty dollars ($550).
Lucille B. Kenealy, two thousand two hundred ninety dollars ($2,290).
William T. Bragg, one thousand two hundred dollars ($1,200).
William T. Bragg, one hundred thirty-three dollars ($133).
Kenneth Y. Miyao, one hundred thirty-three dollars ($133).
Num K. Fong, two thousand two hundred sixty dollars ($2,260).
William T. Bragg, seven hundred forty dollars ($740).
Judy Dias, one thousand four hundred dollars ($1,400).
Thomas K. Russell, four hundred ten dollars ($410).
Lorraine Richmond, four hundred ten dollars ($410).
William T. Bragg, two thousand seven hundred fifty dollars ($2,750).
Patrick D. Kirk, four hundred fifty dollars ($450).
Priscilla Lopez, twelve thousand seven hundred seven dollars ($12,707).
Harry G. Myrick, nine thousand dollars ($9,000).
Jeff C. Morgan, three thousand eight hundred thirty dollars ($3,830).
Hal L. Burgener, three thousand ten dollars ($3,010).
Raleigh G. Chamness, one thousand three hundred fifty dollars ($1,350); and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the State Board of Control and to the Controller.

RESOLUTION CHAPTER 53

Assembly Concurrent Resolution No. 41—Relative to bighorn sheep.

[Filed with Secretary of State September 1, 1981]

WHEREAS, The bighorn sheep of California have a high esthetic value and are an important wildlife resource; and

WHEREAS, There is a continuing loss of bighorn sheep herds, and two of the most prominent problems, but not the only ones, adversely affecting bighorn are diseases and the intrusion of human activities into bighorn habitat; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it shall be the policy of the Legislature to encourage the restoration and maintenance of bighorn habitat and to perpetuate bighorn herds at a viable level; and be it further

Resolved, That the Department of Fish and Game is hereby requested to submit to the Legislature not later than March 1, 1982, a report and plan, together with recommendations, on all of the following:

(a) The current status and trend of bighorn herds.

(b) The manner in which various land uses are affecting bighorn herds.

(c) The prevalence of diseases in the various bighorn herds; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Resources Agency and to the Director of Fish and Game.

RESOLUTION CHAPTER 54

Assembly Joint Resolution No. 7—Relative to Social Security recipients.

[Filed with Secretary of State September 1, 1981]

WHEREAS, There are over 2 million persons 65 years of age or over in California; and

WHEREAS, Most of these senior citizens have paid into the social security system during their working lives, and are now receiving social security benefits; and

WHEREAS, The existing Social Security Act establishes an earnings ceiling, which when reached, is deducted from the monthly benefit amount; and

WHEREAS, In this period of high inflation, seniors often find it necessary to continue work or return to work to afford the bare necessities of life; and

WHEREAS, This earnings ceiling is discouraging to seniors who wish to continue work or who must work; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to investigate alternatives to the imposition of an earnings ceiling for all social security beneficiaries aged 65 and older; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 55

Assembly Joint Resolution No. 20—Relative to the sale of naval vessels.

[Filed with Secretary of State September 1, 1981.]

WHEREAS, During 1980, the countries of Costa Rica, Ecuador, Mexico, and Peru seized 22 United States flag tuna vessels, and the cost of the fines and other direct charges paid by the tuna fishermen as a condition for the release of the vessels and crews totaled $9.6 million; and

WHEREAS, Another 16 vessels were harassed and detained, and the cost of charges incidental to the seizures and harassment connected with port charges, fuel, travel, and loss of fishing is estimated to exceed $2.5 million; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to discontinue the sale of United States destroyers to any country which uses its fleet to seize and harass United States fishing boats; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 56

Assembly Concurrent Resolution No. 42—Relative to prisoner access to prison hospital records.

[Filed with Secretary of State September 3, 1981]

WHEREAS, The Department of Corrections, in its maintenance and operation of state correctional facilities, is utilizing, and allowing the utilization of, inmate assistance in medical and dental departments and hospitals of these facilities; and

WHEREAS, Inmate clerks, attendants, and nurses' aides presently have access to other inmates' medical information jackets; and

WHEREAS, This access has been abused resulting in the removal of vital medical information from jackets, falsification of records, justification of unwarranted medical treatment, and the manipulation of inmate housing; and

WHEREAS, The practice of allowing inmate access to inmates' medical information jackets deprives inmates of privacy during incarceration; and

WHEREAS, The practice of allowing inmate access to medical

information jackets exposes staff and inmate guardians of the records to unnecessary risk of threat or physical harm, as well as civil litigation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Department of Corrections to proceed expeditiously with the development and implementation of procedural guidelines which ensure control and supervision of inmate access to inmate medical information in accordance with procedural standards used, generally, in hospitals throughout California; and be it further

Resolved, That state correctional facilities' medical, hospital and dental department personnel are requested to refrain from using inmates unless there is proper supervision to manage medical information jackets, chart inmate patient vital signs, or manage post-laboratory data in inmate patient medical files; and be it further

Resolved, That in those situations in which inmates are used to provide direct patient care, it shall be the goal of the combined medical, psychiatric and dental staff that such inmate attendants should be trained and supervised in accordance with standards of hospitals in accordance with Title 22 of the California Administrative Code; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Secretary of the Youth and Adult Correctional Agency, the Director of the Department of Corrections, and each facility superintendent in California.

RESOLUTION CHAPTER 57

Assembly Concurrent Resolution No. 16—Relative to the use of state CETA funds to finance veterans' projects.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Unemployment rates among California Vietnam era veterans are significantly higher than nonveterans; and

WHEREAS, There are 50,000 to 60,000 Vietnam era veterans in the State of California possessing less than honorable military discharges; and

WHEREAS, It has been shown that minority and economically disadvantaged veterans hold these discharges in disproportionate numbers; and

WHEREAS, A recent Louis Harris poll found that over 70 percent of employers nationwide view a less than honorable discharge as a negative factor in selecting an employee; and

WHEREAS, There is other ample evidence that a less than honorable military discharge is a formidable barrier to a veteran in securing gainful employment and completing readjustment to

civilian life; and

WHEREAS, A great percentage of these discharges have the potential to be upgraded because of inequities and errors in the system of military justice; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor and the Department of Employment Development, which is administering the Comprehensive Employment and Training Act (CETA), are hereby requested to develop proposals to fund, on a cooperative basis, projects on a community level to provide employment counseling and development services to Vietnam era veterans, with a special emphasis on discharge upgrading services; and be it further

Resolved, That the Department of Employment Development is hereby requested to develop a plan whereby local and community groups will be provided the technical assistance to develop those projects; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Employment Development.

RESOLUTION CHAPTER 58

Assembly Concurrent Resolution No. 45—Relative to fire safety.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Recent fire disasters in other states have demonstrated the need for improved fire safety; and

WHEREAS, Certain buildings owned and operated or leased by the state are not in conformance with fire safety regulations adopted by the State Fire Marshal; and

WHEREAS, The safety of employees working in buildings that are not in conformance with fire safety regulations may be jeopardized, should a fire occur; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That each state agency, department, and office include in its budget request for the 1982–83 fiscal year funding for conforming its facilities to fire safety standards adopted by the State Fire Marshal, and be it further

Resolved, That the plans provide for conformance by July 1, 1983, and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the head of each agency, department, and office of the state.

RESOLUTION CHAPTER 59

Assembly Concurrent Resolution No. 46—Relative to the Public Employees' Retirement System.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Legislation enacted in 1974 provided the State Personnel Board with the responsibility of recommending state civil service classifications that should receive state safety membership status under the Public Employees' Retirement System; and

WHEREAS, Criteria developed by the State Personnel Board reflected that membership in the state safety category should be provided to state employees whose normal scope of duties require that they actively and continuously protect people from physical harm and that the incumbents maintain the physical characteristics necessary to insure an adequate level of public protection; and

WHEREAS, Both the Department of the Youth Authority and the Department of Corrections supported the inclusion of registered nurses in state safety membership under the retirement system; and

WHEREAS, There is evidence suggesting that registered nurses working for the Department of the Youth Authority and the Department of Corrections have an ongoing custody and security responsibility, including the responsibility of responding to emergency situations in a role similar to permanently assigned custodial staff, although the job specifications do not mention that responsibility; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Personnel Administration is hereby requested, within the funds budgeted for it for the 1981–82 fiscal year, to reexamine the following job classifications for state safety membership status:

Supervising Nurse III,
Supervising Nurse II,
Supervising Psychiatric Nurse,
Registered Nurse III,
Registered Nurse II,
Registered Nurse I,
Surgical Nurse II,
Surgical Nurse I,
Nurse Anesthetist; and be it further,

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Personnel Administration.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 11—Relative to national defense policy.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Aggressor nations could exploit any apparent weakness in United States defensive capabilities by supporting increasingly bolder incursions throughout the world; and

WHEREAS, There is a particular basis for concern that aggressor nations may use force in Pakistan, Iran, Yugoslavia, and Poland; and

WHEREAS, A potential for aggressive actions exists which threatens other independent nations, including the United States; and

WHEREAS, The United States is the key nation that can act to stop expansionist aggression; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President of the United States and the Congress of the United States are requested to take action necessary to adopt a National Strategy of Peace Through Strength, the general principles of which are:

(1) To inspire, focus and unite the national will and determination to achieve this goal of peace through strength.

(2) To achieve an overall military and technological position that will demonstrate to the world that war is futile.

(3) To examine every instance of aggression by any nation or group, and formulate a policy of facing this aggression consistent with the basic principles of liberty and equality of the United States of America.

(4) To create a strategic defense and a civil defense which would protect United States citizens against nuclear war.

(5) To accept no arms control agreement which in any way jeopardizes the security of the United States or its allies, or locks the United States defensive capabilities into a position of inferiority.

(6) To reaffirm and maintain a policy for effective security and intelligence capabilities; and be it further

Resolved, That the Legislature acknowledges that it will take the combined efforts of hundreds of organizations and millions of people to achieve the adoption of a National Strategy of Peace through Strength; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to the President of the Senate of the United States, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 61

Assembly Joint Resolution No. 28—Relative to indexing federal income taxes.

[Filed with Secretary of State September 9, 1981]

WHEREAS, The indexing of California personal income taxes, since its enactment in 1978, has resulted in substantial savings to California taxpayers and has helped retain the value of taxpayers' earnings in a period of inflation; and

WHEREAS, Indexing has given Californians the knowledge that the state income tax is fairly and forthrightly applied and collected and that they will not suffer economically while government reaps the benefits of inflation; and

WHEREAS, As a matter of California public policy, it is desirable to achieve the maximum amount of conformity with federal income tax laws with respect to indexing so that federal and state income taxes are collected in the simplest and most uniform method possible, so that taxpayers are not subjected to a multitude of differing tax requirements, and so that the economic policies of the federal and state government are not incompatible; and

WHEREAS, Based on the benefits which have accrued to California taxpayers due to indexing, indexing of state income taxes should continue in a manner which, to the extent possible, accurately ties indexing to the rate of inflation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact a statute indexing federal income taxes which is similar to the method adopted by the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 37—Relative to food stamps.

[Filed with Secretary of State September 9, 1981.]

WHEREAS, Substantial effort and funds are expended by all levels of government in providing basic human necessities to eliminate hunger and provide an adequate diet; and

WHEREAS, It is necessary to find a means to accomplish this at the least possible cost with maximum funds available as benefits; and

WHEREAS, The federal Food Stamp Program is designed to be administered separate from other programs developed to meet basic needs; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature memorializes the President and Congress of the United States to enact legislation which would: (1) provide that pilot project authority be granted to states to study the effects of public assistance food stamp cash-out by providing an additional cash increment to Aid to Families With Dependent Children (AFDC) program recipients in lieu of the food stamps currently being provided; (2) hold state and county governments harmless for any increased amount of cash assistance issued in conjunction with this pilot; and (3) transfer responsibility for administration of the federal Food Stamp Program from the United States Department of Agriculture to the United States Department of Health and Human Services; and be it further

Resolved, That the Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, each Senator and Member of the House of Representatives in the California delegation, and the Secretary of the United States Department of Health and Human Services.

RESOLUTION CHAPTER 63

Assembly Joint Resolution No. 42—Relative to federal Indian health programs.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Title V of Public Law 94-437, the Indian Health Care Improvement Act, committed this nation to a seven-year program to improve the health of urban Indians, a medically underserved population; and

WHEREAS, Congress subsequently appropriated funding for health and health-related services provided in 41 Urban Indian Health Projects, of which 10 are located in California; and

WHEREAS, More than 201,000 American Indians, a larger number than in any other state, are residents of California, with approximately 75 percent in urban and urban-fringe areas; and

WHEREAS, California's 10 Urban Indian Health Projects received $2.179 million for federal 1979–1980 fiscal year, and received $2.226 million for federal 1980–1981 fiscal year; and

WHEREAS, President Reagan proposes to reduce by 50 percent the 1982 fiscal year funding for urban Indian health projects and to eliminate all such funding by the start of the 1984 fiscal year; and

WHEREAS, The President's proposal would result in a

disproportionate and unreasonable reduction in federal funding for health services to California's American Indian residents; and

WHEREAS, Implementation of President Reagan's proposal would evidence yet another breach of good faith with this nation's first people; and

WHEREAS, The resulting reduction and loss of health services would cause an additional burden on California's health delivery system and budget due to the fact that California provides only supplemental funding for those programs; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, California's Senators and Congressmen, individually and severally, and the Congress of the United States to maintain urban Indian health project funding at not less than the federal 1980–81 fiscal year appropriation level; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 64

Assembly Joint Resolution No. 47—Relative to relief funds for East Africa.

[Filed with Secretary of State September 9, 1981]

WHEREAS, The problem of world hunger is one of growing concern to American citizens; and

WHEREAS, The elimination of world hunger is becoming recognized as an important factor in the maintenance of world peace; and

WHEREAS, The citizens of East Africa are a proud and traditionally self-sufficient people living in an extremely harsh land; and

WHEREAS, East Africa has, in recent years, been plagued by both natural and manmade disasters which have destroyed the land, the homes, and the livelihoods of the people; and

WHEREAS, Without immediate assistance, an estimated 12,000,000 people throughout East Africa are facing imminent starvation; and

WHEREAS, The nations of East Africa and the relief organizations working there have appealed to the world for assistance in this time of crisis; and

WHEREAS, The recent relief efforts to Cambodia have proved to be successful in both saving the lives of those facing starvation as well

as in enabling Cambodia to restore self-sufficiency in its food production capability; and

WHEREAS, The United States government recently pledged two hundred eighty-five million dollars ($285,000,000) for refugee relief in the continent of Africa; and

WHEREAS, This amount, together with that pledged by other nations, will not meet the needs of immediate relief and long-term development in East Africa; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California strongly urges the President and Vice President of the United States and the Congress of the United States to take whatever action is necessary, including the provision of emergency relief funds, to assure the immediate relief and future self-sufficiency of the famine victims of East Africa; and be it further

Resolved, That the President is requested to instruct the United States delegation to the United Nations to advocate the need of the East Africans for basic sustenance to all members of the General Assembly of the United Nations; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State of the United States, to the United States Ambassador to the United Nations, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 65

Assembly Joint Resolution No. 51—Relative to refugees.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Refugees from all over the world are coming to California at an estimated rate of over 5,000 per month; and

WHEREAS, A probable 500,000 refugees will be settling in California within the next five years; and

WHEREAS, It appears that immigration quotas will continue to increase, and that refugee admissions will continue in significant numbers for many years; and

WHEREAS, Approximately one-third of the Indochinese refugees entering the United States originally settle in California, and many of those who first settle in other states eventually move to California because of the similarity in climate between their homelands and California, because the large Asian population in California provides necessary cultural and social support, and for purposes of family reunification; and

WHEREAS, California is proud to be a beacon of hope for

thousands of desperate peoples from all corners of the earth who seek refuge from oppression, persecution, and death; and

WHEREAS, Throughout the history of California, each succeeding generation of immigrants to our state has made an important contribution to the economic and cultural vitality of the state; and

WHEREAS, California feels a strong commitment and obligation to ensure a healthy environment both for refugees and for residents already within her borders; and

WHEREAS, Despite the passage by Congress of the Refugee Act of 1980, mandating a national plan for the resettlement of refugees, the federal government has not yet produced such a plan; and

WHEREAS, Despite the fact that the Refugee Act of 1980 requires the federal government to consult with the states regarding its intended distribution of refugees among the states and localities, this consultation with California's agency responsible for refugee resettlement, the State Department of Social Services, does not take place; and

WHEREAS, Because California receives no prior notification of the federal government's intentions regarding the settlement of refugees within California, and does not know how many are being sent or where they are being sent until they actually arrive in our state; and

WHEREAS, Despite the fact that California is required by the federal government to submit a State Plan for Refugee Resettlement by September 30 of each year, the state receives only sporadic and tardy information from the federal government regarding the extent of planned federal financial participation in refugee resettlement; and

WHEREAS, This sporadic and tardy information makes effective advance state planning for refugee resettlement virtually impossible; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress of the United States are urged to use their best offices to require from the appropriate authorities, prior to December 31, 1981, a National Plan for Refugee Resettlement that clearly defines the roles and responsibilities of the appropriate government agencies and the voluntary agencies involved with refugee resettlement; and be it further

Resolved, That such a plan include a clear delineation of the core services to be provided by all of the appropriate government agencies and the voluntary agencies involved in refugee resettlement; and be it further

Resolved, That such a plan be made available for public review and comment prior to finalization; and be it further

Resolved, That the voluntary agencies be required to submit an annual resettlement plan for those refugees that will be admitted to the United States as part of the United States quota for that year; and be it further

Resolved, That such a plan must include the states and counties

where voluntary agencies plan to resettle refugees as well as the core services that will be provided; and be it further

Resolved, That prior consultation by the receiving states and counties will be mandated in order for those areas to accomplish effective planning; and be it further

Resolved, That timely funding information for the refugee resettlement program must be received by the states prior to the beginning of each federal fiscal year, so that state program goals and objectives can be established and met within known available resources; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States; to the United States Secretary of State; to the United States Ambassador on Refugee Affairs; to the Chairman and members of the United States Senate Judiciary Committee; to the Chairman and members of the United States House of Representatives Subcommittee on Immigration, Refugees, and International Law; to both Senators and to each Representative of California in the Congress of the United States; to the Select Commission on Immigration and Refugee Policy; to the United Nations High Commissioner on Refugees; to the Governor of California; and to each member of the Boards of Supervisors of Los Angeles, Orange, San Diego, San Francisco, Santa Clara, Alameda, and Sacramento Counties.

RESOLUTION CHAPTER 66

Assembly Joint Resolution No. 59—Relative to the Proclamation of Older Americans Employment Opportunity Week.

[Filed with Secretary of State September 9, 1981]

WHEREAS, Senate Joint Resolution 92 authorizes and requests the President to issue a proclamation designating the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week"; and

WHEREAS, This measure requests the President to call upon the nation's employers and labor unions to give special consideration to older workers with a view toward promoting expanded career and employment opportunities for older workers; and

WHEREAS, It requests the President to call upon voluntary organizations to examine ways of expanding the service roles that older workers are engaged in; and

WHEREAS, This federal resolution further requests the President to call upon the United States Department of Labor to give special assistance to older workers through job training programs; and

WHEREAS, It also requests the President to call upon the citizens of the nation to observe the designated week with appropriate

programs, ceremonies, and activities; and

WHEREAS, Senate Joint Resolution 92 is based upon a recognition of the importance of the continued participation of senior citizens in the nation's work force, and upon a desire to encourage expanded careers and greater job opportunities by increasing the awareness of the valuable experience and wisdom offered by the nation's senior citizens; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President to issue a proclamation designating the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week", and to call upon the nation's employers and labor unions, voluntary organizations, the United States Department of Labor, and the citizens of the United States, to take the actions outlined in Senate Joint Resolution 92; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Respresentative from California in the Congress of the United States.

RESOLUTION CHAPTER 67

Senate Concurrent Resolution No. 24—Relative to safe drinking water bonds.

[Filed with Secretary of State September 11, 1981]

WHEREAS, In 1976 the voters approved the California Safe Drinking Water Bond Law of 1976 for the purpose of financing the upgrading of inadequate domestic water supply systems not meeting minimum bacteriological, chemical, or other basic health standards for domestic water supplies; and

WHEREAS, It is necessary for the preservation of the health, safety, and welfare of the people of California that water supplied for domestic purposes be pure, wholesome, and potable, and that loans for domestic water systems pursuant to these provisions be subject to reasonable repayment provisions, considering the abilities of the various involved water agencies to make repayments; and

WHEREAS, The Public Utilities Commission presently allows water corporations subject to its jurisdiction to recover revenues to repay such loans by means of a surcharge on customer rates adequate to recover loan principal and interest; and

WHEREAS, Alternate methods to recover revenue for loan repayment, including the addition of plant improvements financed by the loan to rate base, may also constitute reasonable recovery

devices; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission is hereby requested to study the relative benefits of the commission's current surcharge practice and the alternate rate base treatment to both water corporations and their ratepayers, to recommend the most appropriate method for recovering utility revenues needed to repay loans under the California Safe Drinking Water Bond Law of 1976, and to report thereon to the Legislature and Governor on or before February 1, 1982; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 68

Senate Concurrent Resolution No. 14—Relative to the Walter F. Maxwell Memorial Bridge.

[Filed with Secretary of State September 11, 1981]

WHEREAS, Walter F. Maxwell of San Diego left behind a substantial monument to his memory by building more than 570 bridges and overpasses which cross and recross almost every major highway in San Diego County, as well as in other parts of southern California; and

WHEREAS, Born in Albany, New York, he became a resident engineer for the New York State Division of Highways in 1930; and

WHEREAS, He left New York in 1940 to come to San Francisco where he accepted an assignment to the post of area engineer in the U.S. Army Corps of Engineers; and

WHEREAS, When World War II came along, he was sent off to Officers Candidate School, and commissioned an officer in the Engineering Corps where he attained the rank of Lieutenant Colonel; and

WHEREAS, After his discharge and after his first partnership with Charles MacCloskey was mutually dissolved, he formed the W.F. Maxwell Co., General Engineering Contractors, in Los Angeles and later in Fontana and San Diego; and

WHEREAS, He was an active supporter of the Associated General Contractors of America (AGC) in Los Angeles and San Diego and also on a national level, served for 16 years as a member of the AGC's Board of Directors, was elected a Life Member of the board, served nine terms on the AGC's Executive Committee, and, in 1969, served as National Treasurer for the organization; and

WHEREAS, He gained national recognition by serving for six years as co-chairman of the American Association of State Highway Officials-AGC Joint Cooperative Committee, and in 1968, he was

elected to that august group of internationally prominent figures in the construction industry, the Beavers; and

WHEREAS, Walter F. Maxwell did more than just build bridges during his lifetime, he encouraged dedication and discipline, courage and audacity, and character and devotion to an ideal among those he worked with and gave back to the industry which had provided him with a living the very best he had to offer; and

WHEREAS, The Lilac Bridge, a span of concrete and steel which arches Interstate Route 15 at Lilac Road 13 miles north of Escondido, is one of the extraordinary projects built by Mr. Maxwell; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Lilac Bridge, which arches Interstate Route 15 at Lilac Road in San Diego County, approximately 13 miles north of Escondido, is hereby officially designated the Walter F. Maxwell Memorial Bridge in honor of Walter F. Maxwell; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of and erect appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this official designation, and that all costs for these plaques and markers shall be donated by local citizens who appreciate Walter F. Maxwell's services to the community; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 69

Senate Joint Resolution No. 8—Relative to Rudolf Hess.

[Filed with Secretary of State September 11, 1981.]

WHEREAS, Rudolf Hess, 86, who was convicted of one of the most heinous crimes in the history of mankind for his involvement in the genocide of 6 million Jews during World War II, has petitioned the governments of the United States, France, Great Britain, and the Soviet Union, asking to be released from his life prison term due to his advanced age; and

WHEREAS, He was Adolph Hitler's second in command, and was instrumental in the creation of the first concentration camps in 1933, the burning of synagogues and the formulation of the plans for the death camp at Auschwitz, and has, since his conviction, shown no signs of rehabilitation, remorse, or regret for the millions of Jewish victims lost during the Nazi regime; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully

memorializes the President and Congress of the United States to oppose the release of convicted war criminal Rudolf Hess from Spandau Prison near Berlin, Germany; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 11—Relative to veterans in state service.

[Filed with Secretary of State September 11, 1981]

WHEREAS, The State of California recognizes and appreciates the sacrifices made by its men and women who served in the armed forces throughout the world in the defense of the nation and the preservation of freedom; and

WHEREAS, Many veterans in California have entered state service and employment in California schools following their military service and have become career civil servants; and

WHEREAS, The time spent on active duty in the armed forces by these persons has reduced the span of their working careers and thus reduces their retirement benefits; and

WHEREAS, Local government agencies which contract with the Public Employees' Retirement System (PERS) have been authorized to offer their employees the opportunity to secure retirement credit for their military duty up to a maximum of four years; and

WHEREAS, If these local employees later transfer to state employment, they may carry this retirement benefit with them; and

WHEREAS, State employees who enter United States military service from state employment and who return within a specified time period receive PERS retirement credit for their military service; and

WHEREAS, This same opportunity has not been provided for state members of PERS who entered military service prior to entering state service; and

WHEREAS, This situation has created an inequity in the retirement law by allowing some public employees to receive retirement credit for military service through PERS while others are denied this benefit; and

WHEREAS, Assembly Bill 3039 of the 1979–80 Regular Session of the Legislature was introduced to correct this inequity, but was held in the Assembly Ways and Means Committee due to lack of data on

the cost to the state and the number of state employees who would be eligible to receive this benefit; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Public Employees' Retirement System is hereby requested to conduct a study to determine the number of state and school employees who would be eligible for retirement credit for military service prior to entering state service, school employment and becoming a member of PERS and the cost of extending this benefit to these employees; and be it further

Resolved, That PERS report the results of this study, together with its recommendations, to the Assembly Committee on Public Employees and Retirement; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Board of Administration of the Public Employees' Retirement System.

RESOLUTION CHAPTER 71

Assembly Joint Resolution No. 56—Relative to the impact of Internal Revenue Service regulations on the Cal-Vet farm and home loan program.

[Filed with Secretary of State September 11, 1981.]

WHEREAS, The State of California, since 1921, has provided in excess of 5.6 billion dollars of farm and home loans to qualified veterans through the Cal-Vet program; and

WHEREAS, The people of this state have repeatedly, and as recently as 1980, reaffirmed the Cal-Vet program as an ongoing benefit for California veterans and the people of this state, and currently 8,000 Cal-Vet loan applications are pending dating from as far back as August 1980; and

WHEREAS, This program is financed by general obligation bonds approved by the electorate and revenue bonds authorized by the Legislature, and the status of these bonds is affected by the Mortgage Subsidy Bond Tax Act of 1980 and proposed implementing regulations of the Internal Revenue Service (126 Federal Register 34311 et seq.); and

WHEREAS, The proposed IRS regulations preclude the use of the proceeds of tax-exempt bonds for providing loans for refinancing housing, including take-out financing for temporary initial financing loans with a term in excess of six months; and

WHEREAS, California law does not limit the term of temporary initial financing (Section 987.85 of the Military and Veterans Code), and because of fund shortages occasioned by the timing of bond issues and bond sales in an integrated bond market program, statutory veteran's preferences, the backlog of applications, and

processing time requirements, the term of temporary initial financing frequently exceeds six months, with the result that the availability of Cal-Vet financing is jeopardized for most California veterans; and

WHEREAS, This danger exists with respect to the loans of thousands of California veterans who have already purchased homes with temporary initial financing exceeding six months in good faith reliance on anticipated Cal-Vet financing for which they are eligible and for which they have made application; and

WHEREAS, The California Department of Veterans Affairs, and numerous of California organizations concerned with veterans' benefits, with providing housing, and with the contributions of the Cal-Vet program to the economy of the State of California, have petitioned the Internal Revenue Service and Congress to modify these proposed onerous provisions; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and the Commissioner of the Internal Revenue Service to insure implementation of the Mortgage Subsidy Bond Tax Act of 1980 to achieve the intent of the Congress (as expressed in Report of the Committee on Ways and Means, Report No. 96-678, Page 27, and Report of the Committee on the Budget, Report No. 96-1167, Page 450) "that programs using tax exempt bonds for mortgage funds for veterans should be permitted to continue"; and be it further

Resolved, That the President and Congress direct the Commissioner of the Internal Revenue Service to modify proposed regulations (126 Federal Register 34311 et seq.) to permit take-out loans for temporary interim financing covering the period between an application, commitment, or approval of a loan from a government entity and the availability of funds for such a loan from that entity as demonstrated by the intent of the parties to the loan as evidenced by the appropriate transaction documents; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Treasury, to the Commissioner of the Internal Revenue Service, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 72

Senate Concurrent Resolution No. 34—Relative to the Board of Registered Nursing.

[Filed with Secretary of State September 14, 1981]

WHEREAS, Health care in the State of California depends on the availability and quality of registered nurses; and

WHEREAS, The availability and quality of registered nurses is directly connected with the profession's self-respect and stability; and

WHEREAS, The Board of Registered Nursing is charged with protection of the general public and its legislatively mandated responsibilities are limited to approval of nursing schools, the examining and licensing of registered nurses, the carrying out of disciplinary action against those who violate the laws under its jurisdiction, and management of its internal affairs; and

WHEREAS, The Board of Registered Nursing has taken a number of actions which have created turmoil within the profession, including an interpretation of Section 2732.1 of the Business and Professions Code, which has resulted in the extension of interim permits beyond the term prescribed by law, and now proposes to use that interpretation to issue interim permit licenses for two years before establishing the minimum competency standards of the law; and

WHEREAS, The Board of Registered Nursing has created further turmoil within the profession of registerd nursing by proposing to withdraw California from a nationally accepted licensing examination which would disallow reciprocity with other states; and

WHEREAS, These and other actions of the Board of Registered Nursing within the past 18 months have devalued the profession in the eyes of both professionals and the public and have exacerbated rather than improved the stability of the nursing profession; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislative Analyst be directed to study and report back to the Legislature on or before July 1, 1982, the effect of California withdrawing from the registered nursing national examination, known as the State Board Test Poll Examination, and to also study the impact of issuing interim permits under the Board of Registered Nursing's current policy of extending the interim permits of those who did not achieve a passing score in the February, 1981, examination and who will not achieve a passing score in the July, 1981, examination; and the Board of Registered Nursing's proposal to issue those interim permits in the future, for a period of two years prior to successful completion of a minimum competency examination; and be it further

Resolved, That the Board of Registered Nursing is hereby requested to withhold implementation of these proposals until the Legislative Analyst has completed the study and has submitted it to the Legislature, and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Board of Registered Nursing.

RESOLUTION CHAPTER 73

Senate Joint Resolution No. 13—Relative to fishery management.

[Filed with Secretary of State September 14, 1981]

WHEREAS, The Pacific Fishery Management Council includes the western states of Oregon, Washington, Idaho, and California which have few common characteristics; and

WHEREAS, Only one fishery exists in the State of Idaho, and yet Idaho votes on all fisheries subject to council jurisdiction; and

WHEREAS, California has a unique coastline over 1,100 miles in length; and

WHEREAS, California is much larger geographically than the other states, and of comparable size to east coast states organized under one council; and

WHEREAS, The State of California and Mexico share resources not found north of the California border, which are subject to bilateral and cooperative research efforts between California and Mexico; and

WHEREAS, California alone has more fisheries in the fisheries conservation zone than the other Pacific Council states combined, shares few fisheries, and, in fact, has more diverse fisheries not common with the other Pacific Council member states; and

WHEREAS, The recreational fishery is a large and valuable asset to California and its problems are primarily inherent to this state; and

WHEREAS, The Pacific Fishery Management Council is formulating specific plans subjecting certain fisheries to council jurisdiction, and four of those plans relating to domestic fisheries for anchovies, jack mackerel, squid, and billfish would affect only California; and

WHEREAS, Landings and shipments in California exceed one billion pounds annually and have a significant impact on California's fishing industry and all segments of California's economy; and

WHEREAS, The Pacific Fishery Management Council established a fishery management plan for the salmon fishery in 1980, despite objections from the California Legislature and commercial and recreational fishermen, which had disastrous results for California's salmon fishery; and

WHEREAS, Other fisheries only pursued in California may soon be the subject of council management planning efforts; and

WHEREAS, The Pacific Fisheries Management Council recently voted to recommend to the Secretary of Commerce that the State of Alaska be given voting status, rather than observer status, on the council, thus creating a further voting disadvantage for California; and

WHEREAS, Legislation has been introduced in Congress to establish a separate California fishery council and other legislation to establish a fishery management council including only the State of

California is being drafted; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to establish a fishery management council including only the State of California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 74

Senate Joint Resolution No. 15—Relative to beach erosion in northern San Diego County.

[Filed with Secretary of State September 14, 1981.]

WHEREAS, The need for an immediate and permanent solution to the severe beach erosion problem afflicting the beaches of northern San Diego County is apparent; and

WHEREAS, The erosion problem is a regional problem affecting all beaches from Oceanside to La Jolla; and

WHEREAS, The best available engineering and scientific evidence indicates that the primary cause of the erosion problem is the federal government's construction of the Marine Corps' Del Mar Boat Basin and appurtenant ocean structures; and

WHEREAS, The federal government has acknowledged and accepted full responsibility for creating the erosion problem and financial responsibility for correcting the problem; and

WHEREAS, Interim short-term solutions to the erosion problem such as the current effort involving the dredging of Oceanside Harbor and placing the dredged material on the beaches are neither effective nor cost-efficient; and

WHEREAS, A truly effective, permanent solution to the regional beach erosion problem requires immediate stabilization of beaches, coupled with the prompt installation of a permanent sand bypass system which will transport sand from north of the Del Mar Boat Basin to the beaches of Oceanside and cities to the south; and

WHEREAS, The Army Corps of Engineers has prepared a survey report, dated September 1980, studying the beach erosion problem and proposing four alternative solutions; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Army Corps of Engineers to move the survey report forward as rapidly as possible into advanced engineering and design; and be it

further

Resolved, That the Legislature of the State of California memorializes the Army Corps of Engineers to design, construct, and put into operation at the earliest possible date an effective, permanent sand bypass system which will restore to the fullest extent possible the natural flow of sand to the beaches of northern San Diego County to alleviate the regional erosion problem, and to act immediately to stabilize the beaches to prevent further destruction of public and private property; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 75

Senate Concurrent Resolution No. 4—Relative to the creation of the Heritage Task Force.

[Filed with Secretary of State September 16, 1981.]

WHEREAS, Californians have gained an increased awareness of the state's historic and cultural resources and recognize the importance of older structures and neighborhoods; and

WHEREAS, Properties with special architectural, cultural, or historic significance enhance the quality of life for all; not only do they represent the lessons of the past and embody precious features of our heritage but they also serve as examples of quality for today; and

WHEREAS, A growing consensus for the preservation of our architectural, cultural, and historic heritage has not yet produced a satisfactory set of overall policies and programs for achieving this worthy goal; and

WHEREAS, In order to formulate a cohesive state policy on the preservation of properties with such special significance, Californians need a forum to air and address the concerns of those with an interest in preservation issues; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

1. It is the policy of the State of California that properties with special architectural, cultural, and historic significance shall be identified, preserved, restored, rehabilitated, maintained, and used to the maximum extent feasible.

2. The Heritage Task Force is hereby created to study and recommend policy, programs, and legislation to preserve and enhance our architectural, cultural, and historic resources consistent

with the National Historic Preservation Act of 1966, as amended.

3. The task force shall submit a report to the Legislature which shall clearly identify problem areas and recommend a statewide preservation policy and programs to preserve and enhance our architectural, cultural, and historic resources.

4. The task force shall consist of 16 members appointed by the Senate Rules Committee and the Speaker of the Assembly, as follows:

(a) One representative of the California Historical Society, who shall be appointed by the Senate Committee on Rules.

(b) One representative of a local preservation organization in southern California, who shall be appointed by the Speaker of the Assembly.

(c) One representative of a local preservation organization in northern California, who shall be appointed by the Senate Committee on Rules and the Speaker of the Assembly, jointly.

(d) The State Historic Preservation Officer or his or her designee, who shall be appointed by the Speaker of the Assembly.

(e) One member of the State Historical Resources Commission, who shall be appointed by the Senate Committee on Rules.

(f) One member of Californians for Preservation Action, who shall be appointed by the Speaker of the Assembly.

(g) One representative of the National Trust for Historic Preservation, who shall be appointed by the Senate Committee on Rules.

(h) One representative of the California Council of the American Institute of Architects, who shall be appointed by the Speaker of the Assembly.

(i) One archeologist, who shall be appointed by the Senate Committee on Rules.

(j) One representative of the banking or savings and loan industry who is knowledgeable on the subject of real property financing, who shall be appointed by the Speaker of the Assembly.

(k) One representative of the building construction industry, who shall be appointed by the Senate Committee on Rules.

(*l*) One representative of a labor union which may be involved in preservation or construction, who shall be appointed by the Speaker of the Assembly.

(m) One elected or other representative of a city, county, or city and county, who shall be appointed by the Senate Committee on Rules.

(n) One public member, who shall be appointed by the Speaker of the Assembly.

(o) One member of the Senate, who shall be appointed by the Senate Committee on Rules.

(p) One member of the Assembly, who shall be appointed by the Speaker of the Assembly.

5. The task force shall hold its meetings and hearings at the call of the chairperson who shall be appointed by the Senate Rules Committee.

6. Members of the task force shall be paid their actual and reasonable travel and personal expenses incurred in performing their duties.

7. The Senate Rules Committee and the Speaker of the Assembly, acting concurrently, may appoint an advisory committee to the task force consisting of representatives of public and private interests and experts whose contributions are deemed important to the work of the task force. If such a committee is appointed, it shall include at least one person representing Native American concerns.

8. The Heritage Task Force shall submit its report to the Legislature within one year of its appointment and shall terminate at that time.

9. The Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the task force and its members in an amount not to exceed twenty thousand dollars ($20,000). In accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 76

Senate Concurrent Resolution No. 19—Relative to the John F. McCarthy Memorial Bridge.

[Filed with Secretary of State September 16, 1981.]

WHEREAS, It was with the most profound sorrow that the members learned of the passing of former California State Senator John F. McCarthy, who represented the citizens of Marin County from 1950 to 1970, and

WHEREAS, John F. McCarthy, former Republican majority leader of the Senate, was the youngest person ever elected to that house in the history of the state, and

WHEREAS, During his two decades in the Senate, Jack McCarthy served on every major committee and listed among his major accomplishments authorship of bills creating the Bay Area Rapid Transit District and authorizing the construction of the Richmond-San Rafael Bridge, and

WHEREAS, It is a fitting tribute to the long years of community service rendered to the people of his district and the state that the memory of John F. McCarthy and his association with the Richmond-San Rafael Bridge be memorialized; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Richmond-San Rafael Bridge is hereby officially designated the John F. McCarthy Memorial Bridge in honor

of John F. McCarthy; and be it further

Resolved, That the Department of Transportation is hereby requested to erect appropriate markers and plaques, consistent with signing requirements for the state highway system, showing this official designation, at a cost not to exceed one thousand dollars ($1,000); and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 77

Senate Joint Resolution No. 3—Relative to Mexican motor carriers.

[Filed with Secretary of State September 16, 1981]

WHEREAS, There is no reciprocity agreement presently in effect between the Republic of Mexico and the United States of America regarding the operation of motor carriers owned by Mexican individuals or companies in the United States of America or the operation of American motor carriers in Mexico; and

WHEREAS, This situation results in unduly restrictive measures by the Republic of Mexico for allowing American-owned motor carriers to operate within Mexico while allowing Mexican-owned carriers to easily operate in the United States without proper operating authority because of the lack of a formal international agreement requiring Mexican carriers to prove operating authority for operation in the United States; and

WHEREAS, The operation of improperly credentialed Mexican-owned carriers deprives the state of revenue in the form of Board of Equalization taxes, motor vehicle license, weight, and registration fees, city business license fees, business and corporation fees, personal income taxes, Public Utilities Commission fees, and Workers' Compensation and State Disability Income Fund contributions; and

WHEREAS, If Mexican carriers are operating in California without proper authority, the state suffers increased unemployment and the situation places an undue economic burden upon American-owned carriers; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to direct the Interstate Commerce Commission and the Department of Transportation to investigate and ascertain the extent of operation of improperly credentialed motor carriers owned or operated by individuals and companies from the Republic of Mexico and to take action to develop an agreement between the Republic of Mexico and the United States of America for reciprocity in the operation of motor carriers between

the several states of these two nations; and be it further

Resolved, That the Commission of the Californias investigate and ascertain the extent of operations in California of improperly credentialed motor carriers owned or operated by individuals and companies from the Republic of Mexico and report its findings and recommendations to the Legislature on or before July 1, 1982; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Department of Transportation, to the Interstate Commerce Commission, to the Department of State, and to the Commission of the Californias.

RESOLUTION CHAPTER 78

Senate Joint Resolution No. 7—Relative to ocean vessels.

[Filed with Secretary of State September 16, 1981.]

WHEREAS, During 1980, the countries of Costa Rica, Mexico, Ecuador, and Peru seized 22 United States flag tuna vessels, and the cost of the fines and other direct charges paid by the tuna fishermen as a condition for the release of the vessels and crews totaled $9.6 million; and

WHEREAS, Another 16 vessels were harassed and detained, and the cost of charges incidental to the seizures and harassment connected with port charges, fuel, travel, and loss of fishing is estimated to exceed $2.5 million; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to discontinue the sale of oceangoing vessels suitable for use as military ships to any country which uses its fleet in any manner adverse to legitimate American fishing interests; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 79

Senate Joint Resolution No. 9—Relative to seafood processing.

[Filed with Secretary of State September 16, 1981]

WHEREAS, California's seafood industry is responsible for the landings and shipments of one billion pounds annually of fish and shellfish products having a significant and beneficial impact on all segments of California's economy; and

WHEREAS, California's offshore fishery resources are vast and, with proper management, could support a substantially expanded seafood industry in California; and

WHEREAS, Under the Fishery Conservation & Management Act of 1976, fishery resources not fully utilized by the United States are available for harvest by foreign fishing fleets within the United State's 200-mile fishery conservation zone; and

WHEREAS, A significant impediment to the full utilization by California and other coastal states of offshore fishery resources is the lack of sufficient or modern shoreside seafood processing facilities capable of processing and marketing the catch of California and other coastal states fishermen; and

WHEREAS, Legislation passed by the Congress and signed by the President in 1980 to provide, among other things, loan guarantees for seafood processing, is not sufficient to stimulate investment in processing facilities because of current economic conditions; and

WHEREAS, Federal legislation, including, but not limited to, (a) extending tax deferral programs to include shoreside seafood processing, (b) providing short-term inventory and export loan guarantees, (c) creating within the seafood industry a commodity credit corporation, and (d) designating fishing ports and seafood processing as a priority for economic development, is necessary for California and other coastal states; and

WHEREAS, The President has emphasized the need for business development, including tax incentive programs; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to enact legislation which would encourage the construction of new and modern facilities for processing seafood for human consumption so that California and other coastal states will be able to fully utilize their offshore fishery resources; and be it further

Resolved, That federal legislation be enacted to enable existing facilities which process seafood for human consumption to be eligible for tax deferral programs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator

and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 80

Assembly Concurrent Resolution No. 21—Relative to freeways.

[Filed with Secretary of State September 17, 1981.]

WHEREAS, The completion of that portion of State Highway Route 52 from Interstate Route 805 in Kearny Mesa to State Highway Route 67 near Santee, and the construction of that portion of State Highway Route 125 from Interstate Route 8 at La Mesa to State Highway Route 52, would reduce vehicle miles traveled in the region by 280,000 per day, thereby saving thousands of gallons of fuel per day; and

WHEREAS, The freeway completion and construction would reduce air pollution by 1,600 tons per year, thereby improving air quality; and

WHEREAS, The freeway completion and construction would provide better access to and from employment centers such as Kearny Mesa, Clairemont Mesa, Miramar, Scripps Ranch, and the industrial and commercial areas in the City of San Diego; and

WHEREAS, The freeway completion and construction would reduce congestion on San Diego's two key east-west freeways, Interstate Route 8 and State Highway Route 94, and also on the Murphy Canyon section of Interstate Route 15 near Tierrasanta, and would enhance bus use since there would be reduced travel times on bus routes; and

WHEREAS, The freeway completion and construction would relieve traffic and reduce maintenance problems for the City of La Mesa on Fletcher Parkway, the City of El Cajon on Fanita Drive, the City of San Diego on Clairemont Mesa Boulevard, and the City of San Diego and the County of San Diego on Mission Gorge Road, in addition to providing a saving in expenditures of sizeable sums of local funds for much needed improvements on these facilities; and

WHEREAS, The freeway completion and construction would provide better access to national defense facilities at the Miramar Naval Air Station; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Transportation Commission and the Department of Transportation are hereby requested to take whatever action is necessary to determine the route location for that portion of State Highway Route 52 from Interstate Route 805 in Kearny Mesa to State Highway Route 67 near Santee and that portion of State Highway Route 125 from Interstate Route 8 at La Mesa to State Highway Route 52; and be it further

Resolved, Unless otherwise agreed to by the Governor, that the state's costs of complying with this request shall be reimbursed by nonstate sources; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the Chairman of the California Transportation Commission.

RESOLUTION CHAPTER 81

Assembly Concurrent Resolution No. 57—Relative to the conservation of agricultural lands.

[Filed with Secretary of State September 17, 1981.]

WHEREAS, The Legislature has established policies regarding the interest of the state in the maintenance of agricultural lands in production; and

WHEREAS, The Legislature recognizes that premature and unnecessary development of agricultural lands to urban uses continues to have adverse effects on the availability of such lands for agricultural uses and on the economy of the state; and

WHEREAS, The Legislature has directed cities and counties to identify agricultural lands within their jurisdictions, to prepare general plans that consider their use, and to zone land consistent with such plans; and

WHEREAS, The Legislature has also created a variety of optional methods for cities and counties to use in the conservation of productive agricultural lands including exclusive agricultural zones, agricultural preserves, the Williamson Act, open-space easements, and conservation easements; and

WHEREAS, The Legislature has directed the Office of Planning and Research to give immediate and high priority to the development of land use policy for protecting land resources, including those of major importance in meeting future needs for food and fiber; and

WHEREAS, The Office of Planning and Research has been designated by the Legislature to carry out a statewide land use planning function to include assisting and monitoring local agencies; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby directs the Office of Planning and Research to prepare by December 31, 1982, a detailed guidebook for city and county officials to explain the statutory requirements and opportunities for the conservation of agricultural lands so as to maintain or enhance their economic value to the State of California; and be it further

Resolved, That such guidebook be prepared after consulting with

city and county officials, with associations concerned with continued agricultural productivity, and with other state agencies; and be it further

Resolved, That such guidebook be prepared in a manner which recognizes the variety of California's soils and climates, as well as the diversity of agricultural commodities produced and types of agricultural operations performed in the state; and be it further

Resolved, That the Legislature further directs the Office of Planning and Research, upon the request of a local agency, to evaluate and assess the technical adequacy of the local agency's agricultural land conservation programs; and be it further

Resolved, That the Office of Planning and Research shall use existing funds and staff to carry out the provisions of this resolution.

RESOLUTION CHAPTER 82

Assembly Joint Resolution No. 18—Relative to tuna.

[Filed with Secretary of State September 17, 1981.]

WHEREAS, About 70 percent of the vessels in the United States tuna fleet operate from ports in California; and

WHEREAS, In 1980, about 194,000 short tons of tuna and bonito were landed by the United States tuna fleet in California; and

WHEREAS, Approximately 107,000 short tons of frozen tuna and bonito were imported into California; and

WHEREAS, During 1980, the countries of Costa Rica, Mexico, Ecuador, and Peru seized 22 United States flag tuna vessels, and the cost of the fines and other direct charges paid by the tuna fishermen as a condition for the release of the vessels and crews totaled $9.6 million; and

WHEREAS, Another 16 vessels were harassed and detained, and the cost of charges incidental to the seizures and harassment connected with port charges, fuel, travel, and loss of fishing is estimated to exceed $2.5 million; and

WHEREAS, As of this date, only five of the 22 seized vessels have been reimbursed for the fines and other direct charges paid for their release and the other 17 vessel owners are paying interest on their unpaid claims plus cash paid in connection with port charges and other costs incidental to the seizure; and

WHEREAS, Mexico, through its actions, indicates an intent to take over leadership in the production of tuna from the eastern Pacific, and to be in a dominant position in the United States canned tuna market; and

WHEREAS, This new source of competition from Mexico, in the form of government ownership of tuna canneries and tuna vessels, represents a unique challenge and opportunity for the California

tuna industry; and

WHEREAS, The canned tuna industry was born in California, tuna represents 27 percent of the total supply of edible fish in the United States market, and tuna constitutes over 23 percent of the estimated value of United States fishery products at the levels of domestic landings, imports, and processed fishery products, making tuna of tremendous importance to the fishing industry of California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take whatever action is necessary to assure that American fishing rights are observed and the safety of persons on American fishing boats is not threatened by foreign governments; and be it further

Resolved, That the President consider renegotiating fishing treaties between the United States and foreign countries to ensure that the California tuna industry may adequately compete with the emerging tuna industry in Central and South American countries; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 83

Assembly Joint Resolution No. 39—Relative to public assistance programs.

[Filed with Secretary of State September 17, 1981]

WHEREAS, Federally funded public assistance and health services programs have widely varying provisions concerning definitions, exclusions, and treatment of recipients' income; and

WHEREAS, The differences in dealing with a recipient's income among these programs creates great confusion on the part of state and local governmental officials; and

WHEREAS, These differences often lead to exorbitant administrative costs at a time when government is seeking methods to reduce expenditures; and

WHEREAS, Problems in determining the manner in which income should be defined and treated frequently lead to lower quality services being provided to public assistance and health services program recipients due to the time necessary to make correct determinations pertaining to income; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California,

jointly, That the Legislature of the State of California, respectfully memorializes the President and Congress of the United States to enact federal legislation providing for uniform or compatible definitions, exclusions, and treatment of recipient income and resources for all federally funded public assistance and health services programs, to the extent possible and taking into consideration the objectives of each program; and be it further

Resolved, That the Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States and to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 84

Assembly Joint Resolution No. 45—Relative to the sale of Airborne Warning and Command System aircraft to Saudi Arabia.

[Filed with Secretary of State September 17, 1981]

WHEREAS, It is in the best interests of the United States of America to encourage peaceful relations in the Middle East and to assist in maintaining the strength and security of the State of Israel; and

WHEREAS, The President has announced that he will notify Congress of his decision to sell to Saudi Arabia Airborne Warning and Command System aircraft (AWACS), aerial tankers, and additional equipment for F-15 jet fighters currently part of the Saudi arsenal, consisting of long range fuel and equipment pods and sophisticated air-to-air missiles; and

WHEREAS, When flown within Saudi airspace, AWACS, as highly sophisticated surveillance aircraft, could monitor and expose virtually all major military movement in Israel; and

WHEREAS, The fuel and equipment pods would enable the F-15 jet fighters to carry a heavier bomb load to distant targets and, by increasing the combat radius of the F-15 jet fighters, would enable them to hit any target in Israel; and

WHEREAS, These sophisticated missiles feature "all aspect attack," enabling them to be fired from any direction at a target aircraft with improved guidance, increased maneuverability, resistance to jamming, and a highly lethal warhead; and

WHEREAS, The sale of AWACS and accompanying weaponry is likely to destabilize the balance of power in the Middle East, jeopardize United States interests in the region, and impair the security of the State of Israel; and

WHEREAS, The Members of the Legislature of the State of California recognize the necessity for development of strategy to

counter the threat of Soviet expansion in the Middle East and to defend the Persian Gulf; and

WHEREAS, American interests in the Persian Gulf area could best be protected by retaining sophisticated and sensitive weaponry in the control of the United States; and

WHEREAS, American-manned AWACS currently operating in Saudi Arabia are able to provide advance warning of any attack that may be launched against Saudi Arabia; and

WHEREAS, Retaining AWACS under American control would help to ensure that use of AWACS would be for defensive purposes only; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to reconsider and withdraw the decision to sell to Saudia Arabia AWACS, aerial tankers, long range fuel and equipment pods, and sophisticated air-to-air missiles and the Congress of the United States to disapprove any decision to complete this sale; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 85

Assembly Joint Resolution No. 53—Relative to social security.

[Filed with Secretary of State September 17, 1981]

WHEREAS, One of the primary goals of the Social Security system is to assure that the elderly population receives adequate recompense for their support of the Social Security system during their working lives; and

WHEREAS, Another of the principal goals of the Social Security system is to assure that elderly persons shall not be forced to live in a state of abject poverty; and

WHEREAS, Until the present time, federal law has mandated that Social Security benefits provided to old age recipients shall not fall below a specified figure, with the current figure being $122 per month; and

WHEREAS, The United States Congress as part of its budget legislation for the 1982 fiscal year has voted to eliminate the minimum Social Security benefit requirement for elderly recipients; and

WHEREAS, If this action is not rescinded, elderly persons barely able to maintain a subsistence level existence on a fixed income may

well find it even more difficult to afford the basic necessities of life; and

WHEREAS, Elderly persons who meet specified requirements are eligible for the federal Supplementary Security Income program as well as state supplementary payments; and,

WHEREAS, The level of benefits received under the Supplemental Security Income program, supplemented by state payments, often varies with the amount of benefits received under the Social Security system; and

WHEREAS, If the minimum benefit level is not reinstated, reductions in Social Security benefits for elderly persons will lead to more benefits being paid to these persons through the Supplemental Security Income program, causing added financial burdens to already overburdened state governments; and

WHEREAS, The United States House of Representatives has recently passed HR 4331 which would reinstate the minimum old age benefit under the Social Security system of one hundred and twenty-two dollars ($122) per month; and

WHEREAS, This bill has not yet been acted upon by the United States Senate; now, therefore, be it

Resolved, By the Assembly and the Senate of the State of California, jointly, that they memorialize the President and Congress of the United States to enact legislation such as HR 4331, which shall reinstate the minimum monthly social security benefit requirement for old aged recipients; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 86

Assembly Joint Resolution No. 58—Relative to the Longshoremen's and Harbor Workers' Compensation Act.

[Filed with Secretary of State September 17, 1981]

WHEREAS, In 1927 the Congress of the United States enacted the Longshoremen's and Harbor Workers' Compensation Act to provide compensation to longshoremen and harbor workers or their survivors when the longshoremen and harbor workers suffer disability or death resulting from injury occurring upon the navigable waters of the United States; and

WHEREAS, There is currently pending in committees of Congress legislation in the form of S. 1182 and H. R. 25 which many longshoremen and harbor workers consider would eliminate several

critically important features of the compensation program established by the Longshoremen's and Harbor Workers' Compensation Act; and

WHEREAS, Most workers who would be affected by the proposed legislation and their representatives have had insufficient time and opportunity to study, evaluate, and respond to the proposed legislation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to refrain from taking any action on proposed legislation to change the Longshoremen's and Harbor Workers' Compensation Act until extensive public hearings on the proposed legislation are held on the West Coast in such cities as Seattle, Portland, San Francisco, Los Angeles, and San Diego; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 87

Senate Concurrent Resolution No. 25—Relative to artistic and cultural resources.

[Filed with Secretary of State September 18, 1981]

WHEREAS, The enjoyment of and participation in the arts are vital components of the quality of life in California; and

WHEREAS, The arts play an important role in the economy of this state; and

WHEREAS, There has been a significant decline over the past decade in the number of arts programs offered in the state's public schools; and

WHEREAS, Creation of a Joint Committee on the Arts would enable the Legislature to better monitor existing arts programs and address issues relating to the arts in California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That:

1. The Joint Committee on the Arts is hereby created and authorized and directed to study, investigate and analyze the following matters:

(a) The goals appropriate to the future of the arts and cultural life of California.

(b) The role the Legislature and state government should play in the achievement of these goals.

(c) Arts legislation in other states and at the federal level, with a

view towards recommendations for the introduction of legislation in California.

(d) The budgets and programs of the California Arts Council and other state supported arts and cultural programs and agencies.

(e) The present status of arts education in California.

(f) The economic impact of the arts in California.

2. The committee shall report to the Legislature as directed by the Joint Rules Committee and shall include in its report recommendations for appropriate legislation.

3. The committee shall consist of the following members:

(a) Six Members of the Senate appointed by the Senate Rules Committee.

(b) Six Members of the Assembly appointed by the Speaker of the Assembly.

The chairman of the committee shall be appointed by the Joint Rules Committee.

4. The committee shall continue in existence until November 30, 1982.

5. The committee has the following powers and duties:

(a) All of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to the committee and its members.

(b) To contract, subject to the Joint Rules, with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(c) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The Joint Rules Committee may make funds available from the Contingent Funds of the Assembly and Senate for the purposes of this resolution, and the joint committee may expend such funds for the expenses of the committee and its members and for any charges, expenses, or claims it may incur under this resolution; provided, that any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee; and be it further

Resolved, That notwithstanding the provisions of paragraphs 4 and 5 of Senate Concurrent Resolution No. 4, the representative to the Heritage Task Force of a local preservation organization shall be appointed solely by the Senate Committee on Rules, and the Chairperson of the Heritage Task Force shall be appointed by the Senate Committee on Rules and the Speaker of the Assembly, jointly.

RESOLUTION CHAPTER 88

Senate Concurrent Resolution No. 36—Relative to the creation of the Joint Committee on Fisheries and Aquaculture.

[Filed with Secretary of State September 18, 1981.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Fisheries and Aquaculture is hereby created and authorized and directed to ascertain, study, and analyze all facts relating to the following:

1. Problems of the fishing and aquaculture industries, including, but not limited to, state and federal government regulatory actions, habitat degradation, lack of needed facilities, inadequate in-stream flows, and conflicts over limited resources.

2. Ways to overcome problems in the fishing and aquaculture industries and to encourage seafood production, provide employment, reduce the United States' balance-of-payments deficit, and stimulate the economy of California.

3. Protection, restoration, and enhancement of fishery resources by methods including, but not limited to, restocking of native strains, preventing significant ocean pollution, and restoring streams, wetlands, and other natural habitats.

4. Protection of California seafood consumers.

5. Collection of valid and reliable data on the fishing and aquaculture industries.

6. Resolution of conflicts concerning the fishing and aquaculture industries.

7. Oversight of executive branch activities concerning the fishing and aquaculture industries to ensure that those activities are cost-effective and in the best interest of the state; and be it further

Resolved, That the committee shall consist of four Members of the Senate appointed by the Committee on Rules thereof, and four Members of the Assembly, one of whom shall include the chairman of the appropriate Assembly policy committee, appointed by the Speaker thereof. Vacancies occurring in the membership of the committee shall be filled by the appointing power. The committee shall select as its first chairman one of the Members of the Senate who is appointed to serve thereon. The chairman shall thereafter be selected alternately from the membership of the Assembly and the Senate whenever a vacancy in the chairmanship occurs; and be it further

Resolved, That the committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the committee shall have the following additional powers and duties:

1. To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

2. To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders, or other process issued by the committee.

3. To report its findings and recommendations to the Legislature and to the people from time to time.

4. To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members. In accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 89

Senate Concurrent Resolution No. 42—Relative to Board of Prison Terms.

[Filed with Secretary of State September 18, 1981.]

WHEREAS, The Board of Prison Terms has determined that William Archie Fain may be released on parole in 1982; and

WHEREAS, In 1967, William Archie Fain, without cause, reason, or excuse, murdered Mark Ulrich, an Oakdale High School student with a shotgun blast, and viciously raped two school girl companions, raped another woman in Riverbank, and attempted to rape yet another Oakdale woman; and

WHEREAS, The death sentence imposed on William Archie Fain was overturned by the California Supreme Court, and despite the heinousness of his crimes he was given a life sentence in prison; and

WHEREAS, The California Adult Authority attempted to release William Archie Fain in 1976, but public outrage caused the Adult Authority to reconsider that release; and

WHEREAS, Public outrage at the possible release of William Archie Fain is no less adamant today than in 1976; and

WHEREAS, The Mayor and City Council of Oakdale, and the Board of Supervisors of Stanislaus County have unanimously opposed by resolution the release on parole of William Archie Fain; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests the Board of Prison Terms to cancel the 1982 parole date of William Archie Fain; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution forthwith to the members of the Board of Prison Terms.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 23—Relative to the Joint Committee on Mass Transit.

[Filed with Secretary of State September 18, 1981]

WHEREAS, The public demand for transit services is increasing, and therefore the state's role to augment the supply of auto-competitive mass transportation services should be enhanced; and

WHEREAS, Funding and equipment shortages, as well as institutional problems, impede increased supply of transit services; and

WHEREAS, Energy shortages and conservation efforts have prompted a broader spectrum of the public to use existing transit services than in the past; and

WHEREAS, Local agencies and transit systems are having difficulties in meeting the increased demands; and

WHEREAS, Designation is necessary of those areas—rural, remote, or sparsely populated—in which mass transit is unlikely to meet transportation needs cost effectively in the foreseeable future and in which, therefore, conventional roadways will continue to be necessary; and

WHEREAS, Privately operated taxicab and other paratransit resources exist which might be utilized more effectively in meeting the increased demands through mixed mode approaches in public transportation services; and

WHEREAS, Intensive study of these and other problems is vitally necessary to enable the Legislature to enact legislation effectively addressing the mass transit needs of the people of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

1. The Joint Committee on Mass Transit is hereby created.
2. The committee shall consist of four members of the Assembly

appointed by the Speaker, and four members of the Senate appointed by the Senate Committee on Rules.

3. The committee shall continue the work of the Assembly Select Committee on Mass Transit (created by the Speaker of the Assembly on May 24, 1980; page 12147, Assembly Journal), and shall engage in, but not be limited to, the following:

(a) Research and investigation into mass transportation issues and needs, the relationship between different modes of transportation, both public and private, and other areas as may be necessary in order to provide more effective urban and intercity mass transportation services.

(b) Study and definition of regulatory, jurisdictional, and operating parameters of state, regional, and local entities in order to ensure maximum coordination and integration among the state's transportation resources.

(c) Development of legislative recommendations which will define the planning process and program level of mass transportation in California, as well as the state's role in developing a cohesive transportation network.

4. The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee shall submit a preliminary report of its findings and recommendations to the Legislature on or before November 30, 1981, and shall submit a final report of its findings and recommendations to the Legislature on or before November 30, 1982.

6. The Joint Committee on Mass Transit shall terminate on November 30, 1982.

7. The Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members, upon prior approval by the Joint Rules Committee of an annual budget for the Joint Committee on Mass Transit for the ensuing fiscal year.

RESOLUTION CHAPTER 91

Assembly Joint Resolution No. 61—Relative to the Klamath River.

[Filed with Secretary of State September 18, 1981.]

WHEREAS, The Klamath River is acknowledged as the most productive salmon fishery in the State of California; and

WHEREAS, The taking of salmon from the Klamath River for

commercial purposes is prohibited by federal and state law; and

WHEREAS, Native Americans are allowed to take fish from the Klamath River, on reservation lands, for purposes of subsistence; and

WHEREAS, Salmon runs and spawner escapement levels have declined greatly due to illegal fishing practices, and notably the practice of commercial gill-netting; and

WHEREAS, The United States Department of Interior, through the Bureau of Indian Affairs, is charged with enforcing fishing regulations on the Klamath River as they pertain to Native American reservations; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Secretary of Interior to accelerate enforcement of existing laws and regulations in the Klamath River region in those areas where the United States Department of Interior, through the Bureau of Indian Affairs, has specified law enforcement responsibilities; and be it further

Resolved, That Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of Interior, to the director of the Bureau of Indian Affairs, and to each Senator and Representative from California in the Congress of the United States.